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FINANCE AND LAW***

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***PUBLIC ADMINISTRATION***



## **COVID 19 PROTEST MOVEMENT AND ITS AFTERMATH EFFECT ON THE NIGERIAN STATE**

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**Abstract:** *This paper examines the popular youth protest of October, 2020 tagged “ENDSARS” (SARS standing for Special Anti-Robbery Squad) in Nigeria organized to challenge police brutality. In spite of the protest being held during the Covid-19 lockdown, the number of youth that trooped into the streets in the southern part of the country and in the North too, tagging theirs “ENDINSECURITY”) signified that beyond police brutality, the Buhari administration was due for questioning. As expected of any protest without effective coordination, the march was later hijacked by hoodlums and looters who burnt down, looted, and pillaged public infrastructure and private property, in the same vein attacking some politicians. The paper treats ENDSARS as Nigeria Spring of October, 2020 which had its roots in the wave of protests that started in the 1980s. The earlier protests were about calls for civilian government, claims of election mandate and fuel hike. The methodology applied in this study is both interview and secondary sources of data collection through the use of Nigerian dailies, journals and textbooks. For the interview, some youths in some towns were asked questions for the purpose of extracting variables that would explain the causes of the protests. The paper reveals that the thought that led to the “ENDSAR” is as a result of lies in the past to end police brutality which never materialized and the frustration is as a result of bad governance. We suggest that in a situation of another popular youth protest, the governments at both the federal and state tiers should act fast to solve the problem before it degenerates into a state of anarchy.*

## **Introduction**

Protest occurs as a result of tension on social, political and economic realities, and the action of the protesters serve as a tool that many government officials fear and consider a threat to the political system. This study aims to address how the youth protest was carried out in Nigeria on October 8, 2020 in the first place, and at the same time probe the political and psychological forces that move people to join protests in the midst of global Covid-19 pandemic. Looking at the activities during the popular youth protest of October 8, 2020, the paper examined the choice of Lekki Tollgate by the youth for their occupation, and the relevance of the location within the context of private and public property in Nigeria. In his work, “The Psychology of Protest and Activism”, Professor Lauren Duncan showed that the reason why people always come out for a protest is that, they act on their political belief by looking at internal factors like personality, and external factor such as current events ( cited in Kim Mill, 2020)

The global past and current events of history of protest represent collective efforts to agitate for change in the political, economic, religious and social issues that affect the people. The Carnegie Endowment for International Peace Global Protest Tracker 2020 traces hundred (100) antigovernment protests that erupted worldwide ranging from election protest in Honduras to PetroCaribe in Haiti, Term Limit in Guinea, Pension Reform Strike in Greece, Police Brutality in Germany, Great March of Return protest in Gaza strip, Three Years is Enough protest in Gambia, Black Lives Matter protest in United States, Corruption protest in Egypt, Autonomy protest in Hong Kong, slave protest in Hungary, Criminal Code Protest in Indonesia, fuel hike protest in Iran, corona virus protest in Israel, economic protest in Liberia, ethnic violence protest in Mali, religious law protest in Montenegro, racial equality protest in New Zealand, police brutality protest in Portugal, corona virus restriction protest in Russia, and police brutality protest in the United States of America (cited in [www.carnegieendowment.org](http://www.carnegieendowment.org)). All these protests took place within 2017 and 2020.

In Africa continent, Adam & Zachariah (2015) in “Africa Uprising: Popular Protest and Political Change” summarized the following points as the reasons of Africans protest: i) people challenging the application of capitalism ii) rejection of liberal democracy iii) work of social media hashtag, knowledge of the youth against government policy and vi) outburst by frustrated middle classes on government decision. More so, protest has been viewed as a legitimate way of expressing opinions concerning government actions or inactions in managing the affairs of the state. To Adam & Zachariah (2015), popular protest in Africa continent is believed to be politically motivated using the Tunisia, Egypt and Libya experiences in 2011, during the Arab Spring. Libya protest has made the country to be polarized along rebel lines that now control large parts of the country.

In the case of Nigeria, the country has witnessed several protests during the military and civilian regimes, ranging from Anglo-Nigeria pact of 1962 when the Nigerian University students kicked against the defence pact entered with Britain, and the 1993 election annulment, when the military ruler Babangida cancelled the election of the acclaimed winner M.K.O. Abiola, leading to demonstrations in Lagos and other parts of Nigeria. Looking at popular protests in Nigeria from Labour Strike of 2003 asking President Olusegun Obasanjo to reduce the fuel pump price, 2012 protest on fuel hike to the “ENDSARS” protest of 2020, all speak volume on the leadership style in the country.



In October, 2020 the “ENDSARS” youth protest was confronted with allegations of political undertones of anti-government persons sponsoring the protest. The reason of protesting against police brutality is not new in Nigeria and calling for it at the time when there is insecurity all over the country could weaken the security architecture by paving way for high crime rate, argued some commentators. Afe Babalola (2020) writes that in Nigeria Constitution, the rights to peaceful assembly and freedom of expression are guaranteed as fundamental rights. At the same time protest must not disturb the peaceful movement of people in the public space. The occupation of the Lekki Tollgate and other flashpoints in the metropolis started initially as a peaceful protest, readily drawing the ears of the government. The government readily agreed to the five-point demands of the youth, which included:

- a) immediate release of all arrested protesters
- b) justice for all deceased victims of police brutality and appropriate compensation for their families
- c) setting up of independent body to oversee the investigation and prosecution of all reports of police misconduct (within 10 days)
- d) in line with police Act, psychological evaluation and retraining (to be confirmed by an independent body) of all disbanded SARS officers before they can be redeployed.
- e) increase police salary so that they are adequately compensated for protecting lives and property of citizens (Vanguard, October 12, 2020);

This was with a promise that they would act on all the demands, and the inspector general of police went ahead to scrap the FSARS. On their side, the youth were to end protest. But this was not to be. The peaceful protest led by youth turned violent when hoodlums infiltrated their ranks, paving way for looting and burning down of private and public properties estimated to run into trillion of Nigeria naira.

### **Conceptual Framework**

The paper looks at several concepts of protest as defined by some scholars. A protest is a public display of disapproval or displeasure carried out by chanting and marching along the streets or public places, targeted against a particular regime, either civil or military. Protest movement is usually composed of like-minded individuals or organisations that agree on certain principles or who recognize the need to develop coalitions with other groups of similar interest (Bunch et al 1992:8). Uwandu (2020: 34) writes that protests play an important part in political, economic, social and cultural lives of all societies. He stresses that protests encourage the development of an engaged and informed citizenry and also strengthen representative democracy by enabling direct participation in public affairs. This means that in both advanced and developing countries, protest is crucial for democratic consolidation and therefore it is considered as legitimate. All over the world too, protests can be peaceful or violent depending on the organizers. Violent protests have a positive impact on political and policy changes while non-violent protests bring awareness to an issue. Violent protests bring urgency to an issue and promptly gain the attention of the international community, especially when it leads to confrontation between protesters and security agents that probably leads to recorded injuries, destruction or actual death of protester or security personnel(s).

A crucial question to consider at this point is “Why do people resort to protests in both developing and developed countries?” To unravel this, it is necessary to conceptualize protest in general, and closely tie it into democratic society.

From the viewpoint of classical theorists, people participate in protests to express their grievance stemming from relative deprivation, frustration or perceived injustice (Berkowitz 1972, Gurr 1970, cited in Stekenburg and Klanderman, 2013:888). Wright et al (1990) list three hallmarks to understand protest as follows: (i) protest occurs as an action directed at improving one’s personal condition (individual), or actions directed at improving the conditions of one’s group (collective action) (ii) the second distinction is between actions that conform to the norm of the existing social system – normative actions like petitioning and taking part in demonstration (iii) non-normative actions like illegal protest and civil disobedience (cited in Stekenburg and Klanderman, 2013:887). Observers of protest movements are of the opinion that most protests are prompted by shared grievances among groups. Protest groups have a lot of strategies to sustain the protest. These include issuing petitions, legal options, lobbying and other means of mounting pressure through legislative arms in a democratic state (Bunch et al, 1992:8).

The source goes on to say that the significance of protest is that it stimulates changes that ultimately help to preserve the society. In some cases, the protesters adopt the non-violent direct action and the passive resistance philosophy of Gandhi that include use of boycotts, and marches, all these actions geared to “fight the good fight” (Bunch et al, 1992:9). In some cases the popular protest can lead to riot.

### **Theoretical Framework**

This study adopts Grievance theories that state clearly that feelings of relative deprivation result from comparison of one’s situation with a standard – be it past, from someone else’s situation or a cognitive standard such as equity or justice (Folger 1986 cited in Stekenburg and Klanderman, 2013:887). This would lead to frustration when the person cannot meet up with his or her personal needs. The word frustration is derived from a Latin word ‘frusta’ that stands for obstruction. In the society, frustration occurs in two ways; internal frustration occurs through challenges in fulfilling individual goals and desire and needs; external causes of frustration include the situations outside an individual. Ted Gurr (1970) argues that an individual whose basic desires are thwarted by the state and who consequently experiences a profound sense of dissatisfaction and anger is likely to direct aggressive behaviour to what he or she perceived as responsible for thwarting those desires (Abang, 2014: 183). That is, if one is not receiving what one expects to get from the state, one experiences relative deprivation and when it comes to group interest it leads to fraternal deprivation which strongly motivates people to take to the streets.

### **History of Protest in Nigeria**

Evidence of protest in Nigeria could be traced all the way back to the colonial period when activists challenged colonialism, slavery, unemployment and corruption by using print, radio, and music to pass messages to the people. Iwe Irohin, a newspaper circulated in the Western part of Nigeria, was used to sensitize the Yoruba-speaking population into protesting and ultimately delivering the Egba people from the rulers of

Dahomey Kingdom who were among the major players in slave trade with the British merchants in 1859 (Akeredolu, 2020).

In the South Eastern part of Nigeria in 1929, the Aba women protested against the colonial masters by adopting 'sitting as a major tactic' to challenge the imposition of direct taxation on the people (Adu Boahen cited in Baltimore, 1987). Baltimore (1987) explains that a warrant chief in Oloko village in the South-Eastern part of Nigeria reassessed the taxable wealth of the people and counted the men, women, children, and domestic animals together. That action alone created its own problem among the Aba women protesters who used non-violent approach by dancing and singing round outside the homes of warrant chiefs and native court officers expressing their grievance over the tax imposition. That singular protest led to the reduction of taxes and the resignation of a number of local stooges appointed by the colonial authority (Baltimore, 1987).

Other notable protests in Nigeria include the railway workers and the labour strike of 1945, Kano riot of May 16 to 19, 1953 and the list of protests chronicled by Falola (1998):

*When the country won its independence in 1960...the most notable crisis occurred in 1978 in Zaria [...] In 1980, the Maitatsine crisis claimed thousands of lives [...] On the last day of October 1982, eight large churches were burned in the prominent city of Kano[...] A major riot in Kaduna that same year claimed at least four hundred lives. In 1984, violence sparked by Muslims in Yola and Jimeta killed approximately seven hundred people and left nearly six thousand people homeless ... At Ilorin, the capital of Kwara state, Palm Sunday turned disastrous as Christians clashed with Muslims, leading to the destruction of three churches. In the south, at the University of Ibadan, Muslims set fire to a sculpture of Jesus in front of the Chapel of Resurrection ... In 1991, the religious crisis in Bauchi state reached the breaking point, leading to numerous deaths and massive destruction. In the same year, Kano and Katsina witnessed a series of riots. In 1992, large-scale violence returned to Kaduna state, with severe clashes in Zangon-Kataf, Kaduna, and Zaria ... (Falola, 1998 cited in Akinwale & Aderinto, 2011: 58)*

In the South-South geopolitical zone, where Ogoniland is located, the city had its fair share of the protests on January 4, 1993. The contentious issues were environmental degradation and gas pollution caused by the oil exploration by Shell Petroleum Development Company of Nigeria (SPDC), a Nigerian subsidiary of Royal Dutch/Shell. The Ogoni people, under the auspices of the Movement for the Survival of the Ogoni People (MOSOP), clamoured for right to self-determination, including greater control over the exploration of the natural resources (oil) found in their lands" (Demirel-Pegg & Pegg, 2015). The climax of this protest was the sentencing and hanging of Ken Saro Wiwa, an author and a popular human rights activist, on November 10, 1995.

The June 12, 1993 election annulment, and call for strike by National Union of Petroleum and Natural Gas Workers (NUPENG) and Petroleum and Natural Gas Senior Staff Association (PENGASSAN) on July 5 1994 pulled protesters out into the street of Nigeria to demonstrate against the military government action of annulling a widely claimed free and fair election.

From the return to democratic rule on May 29, 1999 till 2020, protests were common as Nigerian Labour Congress called for strike actions against President Olusegun Obasanjo, President Goodluck Jonathan and President Muhammadu Buhari for serially increasing fuel pump price. Also, the action of 'occupy Nigeria movement' of January, 2012 is another protest against hike in fuel price under President Ebele Goodluck Jonathan, when the announcement of fuel subsidy removal by the Federal government was made. This galvanised the organised labour on a strike action to protest against government action. The pump price was later changed from 140 naira to 97 naira.

Duncan as cited in Kim Mill (2020) noted that anytime there is any sort of meaningful social change, there comes a tipping point where people who have been oppressed or treated unfairly with violence for years would come out and protest. In October 8, 2020, under President Muhammadu Buhari administration, the youth protested against police brutality by presenting five demands that the regime must act upon immediately before they would leave the streets.

The five demands were accepted by the presidential panel and the Inspector General of the police quickly proscribed F-SARS. However, a few days later, precisely on October 14, 2020, the Special Weapons and Tactics (SWAT) Department was announced, a move the irate youth saw as mere continuation of the SARS squad under another name. They thus continued with the protest, while gaining sympathy from other militant groups. Vanguard newspaper of October 20, 2020 reports that the “coalition of nine renegade militant groups in the Niger Delta declared support for the EndSars protests across the country saying they are ready to resume hostilities, attack on oil and gas facilities if Federal government did not meet the demand of protesting Nigerian youth. They also gained enemies, especially from the Northern part of Nigeria, where the incumbent president is from, and where the governors and most of the youth formed a parallel protests calling for an end to insecurity, and that SARS officers should not be disbanded but be transferred to the North to fight insurgents, bandits, cattle rustlers and kidnappers

### **Principle on the Protection of Human Right during protest**

The right to protest is enshrined in both national and international laws. Globally, the international law serves as a guide to the right to protest which is found in Article 18, 19 and 20 of the Universal Declaration of Human Right as expressed by Uwandu (2020). Principles to guide rights to protest globally are cited in international human right law:

- i) Principle 2 imposes obligations on state to respect the right to protest.
- ii) Principle 4 makes provision for the protection of internationally quarantined human rights during all protest.
- iii) Principle 8 enables everyone the freedom to choose the location of a protest and the location chosen should be considered integral to its expressive purpose.
- iv) Principle 9 provides that everyone should have the freedom to choose the form and manner of a protest including its duration.
- v) Principle 12 imposes duties on states to adopt a human rights approach to policing protesters.( cited in Uwandu, 2020: 34)

Uwandu writes that the rights to protest are also safeguarded in the Nigerian 1999 Constitution as amended in 2014. Section 38 of the constitution spells out the right to freedom of thought and conscience and religion; section 39 dwells on right to freedom of expression, followed by the right to peaceful assembly and association in section 40, as section 41 talks about right to protest (Punch, November 30, 2020). In a case challenging the right to protest by some bodies in Nigeria, the Court of Appeal in 2008 upheld the right to protest in the case between Inspector General of Police and All Nigeria Peoples Party that “certainly in a democracy it is the right of citizens to conduct peaceful procession, rallies or demonstrations without seeking and obtaining permission from anybody. It is a right guaranteed by the 1999 Constitution and any law that attempts to curtail such right is null and void and of no effect” (Guardian, November 24: 34). The Nation newspaper of

October 20, 2020 reports that a court in Nigeria has interpreted section 10 of Nigeria Constitution of 1999 as amended in 2014 that it has not only guaranteed the right of every Nigerian to peaceful assembly but also extending the provision to the right of citizens to conduct peaceful procession, rallies or demonstration without seeking and obtaining permission from any individual or agency of government. Both national and international laws subscribe to the right of a peaceful protest with the proviso that policing of protesters should be guided by state agencies.

### **The Issues in October, 2020 Popular Youth Protest Movements in Nigeria**

Grievance theories become useful in understanding the popular protest tagged “EndSARS” of October, 2020. The call for “EndSARS” (Special Anti-Robbery Squad) started in 2017 and in August 14, 2018, the Vice President of Nigeria then ordered the overhaul of SARS but the Inspector General of Police Mr. Ibrahim Idris merely changed the name to read Federal Special Anti-Robbery Squad –FSARS (Ray Ekpu 2020:32). The question is what led to the ENDSARS protest of October, 2020? The answer can be chronologically given as follows: on October 3, 2020, a video trended on social media showing an FSARS police officer shooting a man in front of Wetland Hotel in Ughelli, Delta State, Nigeria. The video spread widely on social media, attracting the attention of the youth who unanimously called for a nationwide protest to ENDSARS and all forms of police brutality. The protest came to be, and dragged for about two weeks, starting from October 8, 2020.

Certain questions come up at this point, like: i) what sustained the protesters for more than two weeks? ii) what was the strength of their organisation? Unsubstantiated sources hold it that the protesters were supported by celebrities in Nigeria and abroad including football stars, singers, actors, doctors, lawyers and technologists to make them a formidable group. Because of these external supports and influences, the protesters exhibited tenacity, durability commitment and unparalleled organizational ability and raised 60 million naira within two weeks (Guardian, November, 2020).

The ‘EndSARS’ protest in Nigeria was largely socio- political, and economic. “The bottom-line is the lack of trust in the country leadership” (Oboli, 2020). The remote causes of “EndSARS” as a protest staged at a time when the whole world, including Nigeria, is battling with the Covid-19 pandemic could be traced to insecurity all over the geo-political zone that affected investment leading to high rate of unemployment, underdevelopment and cost of living.

Onyekakeyeh (2020) centres his argument on causes of “EndSARS” on unemployment:

*“Nigeria’s unemployment rate as at the second quarter of 2020 is put at 27.1 percent indicating that about 21,764,614 million Nigerians remain unemployed, Nigeria’s unemployment and under development rate 28.6 percent in a combined 55.7 per cent. Onyekakeyeh maintains that everyone knows this is far from the truth- the truth is that only about 25 percent of Nigerians active labour force of 48 million people is employed. The other 75 percent are unaccounted for. And these represent the teeming masses of the youthful population engaged in street trading, commercial motorcyclists (Okada) taxi driving, mechanics, Vulcanizers, market women ...” (Guardian, October 21, 2020: 13)*

In an interview with Arise Television in Lagos, Abiola Dosunmu, the Erelu Kuti IV of Lagos, blamed the emergence and resoluteness of the movement on leaders that are fast removed from the people they lead, but listen to advisers that are not familiar with

local terrain and from whom they are bound to receive wrong advice on what to do for the people (Arise Television, October, 2020).

Reflecting on the initial FSARS that was scrapped, Akintunde (2020) explains that: The SARS had gone rogue. Its officers arrested citizens for phantom crimes, only to extort money from them. There were reports of the officers actually robbing hapless citizens, in some cases leading people to ATMs at gunpoint to make cash withdrawals from their accounts for the security agents...the protests were well organised, coordinated and resourced, but no one was named as the leader. To some, this was a brilliant strategy. Leaders of such protests are usually easy targets of the government. They are either arrested or financially induced to betray the masses supporting their call for civil resistance (Financial, November 4, 2020).

The successful recruitment for the ‘EndSARS’ protest could be traced to the Covid19 pandemic, and lockdown. Idly sitting at home with little or no aid from the government, the enormous youthful workforce suffering the pangs of hunger and neglect saw the protest as a vent for their frustration. Technology played a prominent role in mobilizing the youths through the use of phones, video, twitters. To Duncan (2020), social media provides ways to enable people donate money or to even do things like clicks or report events happening around the neighborhood. Interestingly, one of the discoveries was the ‘palliatives’ which weredeliberately locked away from the target communities served as momentary compensation for the toil of these hapless youth.

**Table 1 Record on contributory factors to October 2020 popular protest in some towns and cities in Nigeria.**

S/N	Cities / Towns	Respondents interviewed	Comments/ Reason for joining the protest
1	Warri	3	i) Unemployment rate is high to the extent that 65 percent of commercial motorcycle riders are graduates without job. ii) The killing of the young man in Ughelli, Delta
2	Ago-Iwoye	4	i) We protest because of high cost of living and police brutality ii) unemployment
3	Lagos	20	i)We protest because of high university school fees pushing our parents to seek for loan to train us. ii) police brutality. ii) unemployment
4	Ibadan	4	i) The killing of a brother by FSARS, and police officers deceiving us about his death which we later discovered the deceased body at Adeoyo hospital, Ibadan.
5	Calabar	10	Two brothers from the same university join the protest because their senior brother was arrested by FSARS without committing any offence in Uyo, Akwa Ibom State.
6	Ijebu-Igbo	3	We protest because of the maltreatment given to the yahoo boys by FSARS.
7	Portharcourt	3	The respondents want government to EndSARS
8	Apo, Abuja	3	The respondents want government to EndSARS. Protesters in Kabusa junction turn violent when the Hausa hoodlums came to disrupt the protesters and start destroying items owned by the Igbo. This led to retaliation.
9	Oyo	5	Many yahoo boys joined the protest with the unemployed youth calling for EndSARS.

Some youths were interviewed during the protests to know why they left the comfort of their homes to parade under the sun protesting.

*Authors Field work, October, 2020*

In the analysis of the contributory factors to the protest in some states, unemployment topped the list followed by police brutality. Duncan (2020) model of movement of crisis and movement of conscience becomes relevant here. Duncan explains that in the time of crisis, immediate action happens because of killing or some sort of violence which makes people to react. In Nigeria it is the killing of the young man in Ughelli, Delta State, on October 3, 2020 that appeared in the social media, remotely fuelled by the rate of unemployment. The second model which talks about movement of conscience is centred on when people are agitating for equal rights for many years and no proper attention is given.

In the course of the research, it was discovered that the thrust of the protest went beyond ‘ENDSARS’, and included other factors. The peaceful protest turns violent when hoodlums, looters and political thugs join the protest to loot. See the looting and destruction in Table 2.

**Table 2 Data of indicating Looting and Destruction of Public and Private Properties only in Lagos and Cross River states in Nigeria.**

S/N	Lagos, Lagos State, Nigeria	Calabar, Cross River State, Nigeria
1	Nigeria Ports Authority was set ablaze	Cold Stone looted
2	Orile police post set ablaze	Value Mart looted
3	Lekki toll gate, Lagos was partially destroyed	INEC office, Marian looted
4	BRT Terminal, Oyinbo with new buses set on fire	First Bank at 8 mile Calabar looted
5	Television Continental, Ketu, Lagos set ablaze	Ministry of works warehouse looted
6	VIO, FRSC office, Ojodu FRSC branded cars, generators set ablaze.	Calabar Carnival properties like speakers carpets, microphone, Amplifiers stolen by hoodlums
7	BRT terminal, Ojodu, Lagos buses set ablaze	Mbukpa police station attacked
8	BRT bus at Berger set ablaze	Atakpa police station on siege
9	Recreational Centre, Oregun, Lagos set on fire	Access/Diamond Bank at Mayne avenue attacked
10	Oba’s palace, Lagos attacked and his scepter of authority seized	NDDC office looted
11	The governor of Lagos, Sanwo-olu’s mother’s house, Surulere, Lagos set ablaze	Chronicle Building burned down
12	King’s College attacked	Etagbor phones shop attacked
13	Private properties attacked within the metropolis	Unicem trucks hijacked along Atimbo road and bags cement taken away
14	Some banks attacked	Ibedmore Phones World attacked
15	Lagos Island Local Government destroyed	Academic publishing centre building in University of Calabar attacked
16	Lagos Island LCDA secretariat set on fire	Accountant General office attacked,
17	Ibeju Lekki LCDA secretariat destroyed	Psychiatric hospital, Calabar looted
18	Lagos mainland local government secretariat destroyed	Government Secondary School Henshaw town attacked
19	High Court Igbosere set ablaze	Former senator house in Asari aso house looted and burned

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20	Market shops looted	Current senator house in Asari aso house looted and burned houses attacked.
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*Nigerian dailies, 2020 and Authors Field works, November 2020.*

The presence of hoodlums and political thugs changed the dimension of the protest from peaceful to an arena of looting, destruction and arson.

The looting, burning and destruction of public and private properties were worst in Lagos State and Calabar, Cross River than any other state as reported by the Sun newspaper of November 30, 2020: that at least 71 public warehouses and 248 private stores were destroyed across the country.

### **The Aftermath of October 2020 Protest in Nigeria**

The youth population of Nigeria is enormous, comprising more than 60 percent (ThisDay, November 3, 2020: 32) of an estimated population of above 200 million. With the rising unemployment ratio, co-opting people for the protests (be it ‘EndSARS’ in the South or ‘ENDINSECURITY’ in the North) is not a difficult task.

A second revelation of the protests is the security problem in the country, where uniform men take laws into their hand to brutalize citizens, while a lot of locales in the country are controlled by terrorists, bandits, kidnappers, and armed robbers.

Lekki Tollgate, the galvanizing point for the protesters in Lagos, was carefully chosen as it is a glaring proof of oppression in the hands of the government. Twelve days into the “ENDSARs” demonstration, the military was invited to the tollgate to dissipate the crowd. Uwandu(2020) says that policing of protest by law enforcement agencies should be guided by human right principles- the use of the military may arise only on exceptional circumstances to serve only as a support for the police. Sporadic shots were fired by military, and till present there has not been a concise report on the casualty figures, or lack of any thereof because of accusations and denials that have trailed the incident ( Channel Television, October 2020). In the shooting of the protesters on October 20, 2020, it was claim that some of the youth were killed by CNN reporter 2020.

According to Aliyu Tanko (2020) a BBC reporter noted that the trashing of the palace of Oba of Lagos was symbolized as the youths dragged down the throne, looted possessions of the swan in the Oba’s pool. The reporter went further to conclude that the success of the protest in forcing the government to disband SARS and widen police reform has given Nigerian youths confidence and that they now believe that the youths can make a difference. Onyedika Adetayo in his report noted that after the EndSARs protest, resulting from an unprecedented destruction of both private and public properties in many states of the federation, the rebuilding process had begun. He went further to inform that many of the affected states have unveiled some initiatives targeted at repairing/reconstructing public properties destroyed during the protest, compensating the victims of the protest and forestalling a reoccurrence in the future.

In Lagos, the state government promised 200 million compensation funds for victims of police brutality while Oyo State set aside 500 million naira for the same purpose (Sun, November 30, 2020); other states expanded their workforce to accommodate the unemployed youth like Cross River State. And twelve states out of the thirty six have



inaugurated panels to probe cases of human rights abuses against the disbanded Special Anti-Robbery Squad (SARS).

The cost of damages in many of the states where properties were looted and properties burnt down may be well above a trillion naira, and in an economy affected by Covid-19 pandemic.

## **Conclusion**

The ENDSARs protest was an expression of anger and frustration at the maladministration characteristic of the leadership in Nigeria. The EndSARs that started as a hash tag on social media in this age of technology motivated the youth to call themselves out without a leader and present a five-point demand that government must act upon. The struggle was peaceful for eight days before being hijacked by hoodlums leading to destruction and shooting. The Lekki Tollgate where the protesters gathered was attacked by soldiers on October 20, 2020. In ThisDay newspaper of November 3, 2020, “one of the lessons during the “ENDSARs” is about people’s power both in the ENDSARS protest in the south and ‘ENDINSECURITYNOW’ protest in the north by holding their leaders accountable”.

## **Recommendations**

We recommend that to prevent future occurrence of mass popular protest, the population figure of the youth should be taken into consideration through a pre-census at the beginning of 2021 to separate the literate from the illiterate for the purpose of effectively planning for them. It is not about releasing a huge amount of money for them to access in order to start business in an insecure environment; it is all about proper utilization of such fund and having prior training in a choice enterprise. The Federal Government of Nigeria needs to harness the youth energies, wisdom and knowledge to attend to vital issues and possibly introduce National Guard to all streets in Nigeria, where residents contribute to what we call security welfare package. We know that security of people, their lives and property is the responsibility of government but to solve this immediate problem from degenerating to a class war in future between the poor and the comfortable in future, there must be a plan to engage youth in a meaningful project.

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## MIGRATION IN STATISTICS INDEXES' TERMS. ROMANIA STUDY CASE

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**Abstract:** *Complex political, economic, natural and social events shaping the migration phenomenon in all Europe and abroad. Besides, globalisation and Europeanization have resulted in a significant increase in migration flows. Thus, migration become a complex and multi-criteria phenomena with different meanings and estimation methods according to different research objectives. These particularities create an additional pressure on policymakers' shoulders who need a better understanding of the variation of time-series database. Although, have been developed several databases and indices, at the time being there are difficulties regarding the measuring and conceptualization of migration, particularly the return migration within and cross-national framework. This paper discusses these challenges and the methodological limits on migration policy indexes for comparative analysis and learning lessons.*

**Keywords:** *migration policies, cross-national studies, migration indicators*

### **Introduction**

Governments adopt a wide variety of approaches for regulating migration and over the last decades, there have been increasing efforts to measure the impact of migration policies and to compile figures from migration policy databases. Nowadays, migration is an integral part of the 2030 Agenda for Sustainable Development and a cross-cutting policy theme which drawn the attention of both scholars and policymakers. More than half of its goals are directly related to migration issue. In this sense, the goal purposed to „facilitate orderly, safe, regular and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies” is the most explicit migration-related target of the 2030 Agenda. Also, migration data need to become a *sine quo non* condition for policy-making and systematically analysis, and have increased as a results of governmental intention to measure and compare data from migration policy to monitor their progress and learning lessons. Moreover, few years ago, migration and refugees issues brought together 193 UN Member states to set common actions in this field. However, although the interest in measuring migration policies increased and several databases occurred, there is still a lack of data and an IOM's study (2018) concluded that there are fewer data on the following migration topics: irregular migration, migrant health, impact of migration policies, recruitment costs, return migration, smuggling, migrant integration, missing migrants and migration flows, and more data on students, human trafficking, remittances, migrant stocks and ratification of international conventions. Therefore, however there is a context of global migration governance, when we turn to data it can be note few key shortcomings including lack of availability, comparability and frequencies of data. So, although a large number of studies have already been published,

several challenges are yet to be overcome, especially when policy transfer and learning lessons are discussed.

### **Research design**

From the need to compare different governmental interventions across countries and over time more projects and initiatives have been conducted to create a common framework for coding and comparing migration policies. Seeing there are different approaches, operationalization and concepts, at the time being there are various databases that give access to policy makers to data which are essentially in the context of policy transfer and learning lessons. Therefore, after a long period in which analyses focused on single or small cases have predominated in the migration specialized literature, an increasing number of studies started to set their goals on comparing relatively large range of cases and building policy indexes.

Based on the diversity of migration databases and their effectiveness to support large-N study cases from comparative perspective this paper use mapping approach. The main goal is to analyse several migration policy indexes, explain their methodologies and usefulness for comparative studies because at the moment there are no systematic approach for analysing and comparing migration policies, especially due to the different perspectives of countries on public intervention and, of course, because of various objectives of researchers on this topic. In this context, classifying, monitoring and comparing migration policies from a cross-nationally perspective become a challenge. The research questions addressed here are: “What databases are available for analysing the migration policies?” “What kind of policies are analysed and which countries are in?” “Can the data be used in comparative view?”

The research objectives consist of:

- Providing a systematically framework on several migration indexes;
- Detecting gaps and best practices in the methodologies;
- Analysing their potential for policy transfer.

Traditional, the statistical methods have the greater influence among the policy-makers, but increasingly the complexity of the policy problem shift the view to new research methods, such as comparative method. Suitable for both quantitative and qualitative methodologies and with a large-scale of applicability, the comparative method is applied in cross-cultural and cross-national context, in different policy fields, namely education, health, welfare, as well migration (Dogaru (Cruceanu), T-C., 2019). From a broader perspective, the comparative method is considered a continuous approach, therefore sometimes the scholars refer to it in terms of “constant comparative method”. In this sense, it can be outlined the Jupp’ view (2006), which underlines different ways for using comparison, namely documents or content analysis, historical analysis (comparison of time periods) and, statistics analysis.

Of, course we refer here to external migration phenomenon and use a statistical-descriptive perspective for discussing a non-exhaustive list of the comprehensive databases/indexes. As it is known, based on the approaches used to analyse the migration policies, the specialized literature divides indexes into two main categories: comprehensive and sectorial (EC-JRC, 2018). From the first branch can be find: DEMIG, Global Migration

Barometer, ICI, IMPALA, IMPIC, MGI, IMPEX and Ortega and Peri, while from the second branch are: CERNA, Openness Index, Deterrence Index and Asylum policy Index.

### **Migration Policies In Indexes: A Short Overview**

Although modern migration can be caused by various factors, such as: wars, political conflicts, natural disasters, most of them are determined by economic considerations framed through migration policies and other inter-sectorial policies. The variety of migration patterns - permanent migration, temporary migration, repeat migration, seasonal migration, and circular migration and the challenges stemming from the availability and reliability of different data sources make international migration “the most difficult of demographic phenomena to define and measure correctly” (World Bank, 2018: 5). The effective impact of migration should be assessed empirically to facilitate a well-informed governmental intervention. In general, the statistical systems from origin countries have different methodologies for monitoring this phenomenon, so there is a need to compile data from various international databases, but in this case appear the risk of incomparability.

At European Union level the main source of statistics data on international migration is Eurostat. This is complemented by others different databases from international or domestic level. One of the well-known migration policy index is Determinants of International Migration (DEMIG). DEMIG index is a result of DEMIG project and consists of (DEMIG 2015a, 2015b, 2015c):

- DEMIG C2C which covers bilateral migration flow data for 34 countries over the 1946-2011 period and includes data for inflows, outflows and net flows.
- DEMIG TOTAL which reports immigration, emigration and net migration flows for up to 161 countries covering various periods of time from the early 1800s to 2011, disaggregating total flows of citizens and foreigners whenever possible.
- DEMIG VISA which captures both entry visa and exit permit requirements, based on data reported in the Travel Information Manuals published monthly by the International Air Transport Association (IATA).
- DEMIG POLICY which tracks 6505 migration policy changes (both immigration and emigration) in 45 countries, most of them enacted in the 1945-2013 period.

According to de Haas et al. (2015), DEMIG POLICY tracks policy changes occurring in a specific country and year, so its main objective is focused not on policy *per se*, but on policy changes. Starting from Mayda and Patel (2004) and Hatton (2009) databases, DEMIG POLICY appeals to two concepts, namely policy change and policy restrictiveness and use a 4-point scale to evaluate the policy changes: (1) fine-tuning measures; (2) minor change; (3) mid-level change and (4) major change.

In this index, the migration policies are defined as “rules (i.e., laws, regulations, and measures) that national states define and [enact] with the objective of affecting the volume, origin, direction, and internal composition of [...] migration flows” (de Haas et al. 2015: 3-4). It is worth to note that in that conceptualisation the EU regulations is not take it into account, but only the national transposition of that. So, DEMIG POLICY is focused on the legal aspects of migration policies - policies on paper, not on policy discourses and the implementation of policies. Policy strategies, parliamentary debates and action plans

are used as contextual evidence of policy-making processes, but they are not coded as migration policy.

Through the main advantages of DEMIG POLICY index can be mentioned the policy changes disaggregation into their different measures, identifying and coding the migrant group targeted by each policy measure and the fact that it tracks both entry and exit policies for all countries included in the database. Regarding the variables and codes a synthetic view is find in the below table.

**Table 1. Variables in DEMIG POLICY index**

<i>Policy area</i>	<i>Policy tool</i>	<i>Migrant category (target group)</i>	<i>Migrant origin (target origin)</i>	<i>Change in restrictiveness</i>
Border and land control	Surveillance technology/control powers	All	All	Less restrictive
Legal entry and stay	Identification documents	All migrants	All foreign nationalities	No change
Integration	Detention	All migrants workers	EU citizens	More restrictive
Exit	Carrier liabilities	Low-skilled workers	Citizens	Change in restrictiveness cannot be assessed
	Employer liabilities	Skilled/high-skilled workers		
	Other sanctions	Family members		
	Travel visa/permit	Family members of high-skilled workers, investors or students		
	Work visa/permit	Family members of irregular migrants or refugees, asylum seekers and other vulnerable people		
	Entry visa/stay permit	International students		
	Points-based system	Investors, entrepreneurs and business people		
	Quota/target	Irregular migrants		
	Regularisation	Refugees, asylum seekers and other vulnerable people		
	Entry ban	Diaspora		
	Recruitment/assisted migration programmes	Specific categories		
	Resettlement programmes			
	Free mobility rights/agreements			
	Language, housing and cultural integration programmes			
Access to social benefits and socio-economic rights				

	Access to permanent residency			
	Access to citizenship			
	Reintegration/return programmes			
	Readmission agreements			
	Expulsion			
	Exit visa/permit or exit ban			
	Institutional capacities			
	Action plan, strategy, report			
	Contextual elements			

Source: Author based on DEMIG POLICY database, 2004, [www.migrationdeterminants.eu](http://www.migrationdeterminants.eu)

Another representative index is International Migration Policy and Law Analysis (IMPALA). IMPALA is project on comparative immigration policy, aiming to develop “indicators for the overarching concept of restrictiveness/openness” (Gest et al. 2014: 267). As basic unit, IMPALA index uses the entry track meaning a “specific way of entering the country” (Beine et al. 2016: 834) and covers six major areas of migration policy depicted in the below table.

**Table 2. Variables in IMPALA index**

<i>Economic migration</i>	<i>Family reunification</i>	<i>Student migration</i>	<i>Humanitarian migration</i>	<i>Naturalization</i>	<i>Irregular migration</i>
Regulations for workers	Regulations for partners	Regulations for university	Regulations for asylum seekers	Modes of acquisition and loss of citizenship	Regulations for immigrants entering a country without authorization and those who qualify for removability or exclusion
Regulations for investors	Regulations children	Regulations for school	Regulations for refugees		
Regulations for entrepreneurs	Regulations parents and extended family members	Regulations vocational and language students	Regulations for subsidiary protection		
			Regulations for temporary protection		
			Regulations for residence permits for personal reasons (such as domestic violence), medical reasons and for victims of human trafficking		

Source: Author based on Gest et al., 2014

Regarding sources, “coding is based on referenced and cited acts of parliament and other legal documents” (Gest et al. 2014: 269). The IMPALA focus is on admission policies and coding the laws and regulations from each countries using a common standardized list of questions on an annual basis. The core of this dataset is represented by

the formal immigration law and regulations. Regarding the countries, according to IMPALA methodologies the index encompasses most economies in the OECD, except those with negative net immigration (i.e. net emigration), nowadays being coded nine countries. So, IMPALA index is supposed to cover 26 countries and additional European Union that is analysed as a particular case, separated to the domestic regulations of members states (Gest et al. 2014). Despite DEMIG, IMPALA codes policies *per se*. About IMPALA index, it is important to note that at the time writing the data are not publicly available, and the time covered is 1999-2008. A main advantage of this index is the data for labour, both low-skilled and highly-skilled and the correlations with the Rush (2011) measure of restrictiveness.

The Migrant Integration Policy Index (MIPEX) is an index mainly focuses on public policies’ measures to integrate migrants. It analyses 8 policies areas of integration and covers 52 countries. According to specialised literature (EC-JRC, 2018), MIPEX is identified as “the most reliable, complete and cited index on integration policies”. For this index there are yearly updates and it covers 2007-2019 period. The MIPEX measures national policies on 1-3 scale for equal treatment. In doing so, MIPEX follows a common strand in the literature which differentiates policies along the liberal/restrictive divide (e.g. IMPALA, DEMIG), but with a somewhat more normative stance (EC-JRC, 2018). Thus, through this methodology what is measured is not policies in individual countries, but a country’s record related to a definite benchmark.

**Table 3. Variables in MIPEX index**

<i>Policy areas</i>	<i>Dimensions of integration policy</i>	<i>Overall approach to integration (Country’s profile)</i>
Labour market mobility	Basic rights	Comprehensive integration – top ten
Education of children	Equal opportunities	Comprehensive integration - Slightly favourable
Political participation	Secure future	Temporary integration - Halfway favourable
Family reunion		Equality on paper - Halfway favourable
Access to nationality		Comprehensive integration - Halfway favourable
Health		Temporary integration - Halfway unfavourable
Permanent residence		Immigration without integration - Halfway unfavourable
Anti-discrimination		Equality on paper - Halfway unfavourable
		Equality on paper - Slightly unfavourable
		Immigration without integration - Most unfavourable

Source: Author based on MIPEX. 2020

Global Migration Barometer is another migration index, it covers 61 countries and analyse the main migration policies from three dimensions: attractiveness for migrants, accessibility for migrants and need for migrants. Its methodology has been developed by the Economist Intelligence Unit and under this and with input from Western Union and independent panels of migration experts it collect data. The work definition of this index is the United Nations’ definition for long-term international migrant “a person who moves to a country other than that of his or her usual residence for a period of at least a year (12



months), so that the country of destination effectively becomes his or her new country of usual residence. From the perspective of the country of departure, the person will be a long-term emigrant and from that of the country of arrival the person will be a long-term immigrant” (EIU, 2008). For generating the index are used indicators that reflect the standard of living and economic development of a country, legislative policy and attitudes towards migration, and demographics and social welfare commitments.

**Table 4. Variables in Global Migration Barometer index**

<i>Policy dimensions</i>	<i>Indicators</i>
Attractiveness to migrants	Nominal GDP
	Nominal GDP per head at PPP
	Historic/commercial links
	Regional integration
	Quality of healthcare
	Quality of education
	Meritocratic remuneration
	Foreign direct investment
	Ability/ease of remitting money
	Access to financial services
	Access to capital
	Ease of starting a business
	Civil liberties
	Social unrest
Accessibility for migrants	Government policy towards migration
	Ease of hiring foreign nationals
	Licensing requirement for migrants
	Ease of family reunification
	Programmes to integrate migrants
	Openness of host country culture to migrants
	Power of trade unions
	De jure or de facto discrimination
Need for migrants	Old age dependency ratio
	Natural increase
	Employment ratio
	Rigidity of employment
	Labour productivity
	Unfunded pension and healthcare liabilities
	Public spending on pensions
	Unemployment benefits
	Internal labour mobility
	Labour force

Source: Economist Intelligence Unit 2008

As it can be seen, the most existing data, with few exceptions started to gathering, coding and creating indexes just over a decade ago and cover different periods of time and countries, mostly Western European and traditional settler countries. Unfortunately, for the majority of them there are no updates and the records stop five or even more years ago. A closer look at the existing migration policy indexes reveals a large scale of indicators which cover various aspects of migration policy and different understandings and operationalization of concepts (e.g. emigrants, temporary and permanent migration and immigration, immigration policy, integration policy so on).

Another element that it is important to keep in mind is that some data on migration have as unit of analysis the policy per as while others focus on change in policy. Also, another problem of using figures from different indexes consist of some indexes cover specific aspects of migration policies, such as labour migration, asylum, migrants' rights, and others have a broad perspective. Of course, all of these and more other aspects put certain limitations for comparative studies on migration policy and sometimes datasets are not usefulness for other researchers or policy-makers. Nevertheless, among the existing data there are ones, such as DEMIG, IMPALA, IMPIC which try to be more comprehensive, but these projects also have certain limits, namely publicly availability, updates, countries covered.

Thus, in this context, the scholars who aim to study the migration policies from comparative perspective need to appeal to national sources or international ones and to build their own indices for the research questions they are interesting in answering or to initiate a joint collaborative database based on a common methodology.

### **A glance on MIGRATION statistics for Romania: Study case**

Nowadays, all countries are simultaneously countries of destination, origin and transit for migrants. It is also the case of Romania, which between 1990 and 1993 was a large compensation movement, constituted mainly of citizens of German origin, who couldn't leave before 1989. This was followed by a decline in migration until the early 2000s. Moreover, the fallen of Romania' population from 22.4 million in 2000 to 19.4 million in 2019 and integration in the European Union, especially the right set by art. 45 of the Treaty on the Functioning of the European Union regarding the free movement of workers amplified the migration issue in Romania and facilitated the label of emigration country for Romania.

In this context, the evidence-based policy and monitoring the migration flows and stocks become key aspects of policy-making. The Romanian National Institute of Statistics (NIS) estimates data on international migration based on its own methodology, developed and approved by the Methodological Approval Committee, in accordance with the requirements of the relevant EU regulations. For example, to be defined as a migrant, the methodologies use different cumulative or not criteria, and NIS has an integrative approach. A view on this is reflected into the below table.

**Table 5. NIS criteria for defining the migration**

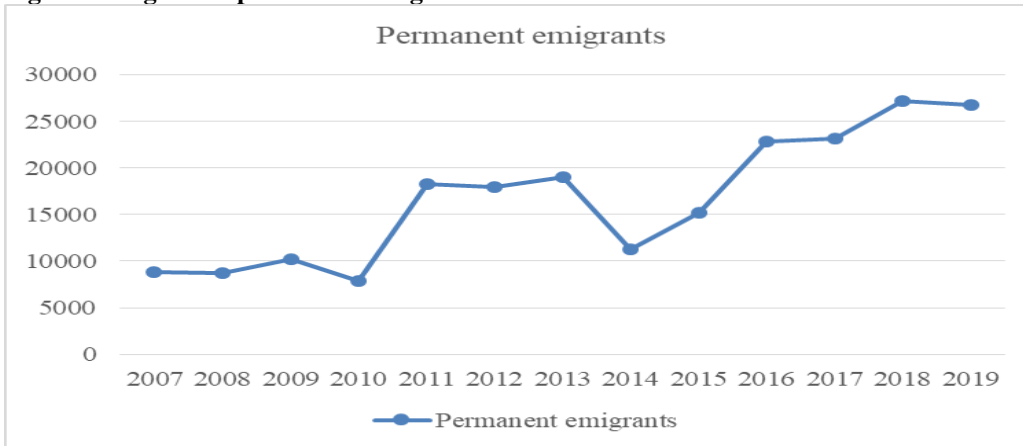
Criteria	Eurostat	ONU	OECD	NIS
Citizenship	√	√	√	√
Country of origin	√	√	√	√

Time limit	√	-	-	√
Residence	√	-	-	√

Source: author based on specialised studies

It is important to remark that, in this context, data for migration phenomenon are correlated to European regulations on international migration. In this sense, according to NIS' methodology the permanent emigration is “the action by which one person ceases to have his or her permanent residence in Romania and establishes his or her permanent residence on the territory of another country”, and the temporary emigration means “the action by which a person who had previously been usually resident in the territory of Romania, ceases to have his/her usual residence in Romania for a period that is, or is expected to be, of at least 12 months” (NIS, 2020). Based on figures from NIS, the figures below depict the changes into permanent and temporary emigration in Romania in the last years.

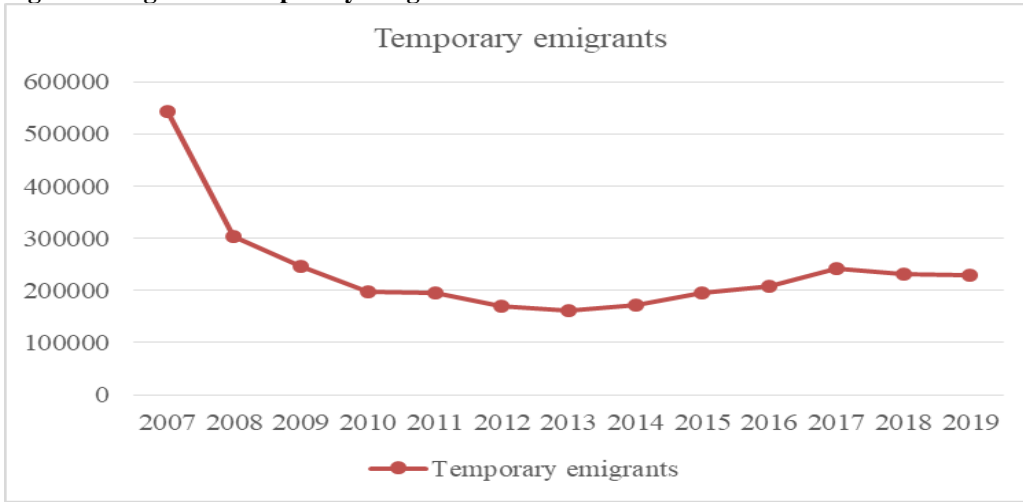
**Fig. 1. Changes into permanent emigration in Romania**



Source: author based on NIS, TEMPO-Online available at 2020

According to that, 2010 registered the lowest number of Romanian permanent emigrants (7906 persons), followed by a three years period when the numbers of Romanian emigrants increased more than double comparative to 2010. Thus, the most recent available data on migration for Romania show that 2016 represented a significant change into Romanian permanent emigrants orientation comparative with the previously years, outlining constantly ascendant trend, and since then the emigration had an increased trends (in 2019 their number being 26775 persons). Similar changes can be notice, also for temporary emigration. The figure below presents its evolution.

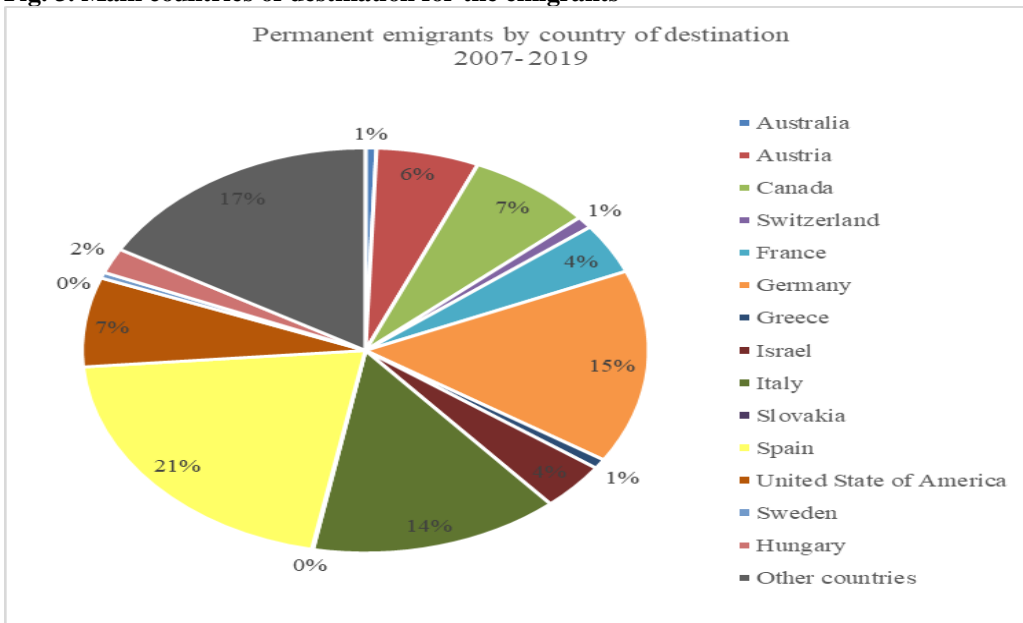
**Fig. 2. Changes into temporary emigration in Romania**



Source: author based on NIS, TEMPO-Online available at 2020

The temporary emigrants' indicator shows that 2007 has been the peak of emigration for Romania (544074 persons). This number continued to decrease in the next years, in 2013 being the lowest level of temporary emigrants (161755 persons), followed by an increasing time. Last data available show both a decrease more than double comparative to 2007 and a double increasing comparative to 2013. This changes are determined especially by the domestic and international changes, such as economic crisis, migration crisis, average monthly net nominal salary and not at least the Covid-19 crisis. In this context, the main countries of destination for emigrants were Spain, Germany and Italy followed by the United State of America and Canada. The figure below depicts the picture according to NIS data.

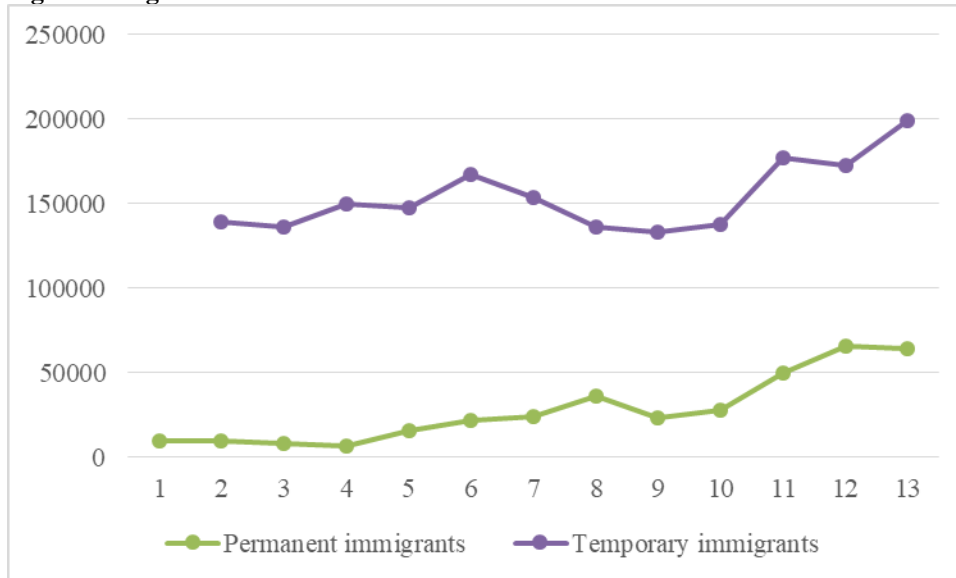
**Fig. 3. Main countries of destination for the emigrants**



Source: author based on NIS, TEMPO-Online available at 2020

On the other hand, the immigration situation is reflected by the figures below.

**Fig. 4. Immigrants' flows in Romania**



Source: author based on NIS, TEMPO-Online available at 2020

Generally speaking, in the last decade, the average net emigration ratio in Romania has been around 11.05%.

All these synthetic information presented above for Romania case study are based on national statistics data reported by NIS, and are significantly different from international ones. For example, according to OECD database on Immigrants in OECD Countries (DIOC) “annual legal migration flows from Romania to OECD countries represented 560000 persons in 2007 and 415000 in 2016” (OECD, 2019), comparative to 5529904 in 2007 and 230385 in accordance with national figures.

Another discrepancy between national and international data available in migration indexes is represented by the lack of a statistical indicators in national database managed by NIS for temporary emigrants by country of destination. From Migrant Integration Policy Index (MIPEX), based on its scores 49 on the 100-point MIPEX scale, Romania is included in the equality on paper – halfway unfavourable scenario (country’s profile). Additionally, the MIPEX analysis outlines Romania generally appears to adopt similar policies to Bulgaria, Hungary, and Moldova, although policies in those countries are slightly less favourable (MIPEX, 2020).

However, when we look to international data it can be remark that while Romania ranked fifth in total emigrant population, it had the highest emigration rate among the ten main origin countries of emigrants living in OECD countries. The figures from ones international databases (UN DESA, 2019) conclude that the total number of international migrant at the mid-year 2019 for Romania was 462.6 thousand, meaning a stock of 2.4% of the total population. In accordance with data from United Nations, Department of Economic and Social Affairs (UN DESA), the total number of emigrants from Romania at mid-year 2019 was 3.6 million.

Therefore, it can be notice a significant different view from national and international data on migration for Romania case. This discrepancy can derived from different methodologies as well as from the fact that NIS use administrative data from Ministry of Home Affairs – Passports General Directorate, General Inspectorate for Immigration and Directorate for Personal Records and Database Administration for available official data on migration and do not combine indicators from various sources into a single index or summary score while for temporary emigrants NIS’ methodology states that use the estimation method of migrant flows consists of correlating data from the data sources, such as data provided by national statistical offices of other countries (e.g. Italy and Spain), the “mirror statistics” on international migration (the immigrants from Romania declared by the other Member State representing emigrants on Romanian statistics and, the opposite, the emigrants to Romania declared by other countries representing immigrants for national statistics), data from administrative sources (NIS, 2020).

### Conclusions

The various specialized studies shown that international migration has multiple effects that affect the entire social system. The International Organization for Migration shows that migration has expanded in the last years and the main reason for leaving is the wellbeing of the family at home.

Although this study did not aim to analyse the impact of migration on different sectors, but the reflection of migratory movements in statistics terms in different databases can be seen through the data presented its correlation with other sectors and different national and international economic and political factors.

This study gives a brief portrait on international migration in Romania, and emphasises its lowest presence in various international migration indexes.

**Table 6. Several existing indexes on migration policy**

<i>Migration indexes with comprehensive approach</i>	<i>Countries covered</i>
DEMIG POLICY ( <a href="http://www.migrationdeterminants.eu">www.migrationdeterminants.eu</a> )	Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Czech Republic, Czechoslovakia, Denmark, Finland, France, Germany, German Democratic Republic, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Norway, Poland, Portugal, Russia, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States of America, Yugoslavia.
IMPALA ( <a href="https://www.impaladatabase.org/">https://www.impaladatabase.org/</a> )	Australia, France, Germany, Luxembourg, the Netherlands, Spain, Switzerland, UK, USA.
MIPEX ( <a href="https://www.mipex.eu/">https://www.mipex.eu/</a> )	Albania, Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Chile, China, Croatia, Cyprus, Czechia (Czech Republic), Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Moldova, Netherlands, New Zealand, North Macedonia, Norway, Poland, Portugal, Romania, Russia,

	Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, USA.
Global Migration Barometer ( <a href="https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-cm7-2008-11_gmb_execsumeiu.pdf">https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-cm7-2008-11_gmb_execsumeiu.pdf</a> )	Australia, Canada, United States, United Kingdom, Singapore, New Zealand, Sweden, Hong Kong, Norway, Belgium, Ireland, Portugal, Switzerland, Spain, Israel, Finland, Germany, France, Netherlands, Italy, Chile, Austria, Denmark, Costa Rica, Czech Republic, Greece, Slovakia, Japan, Poland, Lithuania, Mexico, Hungary, Malaysia, Republic of Korea, Brazil, Qatar, Argentina, Kazakhstan, Peru, Thailand, Latvia, Russian Federation, Estonia, Turkey, Ukraine, <b>Romania</b> , United Arab Emirates, Kuwait, Botswana, Ecuador, China, South Africa, Jordan, Bulgaria, India, Nigeria, Venezuela, Cote D'Ivoire, Saudi Arabia, Ghana, Iran.
ICI ( <a href="https://vpham415.github.io/ICI/">https://vpham415.github.io/ICI/</a> )	US States.
IMPIC ( <a href="http://www.impic-project.eu/">http://www.impic-project.eu/</a> )	Austria, Australia, Belgium, Canada, Switzerland, Chile, Czech Republic, Germany, Denmark, EU, Estonia, Spain, Finland, France, United Kingdom, Greece, Hungary, Ireland, Israel, Iceland, Italy, Japan, South Korea, Luxembourg, Mexico, Netherlands, Norway, New Zealand, Poland, Portugal, Sweden, Slovakia, Turkey, United States of America.
MGI ( <a href="https://publications.iom.int/es/system/files/pdf/migration_governance_index_2016.pdf">https://publications.iom.int/es/system/files/pdf/migration_governance_index_2016.pdf</a> )	Bahrain, Bangladesh, Canada, Costa Rica, Germany, Ghana, Italy, Mexico, Moldova, Morocco, The Philippines, South Africa, South Korea, Sweden, Turkey
Ortega and Peri ( <a href="https://mpra.ub.uni-muenchen.de/19183/1/MPRA_paper_19183.pdf">https://mpra.ub.uni-muenchen.de/19183/1/MPRA_paper_19183.pdf</a> )	Algeria, Australia, Austria, Belgium, Bangladesh, Bosnia-Herzegovina, Brazil, Bulgaria, Cambodia, Canada, Chile, Colombia, Croatia, Cyprus, Cuba, China, Denmark, Dominican Republic, Ethiopia, Ecuador, El Salvador, France, Finland, Fiji, Germany, Guyana, Ghana, Greece, Guatemala, Haiti, Honduras, Hong Kong, Hungary, Iceland, Ireland, Italy, India, Iran, Iraq, Japan, Jamaica, Kenya, Luxembourg, Lebanon, Laos, Mexico, Morocco, Malaysia, Netherlands, Norway, Nigeria, Nicaragua, New Zealand, Pakistan, Peru, Philippines, Poland, Portugal, <b>Romania</b> , Russian Federation, Sweden, Switzerland, Slovenia, Spain, Somalia, South Korea, Sri Lanka, Suriname, South Africa, Thailand, Tunisia, Turkey, UK, USA, Vietnam, Zaire.
DIOC-E ( <a href="https://www.oecd.org/els/mig/DIOC-E-2010-11-methodology.pdf">https://www.oecd.org/els/mig/DIOC-E-2010-11-methodology.pdf</a> )	100 destination countries and more than 200 countries of origin, including <b>Romania</b>

Source: Author based on EC-JRC, 2018 and databases website

Despite their limitation, all these indexes give a long-standing knowledge for policy-makers and researchers and a journey in time and across countries' perspective on migration issue. However, based on the analysis of different migration databases, it has been reconfirmed the OECD state in accordance with that "it is helpful, if not essential, to compile information directly from destination country data sources, but this is particularly challenging because it requires collecting data based on comparable definitions and concepts from a large number of countries across which emigrants are scattered" (OECD, 2019). There is still a lightening since despite all the problems inherent in the collection of migration data, nowadays the United Nations Population Division and the World Bank

manage a world origin-destination database for providing a framework for a more precise measurement of global international population movement (IOM, 2019: 5).

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26. [https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-cm7-2008-11\\_gmb\\_execsumeiu.pdf](https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-cm7-2008-11_gmb_execsumeiu.pdf)



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## **SOCIALISATION OF PUBLIC ADMINISTRATORS IN NIGERIA IN THE 21<sup>ST</sup> CENTURY: A CORRECTIVE PERSPECTIVE.**

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**Abstract:** *Over the years many employees are socialised with the nature of work and the work environment to enable them perform their assigned responsibilities creditably. It has been observed over time that public administrators rely just on their skill and knowledge to execute their duties, and in most cases, pay negligent or no attention to the workplace environment and those who have something to be done in the organization, are left unsatisfied with services rendered by the administrators. One way to overcome this challenge is for the public administrators to be sociable by establishing cordial relationship within the workplace environment in discharge of their duties. Socialisation will drive performance, teamwork, cooperation and understanding with administrators displaying good qualities such as modesty, tactful, foresight and sense of judgment in handling things. This study is carried out to correct the non socialisation attitude of some public administrators in the 21<sup>st</sup> century. The study therefore recommends among other that employers and government should create the atmosphere for employee work relationship, reshape administrators' scope of job performance to accommodate modern tactics, less control methods and new policies to accommodate socialisation strategies and to allow employees gain modern experience for proficiency and performance purposes. The Nigeria government should encourage worker-workplace- relationship for smooth implementation of government policies at all times to global standard.*

**Keywords:** *Socialisation, Public, Administrator, Nigeria*

### **Introduction**

Employees engagement in socialising with his environment have formidable impacts on the behavior, experiences and personality, which will be exhibited obviously in the work place environment, where public administrators lack these attributes, it calls for correction and orientation of the concerned manpower in the organisation. With regards to socialisation of the employees there has been multifarious outcries concerning the biased position of punitive measures in the 21<sup>st</sup> Century Public Administrators. Physically and Spiritually, this position has been widely adjudged as very partial in the sense that,

administrators are always singled out as embodiment of the nature of the environment or workplace wherein they represents and this had made the balance of probabilities of employees affirmative relationship within the workplace insatiable and unverifiable, even possibly err in the opinion of the relationship attitude of public administrators.

One needs not to forget that the universe in the 21<sup>st</sup> century has reached a global standard of practice and one needs to learn these standards(Lifton:1961), and these has evolved into a communal setting due to the advancement of the technology, also that the very nature of humans are dynamic in adaptation to environmental changes that the environment has evolved; The public administrator uses the socialisation means to improves on the job performance and adapt to new changes the workplace environment projects (Klein and Weaver, 2002). The parameters of an administrators' workplace relationship tends to depends on several factors embodied in the environment and nature of job specification performs. To achieve every organisational goals employee's attitude to work, proficiency and social relations with the work environment is vital. Although most public administrators are proficient and effective in their job performance, there seems to be lack of socialisation perceived from the attitudinal display to outsiders and visitors within the workplace environment, where this indifference attitude is corrected that output flow will be maximized in most cases for the growth of organisation.

## **CONCEPTUAL CLARIFICATION**

### **Socialisation**

Various scholars had depicted scholarly acceptable definitions on the concept of socialisation, to which few shall be examined. In the view of Coleman (1977) socialisation described the way a person conforms, more or less with the social groups he finds himself. This view was termed a narrow perspective of socialisation by Okolocha et al (1999), in attempt to expand the scope of the concept, the scholars depicted that socialisation is an interactional process during which behaviour pattern are acquired and / or modified to conform to the expectation of the wider group to which an individual belongs. That dynamic cultural induction process by which individuals are prepared for participation as effective members of their society or group (Onwuleme and Ugbor, 1994: 28), socialisation is an internalisation of social norms, rules and expectations that governs behaviour in the environment, such rules and expectations are based on morality, rationality, etiquette, ideology and aesthetic judgment (Ansu:1984), it is an expectation that employees attitude at the workplace involves learning and improvement in spheres of life which cut across norms, organisation values and ethics, display behaviour, beliefs, knowledge, skills and others. The employees socialisation is the breed of both acculturative and culture or norms that emanates from the work place environment, which will enhance workers to perform meritoriously as expected in this modern century. Socialisation therefore, tends to prepare and position public administrators for better job performance and accomplishment of assigned task in the organisation.

The socialisation function may be summed up as the development in individuals of the commitments and capacities as crucial prerequisites for the administrator's future role performances (Talcott: 1959). For socialisation functions to be relevant in the workplace environment, anticipatory socialisation should not be proffer to concomitant socialisation. The former only seeks futuristic emphasis, whereby the individual anticipate attaining

certain positions or playing certain roles in the future. Whereas, the concomitant socialisation is a form of resocialisation, which entails the training of an individual or an employee/administrator gets consequently upon the assumption of a new position or status, resocialization becomes necessary as the employee is expected to meet the needs of the organisation on a daily basis without delay or ado. The individual may then be likened to people who are brainwashed, they will not only learn new standards but will be made to reject or denigrate existing old ways (Lifton: 1961).

Public administrators' socialisation are hasty by their establishment objectives, because, an organisation itself is an agent of socialisation; where a pattern of doing things is not yielding expected and anticipated results. The organisation tends to change its policy towards a better challenging standards, this new dimension is expected to be a new foundation for the employee to drive force on. This is where concomitant socialisation comes to play. The public administrator needs not actually waits to attain certain position before beginning to engage or positioning himself for development of the organisation, this is the essential concern of every employable and employed administrator.

### **Goals of Socialisation**

Socialisation takes into cognizance the objective of the establishment and possibly influence an already formed attitudes, habits, and adopted values, and achieve new modes of behavior that are in the interest of both the companies and their employees (Ratkovic Njegovan and Vukadinovic, 2011). Most organizations considers socialization of administrators as a desirable quality and skills coupled with competences for efficiency in output. It is on this note that we state some goals that socialization tends to achieve for both the organisation and the administrators.

Social Competence is an organisational desires as a trait in an administrator, to be socially competent in dealing with the world outside the very organisation, to overcome existing social realities and add values to core goals. To attain social competences by the administrator, there are essential elements that the organisation expects form the worker and they are competency based was enumerated by Vathanophas and Thai-ngam (2007) to include self-improvement, team leadership, organisational awareness, commitment, confidence, analytical thinking, integrity, good communication and influence skills, coordinators, self-control and expertise, just to mention but few needed to be exhibited by the administrators.

Social competence is a complex and multidimensional related, thus, the European Commission (2005) identified social competence as one of the essential benchmark indicators based on which the tendencies towards prosperity and well-being in respective countries (organisation) can be identified. Again, socialization tends to achieve organisational tactics which always engages structural experiences required to be attained by the administrators. Tactics can be consciously planned and could sense as guidance to the employee job role performances, planned tactics could be termed formal means of socialization with the goals of attaining experiences by the employee. Good tactics for administrator promotes self confidence, agility and sense of responsibilities; to buttress his view, Eisenberg and Goodall (2011) opined that tactics or organisation could reinforce the positive attributes of the employees, while organisation takes into cognizance that each worker is a complex and unique personality with its own needs, values, emotions and motives.

More so, Administrator's socialisation improves work performance, the concept of work is influenced by the perception of conditions of the work context which invariably, an employee can key into; work promotes relations of exchange with the environment and the dynamic behavior of the work, performance can be confirmed by the set standard of the organisation knitted by the administrator values, habits, beliefs, and principles that guide actions (Fernandes and Zanelli, 2006). Beyond these few points, the goals of socialisation in an organisation that strives for greater attainment will be inexhaustible.

### **Public Administrator**

Administrators as a class, being it junior or senior occupies a crucial strategic position in any organisation; the simple objective of administration in an establishment is absolute organisation and direction of persons in order to accomplish a specified end. Every organisation in the 21<sup>st</sup> century consists of various groups of people woven together in a complicated process to achieve the aims of the organisation. In a large organisation, a large number of employees have to be supervised, coordinated and controlled, to attain this, a lot of workers have to be brought together and are distributed for works among different departments or units that made up the establishment, these workers are graded from various levels of authority and responsibilities, to another, and there is a chain or an atmosphere for growth in the course of job performance, those who perform various functions in the organisation are administrators, their positions within the establishment is pivotal because each component is designed to perform a specialised purpose/functions.

The very essence of administrative functions is to ensure the continuance of the existing order of the day. This order could vary and is subjected to dynamism of the time, which serves as a wave for the pilot-usually the administrator. Public administrators are those employees in the public sectors who majorly render services to the public on behalf of their employees in attempt to satisfy the establishment goals; the administrators need to render quality and satisfying services by employing their wealth of experience and knowledge into function; with a sense of modesty and acceptable attitude/behaviour that is reputable to the image of the organisation. This behaviour are not stringent but could be changing along with the 21<sup>st</sup> century requirements; the manner and means in which administrators render the services to members of the society matters a lot, it's actually revolves around socialisation as can be showcase by the employees.

To best derive satisfaction from the administrator, the employee need to fine-tune courteous and gentle some attitude at all time within the workplace. Public administrator can be more effective and efficient in performance of the job in a socialised way through display of the following qualities:

#### *Tact*

A public administrator must cultivate and develop a sense of tact, being tactful in dealing with the employers, colleagues and subordinates as well as the general public at large. To exercise tact means to see a situation calling for sensitivity, to understand the meaning of what is seen, to sense the significance of the situation, to know how and what to do, and to actually do something right (Van Manen, 1991:146). A good administrator must avoid being arrogant, pompous, or even pedantic when relating with the boss, superior or employer, this demands the show of courtesy both in writing style and in addressing same orally. Tact is a kind of empathic sensibility and wisdom about people, which support

instance understanding (Van Manen, 2015). Juuso and Laine (2004) view tact as a situation-specific form of action based on sensitivity, which is only remotely connected with ideas that are derived consciously, again, Van de Wolf and Van Beukering (2011) depicted that tact is 'reading the situation, which provides professional with information on what is important and what should be done. On a daily basis, public administrator demonstrate tact in several channels; an open confrontation with superior, colleagues or inferior authorities of the organisation or outsiders /visitor is tactless attitude; where wrongs needs to be right, administrator needs to employ the courteous and gentle discussion tool and not the other way round. It is unprofessional in this 21<sup>st</sup> century for public administrator to embarrass staff or visitors in the workplace environment, it can lead to suspension and query if the things are being done rightly. Vagle (2011) relate tact to intuitional qualities; which is acted on for development (Bors and Stevens, 2013). From the conclusion of Johansson and Kroksmark (2004), administrators who are tactful are aware of the uniqueness in that situations of the job, Kennedy (2002) added that such tactful administrator is aware of environmental cues and can sense what happens in the workplace environment. Levin and Nolan (2014) position was that both rationality and intuition facilitates administrators tact, and the role play by rationality is much better understood in tactfulness than that of intuition.

### *Foresight*

It is not expected that an administrator should be a prophet or a seer and when he forecast an occurrence, it should not be cajole either. Background of foresight and the importance ascribed to it is traceable to the 20<sup>th</sup> century (Fayol, 1949; Knight, 1921, and Whitehead, 1967). Foresight has been linked to performance as a changing environment (Amsteus: 2011). A good administrator should anticipate and be able to forecast based on experience attained, the probable consequences of measure for organisation policy, more ado, being able to think development possibly to terms over the short and long terms future and circumstances. Thus, this aptitude motivates employee to advise accurately and effectively on organization policy and where needs arises, the workers should be able to persuade those they relates within the course of their job performance. Since foresight is a device for promoting innovation and change (Amsteus, 2011), the possibilities of an employee to unveil the predictions now depends and is subjected to the degree of relationship such administration display with everyone in the workplace environment and this is where resocialisation is encourage for those who are not sociable to commenced interpersonal relationship building attitude especially in the workplace environment. Fink and Marr et al (2005) argued that organisation have to recognise future threats and opportunities early enough and address them in their strategies, it is the duty of public administrators to forecast these threats and opportunities, which is possible through socialisation with the global environment. Hamel and Prahalad (1994) noted the aims of foresight as to build the best possible assumption base concerning the future and from that base build the capacity needed to proactively shape evolution. The concept of foresight took another shape as the ability to imagine or simulate the future (Dawkins, 2006), also an employee seeking adaption of socialisation needs to entails foresight as complete as possible (Knight, 2002). One importance of foresight as a quality of a public administrator which cannot be underestimated is its contributions to the goals of the best strategic decision making processes(Courtney, 2001), managers and administrators, have some

foresight concerning the rising of an advantage (Ahuja, et al. 2008; Cockburn, et al. 2000). In the very opinion of Horton (1999), the practical perspective of foresight by manager and administrators in an organisational environment entails looking at possible futures, as well as determining what choices the administrator can make in the present to optimise the future of the organisation.

### *Sense of Judgment*

Sense of judgment is an essential quality of an administrator because on a daily basis, employee/administrator is engaged with assigned responsibilities which demand some elements of evaluation, weighing of evidences, assessing the levels of public issues. In the course of job performance, an administrator has to consult and take into consideration before conclusion on issues that force and drives the establishment goals; otherwise, a paralytic shift will occur in a bid to execute assigned responsibilities. This process of consultation should be wide and based on good sense of judgment, one needs to succumb to good opinions emanating from glamorous opinions of those that has impetus contributions to the organisation, it is only when an employee or administrator has undivided cordial relationship with people that good responses can be attained from consultations. “Even though, bad eggs are found within a create of the eggs”, an administrator should be able to sought good opinions out of the numerous sinuous (if there be) ones and this became imperative only with good sense of judgment or the part of the administrator. This is a risk attitude to treat general risks as a meaningful trait of the administrator (Highhouse, Nye, Zhang, and Rada, 2017). With good sense of judgment, a professional administrator is required to have risk assessment and risk management skills (Steward and Roth, 2001), While socialising with the workplace environment.

What is pivotal to the administrator sense of judgment is accuracy in the matters of utmost importance, to be accurate; the administrator had to gauge the facts about any situation and tender advice where necessary or receive same. The quality of a glamorous sense of judgment in administrator could be manifested likewise in an administrator’s ability to measure correctly the limits of the possible, in public settings several public policies which are set to be rolled out and the expectation of the organization is affirmative, then an administrator can capture the crucial policy and translate them into reality through capacity measurement and the scope of delimitation. To succeed on it, the administrator needs establish good relationship within the workplace environment and ensure that he is accurate with the situational position of the organisational policy. Gilovich, Griffin and Kahneman (2002) noted that an administrator makes decisions quickly and effortlessly where they possess senses of good judgment. The choice of judgment affects the organisation growth, thus, Schwarz (2001) suggested that experienced emotions are processed as information that can form or make judgments or decisions. However, too much attachment of emotion can lead to various anticipated negatives like regrets, disappointment (Coricelli, Critchley, Joffily, O’Dohert, Sirigu, and Dolan, 2005) or negative outcome like indecision (Anderson,2003). The sure way out is for administrators to be socialise. Whatsoever an administrator does to shape decision and show sense of judgment was termed “nudge” by Thaler and Sunstein. Thaler and Sunstein (2008) expatiated on nudge as any aspect of the choice architecture that alters people’s behaviours in a predictable way without forbidding any options or significantly changing their economic incentives.

### *Modesty*

An administrator modicum is positioned in every sense of modesty; anything short of this is resentment and outright blunder on the administrator's part. Public administrators relates with all and sundry and it behooves on them to be modest in all ramification to avert been labeled with failure. Modesty is viewed as a highly-valued attribute (Leary: 2005) in this 21<sup>st</sup> century. Pearsall (2001) reechoes the definition of New Oxford Dictionary of English on Modesty as the quality or state of being unassuming or moderate in the estimation of one's abilities. Modest behavior is perceived as helpful, pro-social and agreeable (Bond, Kwan and Li: 2000) for an administrator. Study has revealed that modesty prevails in public transactions, while self-enhancement lurks in private settings (Kobayashi and Greenwald: 2003; Kurman: 2001; Muramoto: 2003). It is not out of place to stress that administrators who are modest are always rated positive in evaluation with interpersonal relation and socialisation, hence Judd, James-Hawkins, Yzerbyt, and Kashima (2005) opined that modest people are evaluated favourably, not along the communal dimension but also in the organisation. Employees therefore, should have more stable interpersonal relationships (Campbell, Foster and Finkel, 2002). Modesty is required to advanced high status in the organisation, and to attain different aspect of optimal human functioning (Passmore: 2000 and Sheldon: 2004) in the establishment.

### *Catholicity or Catholicism*

A good quality of an administrator also entails catholicism, a catholicity of views and interests, a mindset capable of comprehending adequate conceivable subjects and interrelating them in a clear, lucid and logical sequence is required to set rolling to attainment, organisational goals. Thus, Kahya (2007) was correct to say that the level of experience of an employee can affect his job performance. Also, the influence gained from socialisation can bring about innovations in every facet of the employee when opportune to catholically relate; among many individuals antecedents that influences employee's innovative performance are attitudes (Williams: 2004). A specialist administrator ought to think deeply and sometimes obsessively about his spheres of specialisation; he needs to be enthusiastic about that field and recognized every possibility of limitation in such area; a public administrator who possess quality of thinking briefly and rapidly about many subjects and their interconnections needs to put into consideration technical factors before the policy makers and policy executors. The ability to have a wide variation of things and be flexible in the course of job performance is still related to socialisation of the public administrator and the workplace environment. Kreisman (2002) further buttressed that the most valuable and volatile asset of any institution or organisation is a will motivated and stable workforce which is competent, dedicated, productive and catholic in nature. This position was ascertained by Wilson (2010) that administrator has discretionary behavior which is displayed affirmatively upon motivation and commitment. This is the cruise of socialisation. When administrator comprehends the global standard of job performance, and is opportune to exercise such approach catholically, there will be job satisfaction and proficiency in output performance with added values. Ren (2010) holds that administrator can add values to organisation, which is congruence designed for productivity when employee is opportune to participate in decision making and being autonomous in job performance sovereign from any form of control. One fact remains that the level



administrator socialisation also determines the grade of employees' exposition and experience gain in this modern world and its standard.

#### *Delegation and Empowerment*

The administrator at times acts as delegatee who play their employers roles at times, in so doing, the employee needs clarification and certainty of what to do and how best (methodology) to do it; on the other hand ,an administrator could delegate responsibilities to subordinate to aid in quick result reaching process. Whether the superior delegated powers to administrators – inferior or not, it is a glamour call that a delegate must be empowered and protected to execute those assigned responsibilities without being tense up for lacks of security, therefore, for delegation to be effective in this 21<sup>st</sup> century, it must come with authority(Muo: 1999). The administrator interest must be protected and there ought to be little incentive to motivate such a delegate in order to pull forces into action that will yield positive results; anything less will amount to poor management (Ugoani:2020) and it will also amount to demotivating when rulers are placed with delegation (Heller:1998). Both delegation and empowerment are based on established relationship displayed by the administrator in the workplace environment. Thus, Adebayo (2004) noted that a top man who cannot get the best out of his subordinates and give them an opportunity to exercise their initiative is not fit to head an organisation. Delegating authority is a measure of psychological empowerment that can effectively boost employee performance (Ugoani: 2020), effective delegation enhance learning, socialisation and efficiency result oriented driven. In the view of Bass (1990), he holds that delegation implies that a person has been empowered by his or her boss to take responsibilities for certain activities. To him, delegation is highly related to empowerment, and empowerment is a motivational concept related to self-efficacy(Ugoani: 2020). The very essence of employee delegation and empowerment is to maximise output, hence Noe, et al (2004) opined that management in every organisation should ensure that employee's actions and outputs contributes to the organisational goals. To achieve workplace objectives, an administrator needs to be balance in all way round. Any delegation supported with empowerment will result into psychological balance of the employee, thus, Zhu, et al (2004) holds that such psychological empowerment results in better work outcomes.

#### *Sympathy and Consideration*

Socialisation key into self-esteem of the administrators in a workplace environment and it encourages empathic relationship amongst workers (Singh: 2013). Sympathy and consideration is an indispensable quality of a good administrator, which is demonstrated both to his employers, subordinate and for the members of the public, in fact, it is what matter most in organization (Whetten, 2001). Human feelings and kindness, softness and spineless elements are expectation to be cordially associated with workers, which will make employees to be firm and strict, sympathetic and considerate when engaged with socialisation in the workplace environment. Socialisation of administrator is initiated to foster high level performance and for continuous learning process (Driver, 2007). Administrator must desist from harming or aiming to harm other's personalities in the work environment, desist from stringent discouragement and avoid being skewed when crucial policy is tabled for consideration. The quality of sympathy and consideration needs to be extended to members of the public who relates with the establishment to transact business,

with the administration at every point in time. Many personalities and figures are attracted to an organisation on numerous grounds, whether these purposes are favourable to both the administrators and the establishment, the administrator must establish a cordial relationship with all and sundry, because it promotes organisation output interests and emotions. Studies revealed that administrators are basic humans who are driven with interests to be as other serving as well as self-serving (Brown, et al, 2011) since organisations are emotional arenas (Fineman, 2000). Where there is anxiety and trepidation, good socialisation and establishment of fair relationship by administrator could ease issues and policy. Administrators in this modern society are persons that exercise patience, display humorous and optimistic attitudes to alienate wrong feelings. The essence of employee sympathy and consideration is embodied in the revelation of researches that those who have witnessed sympathy, compassion or consideration tends to take less punitive action against others unrelated to the compassion episode who have transgressed to some ways (Condon and DeSteno, 2011). Professor Laski in Adebayo (2004) summed up the attribute of an administrator in relation to specialty as the wisdom that is needed for the direction of affairs that is not expert-technique driven but a balanced equilibrium.

### **Public Administrator and Socialisation: The Nexus**

Although the concepts of public administration is quite distinct from socialisation, there is correlation in the sense that socialisation is one of the process through which the public administrator (employee) learns the necessary information to make a successful transition for becoming an integrated member of the organisation after getting hired (Van Maanen and Schein: 1979). The public administrator (employee) will learn the required knowledge, skills, attitudes and behaviours for adapting to the new job, role or culture of the workplace through successful socialisation process (Chao et al: 1994; Wachtfogel: 2009). The public administrator uses the socialisation means to improve on the job performance and adapt to new changes the workplace environment projects. This view was also held sacrosanct by Klein and Weaver (2002), also that socialisation is a process whereby the employees (public administrators) learn about and adapt to the new jobs, roles, and the culture of the workplace. The process of socialisation concentrates upon the stages which the public administrator experiences as they pass from organisational outsider to integrated insider (Wachtfogel: 2009). The processes of socialisation was explained in few content areas by Wachtfogel (2009) to entails organisational values, goals and culture; work group values, norms and relationship; job tasks, needs skills and knowledge, and personal change reality to identify self image and motives. These processes often changes as the organisation policies changes to meet the global standard of operations and transformational proficiency. Flowing from the above points, that socialisation as means of internalizing the norms and ideologies of the workplace environment, and it represents the whole process of learning throughout concerns pursue and it is a central influence on the behavior, beliefs, and actions of public administrators. Again, socialisation presents certain explanation for public administrator's behaviours, maintenance of certain relationship with the employers and the work place environment, thus shaping and reshaping of employee attitude to work and people.

## **Theoretical Framework**

### *The Theory of Self Development*

The theory of self development was propounded by an American Sociologist Charles Cooley in 1902, as a pioneer contributor to the theory, he asserted that people's self understanding is constructed in part, by their perception of how others view them as a process which is termed 'the looking glass self'. The theory of self development was well expanded in 1934 by George Herbert Mead. He opined that 'self' as a person's distinct identity that is developed through, and only through, social interactions. This implies that without interactions with others, self is not possible to emerge. In order to engage in social interaction (socialisation) to grow the 'self' as individual has to be able to view him/her through the eyes of others. That is not an ability we are born with (Mead: 1934), the self is hence, not an inborn trait; however, through socialisation, we learn to put ourselves in someone else's shoes and look at the world through their perspectives. Mead stated that self can be developed through any of these three stages of (a) imitation, (b) play and (c) team games. The team game of Mead self development theory posits that one learns to take several roles of a given time and how those roles interact with each other. One learns to understand interactions involving different people with a variety of purposes. Mead holds theory of self development as a person's distinct identity that developed through social interaction.

This theory implies that self development is a crucial aspect of human nature which is enigmatic from childhood to adulthood, even till death. Socialisation is pivotal both to individuals and employees. This continuous process is designed to shape and reshape individuals and not even identical twins, even if they are subjected to scientific study (Flam: 2007), even when such personalities behave alike, using the same gestures and facial expressions (Spratling: 2007), their levels of socialisation differ. The theory also implies that self development does not have to do with knowledge or skill or ability – this further implication was tenable in the view of Sternberg et al (2002) that knowing what to say to whom, knowing when to say it, and knowing how to say it for maximum effect is part of self development; knowledge is never part of socialisation.

## **Methodology**

The method of study adopted is the qualitative research design and data were obtained from the secondary sources of documents and scholars' work on previous relevant topics such as books, articles, journal articles, publications, newspapers and conference papers.

## **Conclusion and recommendations**

The study has revealed through its perceived findings that socialisation has an affirmative and strong influence on public administrators and employees in this 21<sup>st</sup> century when it comes to discharge of their duties and services. More so, the nexus between public administrators and socialisation was upheld to be effectual in this century and it is an atmosphere to widen employee's or administrator's experiences on the job performance to yield positive output/results for the organisation. Finally, the research sufficiently revealed

related literature on the concept of socialisation public administrator, theory of self development and there is prevailing evidence that public administrators in modern age needs to gain modern experience through proper socialisation to the core to foster speedy and healthy performance in service delivery in every organisation, which is now a global trend, when public administrators are sociable (interactive personally and not orientation exercise), then it suffice to say that organisation is set to yield expected outcome. Based on the theoretical findings of this study, the following policies recommendations were made:

- i. Reshape public administrator's scope of job performance to accommodate modern tactics.
- ii. Every administrator needs modern experience to advance performance through socialisation.
- iii. Less control methods for employees and subordinate should be observed to enable workers to learn modern means of effective performance.
- iv. New policy to accommodate employee socialisation strategise and relationship establishment within and outside the workplace environment.
- v. Employees or administrators targeted goals should be fostered with modern practices and functionality of organisation to a globally acceptable standard of operations and improvement.
- vi. Administrators should have the leverage to develop self on the job performance with guidelines of global standards of job performance methods.

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## **NIGERIA'S FEDERALISM AND CHALLENGES OF IMPLEMENTING FEDERAL CHARACTER PRINCIPLE**

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**Abstract:** *The study analysed the challenges facing the application of the federal character principle under Nigeria's federal system of government. This is with a view to understanding the limiting factors inhibiting the effective application of the federal character principle. The study utilised primary and secondary data. Primary data were collected through the administration of questionnaire and the conduct of in-depth interviews. The study population comprised 1,927 staff on Grade Levels 7-17, drawn randomly from six selected federal ministries. Questionnaire was administered to the respondents to elicit information on the challenges facing the application of the federal character principle in the Federal Civil Service. Out of 1,927 copies of questionnaire administered 1,548 (80%) were duly completed and retrieved. Interviews were also conducted with six Permanent Secretaries (PS) of the selected ministries; five directors/deputy directors; six Commissioners of the Federal Character Commission (FCC) and the Secretary, Senate Committee on Federal Character and Inter-Governmental Affairs to complement information got from the use of questionnaire. Data collected were analysed using descriptive statistics and content analysis. The finding revealed the challenges facing the application of the principle included: forgery and falsification of the State of origin by applicants; political interference among the political officeholders; favouritism; manipulations by some staff in-charge of implementation; and failure of ministries to declare and advertise vacancies before recruitments. The study concluded that despite the good intentions of the federal character principle the challenges keep on inhibiting its successful implementation, and unless these challenges are removed, the principle may not achieve fully the purpose of its introduction.*

**Keywords:** *Federalism, Federal Character Principle, Ethnicity, Amalgamation, Colonialist and Poly-ethnic groups*

### **Introduction**

Nigeria, one of the most ethnically diverse countries of the world, is a product of British colonial hegemony. Nigeria is a collection of ethnic groups, which are heterogeneous in character. The nature of Nigeria's heterogeneity is manifest in terms of the multiplicity of languages, culture, and religion, socio-political, and economic developments (Agbodike, 2003). The 1914 amalgamation of the Southern and Northern Protectorates and the Lagos Colony by the British imperialist, brought together over 300 different ethnic groups with many languages and over 1,000 dialects in Nigeria (Okotoni, 2006).

However, those ethnic groups that were incongruously merged regardless of their differences reacted in different ways to the British engineered merger. For instance, some saw the merger as "involuntary and traumatic", while for others, it was "a forced brotherhood" (Ayoade, 2003). Therefore, since the 1914 odd merger of Nigeria's poly-



ethnic entity, the nation has continued to witness incessant political mending, panel beating, and even attempted secession (Ayoade, 2003). It is for this reason that Suberu (2001), concluded that none of the nations in the world has ever had a 'more turbulent and tragic' system of governance than Nigeria.

Owing to its diversified nature, Nigeria adopted a federal system of government in 1954 based on the Littleton Constitution, and in order to curtail the problems of who gets what, where, and when, among the component units of Nigeria, the Federal Government then introduced the "Quota System" in 1954 (Federal Republic Nigeria, 2012). The use of the quota system was mainly concerned with the equalisation of inter-regional opportunities in education and federal appointments. Despite the introduction of the quota system in 1954 and its review in 1967, mutual mistrust, animosity, and diversity among various ethnic groups continued unabated until it degenerated into a civil war from 1967 to 1970. Prior to the civil war, Nigeria's First Republic which began with Nigeria's Independence in 1960 got truncated by the year 1966 as a result of a Military *coup d'état* which was seen by the Northerners as a sectional *coup d'état* at the behest of the Igbo ethnic groups within the Nigerian military. In quick retaliation, the Hausa/Fulani in the military carried out a counter-*coup* in July 1966 (Fasua, 2013).

The problem with Nigerian federalism is not unconnected with the way it emerged. Nigerian federation comes about through fiat of a foreign power; as Nigeria's federalism was imposed by the British (Ezeibe, 2009). Thus, Nigeria's federalism is not only complex but also hard to understand. It is not surprising that Nigeria in its 55 years of political sojourn has tried different forms of federalism. According to Ayoade (2009:iii): Nigerians have come to identify the first republic 1960-66 as the golden age of federalism in Nigeria. From that Nigeria descended into command federalism under military rule which lasted with short intermissions from 1966-1999. Even thereafter, Nigeria operates a system in which the State Governments only exercise power and financial donations from the federal government. At best, the states of the Nigeria federation are mere political concessionaries. Nigeria in its bid to get it right as a unified federating nation had also attempted different conflict reduction mechanisms. These involve the use of "confederal, federal relationships and regional autonomy"; "differential allocation of government positions and resources to less advantaged groups". Despite the adoption and application of these measures, no positive results were yielded. This consequently led to the Igbo attempted secession from Nigeria to form the Republic of Biafra; the attempt which snowballed into a civil war was unsuccessful because it was not mutually supported by other ethnic groups in Nigeria (cited in Eresia-Eke & Eberiyi, 2010).

After the civil war, the country's leadership took a number of policy measures to ameliorate ethnic rivalry, principal among which was the introduction of the Federal Character Principle entrenched in the 1979 and 1999 Constitution.

One of the areas in which the principle of federal character is being applied is the Federal Civil Service (FCS). The Federal Civil Service is a governmental institution that plays important role in ensuring that government policies and programmes result in tangible services for the citizens. That is, civil servants are indispensable in the smooth running of governmental activities as they are involved in designing, formulating, and implementing public policies, as well as discharging governmental functions and developmental programmes in an effective way (Ogunrotifa, 2012). Therefore, the composition of the Nigeria Federal Civil Service in line with the federal character principle

is expected to cut across the nation for the purpose of equity and fairness. As laudable as the federal character principle is; especially in the distribution of the federal civil service employment, there are different problems militating against its successful implementation. It is against this background that the study analyses some of the challenges facing the application of the federal character principle in the Federal Civil Service of Nigeria with a view of recommending steps towards tackling the problems.

### **Federal Character Principle: A Related Review of Literature**

The principle of federal character is not limited to Nigeria; it is given different names by different nations across the globe. For instance, it is referred to as "affirmative action", "positive action", "employment equity", or "benign discrimination" in places such as the United States of America, Canada, India, and South Africa (Drumbl & Craig, 1997); and "representative bureaucracy" (Okotoni, 2003); "zoning formula"; "quota system"; or "federal character principle" (Adeosun, 2011) in Nigeria. According to McCrudden (1986), any policy measure or anti-discrimination law that could be termed as affirmative action must intend to affect the position of individuals whose prospects are impeded by unequal and unjustifiable treatment from other members of a particular group. That is, any affirmative action law should be able to guarantee equity, and far from bias and prejudice; such that a group of people must not be given preferential treatment over the other within a nation.

The available literature on the federal character principle further shows that scholars broadly view the concept from diverse perspectives and recognise it by different nomenclatures even though their views tilt along the same line. For instance, Maduagwu (1999) sees the federal character principle as a technical term for "ethnic policy", "ethnic engineering" or "ethnic management". Most of the scholars see the principle from the objectives which its original authors intended it to achieve, which is to inspire a sense of belonging and loyalty. Some other scholars argue that the federal character arose out of the need to correct the anomalies which emanated from the uneven distribution of natural and economic resources of the nation. Scholars such as Ezenwa (1987), Adamolekun, *et al.*, (1991), Talib (2005), and Ojo (2009) note that the federal character is a veritable instrument for equal treatment of citizens, equal distribution of amenities, and a formula for fair distribution of a nation's political as well as economic powers. This is because where there is a fair distribution of amenities; there will be even development in the country and this would lessen rancour in the polity. Therefore, based on the views of these scholars, it could rightly be deduced that the federal character as a principle of state policy is a vehicle of political fairness in a poly-ethnic society, with regard to political and bureaucratic appointments, as well as the distribution of social amenities and economic facilities in the country.

The second chapter of the 1999 Constitution as amended entitled *Fundamental Objectives and Directive Principles of State Policy* enunciates clearly what the Federal Character Principle entails. The Constitution states in section 14, sub-section 3 that the composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the Federal Character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby

ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that government or any of its agencies.

The Federal Character Principle, according to this section of the Constitution, could be seen as a non-discriminatory principle, which aims at guarding against the monopolisation of governmental activities or the apparatus of government by a particular ethnic group or section of the country. Put differently, the intention behind the introduction of the federal character principle was to accommodate all the component units of the nation in all the governmental activities.

In a similar vein, Obiyan & Akindele (2002) are of the opinion that the federal character principle is about putting into consideration the pluralist nature of the country when sharing administrative as well as political jobs and the economic resources of the country. According to them, this is pertinent in order to allow the conduct of public institutions affairs to reflect the country's diverse nature. Thus, when public institutions' affairs are made to reflect the pluralism or country's diversity, it will go a long way to encourage the citizens to have a sense of belonging.

However, contrary to the above section of the Constitution; and Obiyan & Akindele positions, the irregularities and the protests that follow the posting, recruitment as well as the promotion exercise within the Nigeria Army in 2013 completely negated these objectives of the principle of federal character. It would be recalled in 2013 that a group of Army personnel, under the auspices of "Group for the Salvation of the Nigerian Army" petitioned the Presidency, the National Security Adviser, and the National Assembly alleging ethnicity and favouritism in the recruitment, promotion, and posting exercises in the Army under the then Chief of Army Staff (COAS), Lt. Gen. Azubuike Ihejirika. "Group for the Salvation of the Nigerian Army" has argued that the COAS has bastardised the practice of equity in the federal character principle in his attempt to "Igbonise" the Army as every posting, promotion, and recruitment was in favour of people of Igbo extraction to the detriment of other ethnic groups in Nigeria (Madugba & Baba, 2013).

The federal character principle has been referred to as 'an instrument of eclectic redistribution of bureaucratic positions and industrial locations' (Ayoade, 2003). For Ayoade, the principle of federal character is essentially all about the re-allocation of political and economic powers. He equally sees the principle as a means of locating or positioning industries in Nigeria. On the other hand, Ezeibe (2009) posits that the federal character is all about building a nation of equal opportunities for the citizenry, where every individual would feel comfortable to participate in national affairs without let. Ezeibe's view is beyond economic distribution as he emphasises equal chances, a sense of belonging, opportunities as well as feelings of comfort and security for all diverse elements despite ethnic diversity. Up till now, Nigerians are still looking forward to that day of "equal opportunity for all; and individual comfortability". Ezeibe further sees the federal character as a "reaction as well as a system". This position is more realistic compared to his early position. For him, the principle "is a positive reaction" aims at amending and correcting anomalies in the conduct of public management in the years past; it is also a reaction against those anomalistic practices of the past – *vis-à-vis* "selfish and parochial consideration, which placed the self-interests above the national interest".

In their study, Erero, *et.al.*, (2004) note that federal character is "special consideration for disadvantaged groups in publicly funded opportunities". The rationale behind this according to them is to "level the playing field as the groups preferred are often

those that have been discriminated against in the past”. To them, the federal character is for the selected few whom they tagged the “disadvantaged”, and not for the generality of Nigerian citizens. However, the yardsticks for determining the “disadvantaged” and the “preferred groups” whose federal character is meant for are not stated by these scholars.

Arising from the above, the federal character principle is meant to address the critical issues or questions of equity and fairness; as well as to allow the under-represented groups of the nation’s population opportunity or access to civil service jobs. This is with a view to discouraging ethnic rivalry, political instability, and mistrust in Nigeria, and that, lopsidedness in the appointments into the civil service jobs in the country will not continue. To date, this view seems a tall dream, considering the nature and practice of Nigeria’s federalism; the pluralistic nature of the country, and complexities of people; as well as implementation challenges of the federal character principle.

## **Methodology**

### **Research Design**

The study adopted a survey as the research design. The choice of the research design becomes imperative in view of the fact that it is a research method in which a sample of the population is studied and the selection is made such that the sample is representative of the whole population. This type of design is suitable, because, the principle of federal character which this study is centred on has been in operation for some years which the study cannot change, but could only help in identifying its challenges and provides appropriate data on which to base a sound decision.

### **Study Area and Study Population**

The study area is Abuja, the Federal Capital Territory (FCT) of Nigeria, which is the seat of government where all the Federal Ministries have their headquarters. The population for the study were staff of the Federal Ministries, comprising senior members of staff of the Ministries of Agriculture and Natural Resources, Information and Communications, Education and Youth Development, Finance and Economic Development, Labour and Productivity, and Science and Technology. These members of staff were drawn from Grade Levels 7-17. The selection of these categories of staff is justified on the grounds that they are always involved in the policy implementation at the level of the Ministries, while, the Ministries are selected because their roles are pertinent to the generality of the citizens of Nigeria.

### **Sample Size and Sampling Technique**

A total number of 1,927 respondents were selected using a simple random sampling technique. They comprise the staff of the Ministries of Agriculture and Natural Resources (325); Information and Communications (205); Education and Youth Development (1,186); Finance and Economic Development (67); Labour and Productivity (113); and Science and Technology (31). This represents 10% of the total respondents. Each ministry had a sample proportional to its size within the study population. In each ministry, respondents were selected among the senior staff (Grade Levels 07-17) members. With this, every senior member of each of the selected ministries had an equal chance of being sampled.

## Research Instruments

The study utilised primary and secondary data. Primary data were collected through the use of questionnaire and conduct of in-depth interviews. A set of questionnaire was used to elicit information on the challenges facing the application of the federal character principle in the federal civil service of Nigeria from 1,927 senior staff of the selected ministries. Interviews were conducted with six Permanent Secretaries of the selected Ministries, five Director/Deputy Director of the Federal Character Commission (FCC), and six Federal Commissioners of the FCC representing the six geo-political zones. The interviewees were selected because of their managerial and administrative positions in the commission. The Secretary, Senate Committee on Federal Character and Inter-Governmental Affairs was also interviewed because of his position in the national assembly. The information from the interviews further enriched the quality of data for the study.

Secondary data that were generated from 1979 and 1999 Nigerian Constitutions; relevant textbooks and journals; the Federal Character Commission's (FCC) official website and official publications such as, reports, Conference/Workshop proceedings and communiqué.

## Analysis and Discussions

**Table 1: The challenges facing the application of the principle in Nigeria**

Responses	Frequency*	Percentages
Forgery and falsification by applicants	1,457	15
Political interference	1,384	14
Favouritism	1,308	14
Manipulations by some staff in-charge of implementation	1,222	13
Non-submission of annual and quarterly nominal rolls	967	10
Failure of Ministries to declare and advertise vacancies before recruitments	904	9
The non-co-operation of some Ministries	865	9
Non-compliance with the stipulated six-week period of advertisement notices	801	8
Disregard for the declaration of existing vacancies	749	8
Total	9,657*	100

Source: Authors' Fieldwork

\*The frequency exceeds 1,548 because respondents identified more than one challenge facing the application of the federal character principle

As touching the challenges facing the application of the federal character principle, as displayed in table 1 above, 1,457 (15%) of the respondents identified forgery and falsification of information about the state of origin of applicants, as one of the major problems militating against the effective application of the principle. Forgery and falsification by applicants in form of claiming states other than their state of origin, do affect the implementation of the federal character principle. Many applicants who feel that the quotas for their states have been filled up do claim other states apart from their own in

order to get appointments. Due to the high level of unemployment in the country, applicants, by hook or crook, go the extra mile in getting themselves appointed.

This is followed by 1,384 (14%) respondents who asserted that political interference is also a challenge. On the issue of interference, governments and the managements are noted to be interfering in the appointments into the Federal Civil Service. Political interference had permeated all areas of national activities in Nigeria. All governmental activities are being politicised in a manner that there is nothing one can achieve or gain without playing politics. Getting appointments is based on who you know, and not on the certificate you possess. Politics in Nigeria is a type of politics where the winner takes all. Those at the helms of affairs, especially the political officeholders, use their offices to favour themselves and their political supporters. Those who belong to opposing sides in politics are tagged enemies, and consequently not allowed to benefit when sharing positions, including appointments into the Federal Civil Service. Similarly, the commissioners who are at the helms of affairs of the Federal Character Commission (FCC) are political appointees, who, oftentimes, dance to the tune of those that appoint them.

Also, 1,308 (14%) of the respondents emphasised that favouritism was one of the major challenges. On many occasions, the directors in the ministries, the directors at the FCC and the commissioners of the FCC, and other political officeholders did share the available vacancies in the ministries among themselves. They made the process of recruitments to look perfect even when the available positions were being shared among them for the benefits of their kinsmen.

Another challenge facing the federal character principle as indicated by 1,222 (13%) respondents was manipulations by some staff in-charge of implementation. Some staff that were in charge of the implementation of the federal character principle handled the exercise unethically; they did manipulate appointments and recruitments exercise to soothe their whims and caprices. There were some of them who did collect money from applicants before they could secure jobs. They had different prices for different jobs, depending on how juicy the jobs were.

This is followed by 967 (10%) respondents who indicated "non-submission of annual and quarterly nominal rolls" as one of the challenges facing the application of the federal character principle. In order to aid the manipulation of the recruitment exercise, many directors as well as permanent secretaries were into the habit of hiding or refusing to submit annual and quarterly nominal rolls to the appropriate quarters. The implication of this is that the Federal Character Commission (FCC), which is in charge of regulating all appointments into FCS, may not be fully aware of the available vacancies in their ministry, hence, its inability to regulate the appointments appropriately.

Furthermore, 904 (9%) of the respondents identified "failure of ministries to declare and advertise vacancies before recruitments" as a challenge facing the application of the federal character principle. Many of the ministries were fond of engaging in underground recruitments. Many times, recruitments would have been concluded before many applicants would know. Thus, by this, many qualified and eligible candidates were edged out of appointments.

Also, 865 respondents (9%) attributed the challenge facing the federal character principle to "non-co-operation of some ministries". Non-cooperation on the part of some ministries was a great challenge to the application of the federal character principle. These

ministries were fond of working against the Federal Character Commission (FCC), the regulatory body of the Federal Character Principle. On many occasions, these ministries would not submit their nominal rolls to the FCC. Besides, they would not advertise for the stipulated weeks before recruitments.

"Non-compliance with the stipulated six-week period of advertisement notices" was also a challenge to the effective application of the federal character principle as indicated by 801 (8%) respondents. Federal ministries, most of the times, did not advertise the vacant post(s) in their ministries; even those who advertised did not allow the six weeks stipulated period to lapse. Thus, applicants were not aware of the available vacancies in the federal ministries, and therefore, could not apply. According to the respondents, the reason for not advertising the vacant post was for those in government and members of the management to share the available vacancies among their candidates. This act is detrimental to a successful application of the federal character principle.

Finally, 749 of the respondents (8%) held the view that "disregard for the declaration of existing vacancies" constituted a challenge to the application of the federal character principle. The management of the ministries as well as their political allies did ignore the practice of sharing the available vacancies among the component states of the federation. Non-compliance with the federal character principle, as manifested in the disregard for the sharing of the available vacant post(s), thus, becomes a clog in the wheel of smooth application of the principle in the Federal Civil Service.

Findings through interviews conducted also supported the above. The interviewees identified basic challenges facing the application of the principle which included political interference and influence, favouritism and nepotism, manipulations by some staff in charge of implementation, forgery, and falsification of state of origin by applicants, and failure of Ministries to declare and advertise available vacancies before recruitment.

The interviewees also offer probable solutions to the above-listed challenges facing the application of the federal character principle to the Federal Civil Service. They (the interviewees) suggested that any aggrieved person as regards the application of the principle should petition the Federal Character Commission (FCC) and not the Court directly. However, if the commission failed or refused to act upon the petition, the petitioner could then institute legal action against the commission at any High Court of Justice. The petitioner could then seek an *Order of Mandamus* which would compel the commission to act on the petition without further delay.

This section is important in the sense that it reveals different limiting factors that hindered the smooth application of the federal character principle into the Federal Civil Service of Nigeria.

## **Summary and Conclusion**

The federal character principle was introduced to redress the ethno-regional imbalance in Nigeria. One of the areas in which the principle has been applied is the Federal Civil Service (FCS). The principle was fairly implemented in the civil service as it had, to some extent, reduced the marginalisation of some ethnic groups. However, its implementation faces certain challenges, which include – Forgery and falsification of state of origin by applicants who were desperate to secure means of livelihood; political interference, a situation whereby, political appointees tamper with procedures of

appointments in order to reward their faithful supporters; favouritism by the Management who helps some applicants to get appointment and promotion and Non-co-operation of some ministries with Federal Character Commission. These challenges have continued to inhibit the successful application of the principle and have to a considerable extent defeated the purpose for which the principle was introduced.

### Policy Recommendations

Arising from the results and findings of the study, the following recommendations are made to help in the application of the federal character principle:

The study identified several challenges in the application of the federal character principle, which included – non-submission of quarterly and annual nominal rolls/non-declaration of existing vacancies in the FCS. The Commission needs to work in collaboration with the Federal Civil Service Commission for regular update of Manpower Statistics in the various Ministries, agencies and parastatals in order to monitor their level of compliance. The commission will also need to maintain an updated website that is friendly and accessible to the public.

It was also revealed from the findings of the study that political interference and manipulations by some staff in-charge of implementation constitute a hindrance to the smooth application of the federal character principle. To address this, it is recommended that the federal government should introduce appropriate sanctions and penalties that will reduce political interference to the barest minimum. It is hoped that the recommendations will assist the Federal Character Commission (FCC) in fulfilling its mandate and remain relevant.

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## **PERFORMANCE MEASUREMENT IN ROMANIAN LOCAL PUBLIC ORGANIZATION - AN EXPLORATORY ANALYSIS OF PERFORMANCE MEASUREMENT SYSTEMS**

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**Abstract:** *The purpose of the article is to reveal several aspects related to the main characteristics of organizational performance measurement in Romanian local public organizations and to highlight an exploratory imagine of performance measurement systems (PMS) for this institutions. Based on a sociological survey, involving a total of 90 local organization (local and territorial public institutions) from the North-West of Romania (survey covering the main local institutions within six counties from north-west of Romania), the conclusions of the article revealed the low usage level of PMS in these institutions, a limited interest manifestation by the key stakeholders. The conclusions of the article argues that performance measurement systems is still not regarded as a useful managerial tool in Romanian local public organizations, although performance measurement is a great opportunity for resources allocation, budget construction or motivating employees. The local government does not take into account these benefits and continue to provide services without counting its effectiveness. Reasons for these aspects, practical contribution of the research and future perspectives are also discussed*

**Keywords** *performance measurement, managerial tool, stakeholders, local public institutions, exploratory research*

### **Introduction**

For several decades in public administration (central or local institutions) it can be noticed a strong interest towards implementing and using performance measurement systems (PMS), which (according to many experts) represent the foundation of increasing effectiveness and responsibility both for civil servants as well as for public institutions. Therefore, we can expect that the performance measurement, subsequently, the implementation of PMS is a major concern for managers and employees of public institutions (civil servants), foremost, for the elected political officials, citizens and mass-media. However, there are many institutions or public organizations that do not use this type of measurement, sometimes due to justified reasons or not (De Julnes & Holzer, 2001). In this respect, theoretical and practical studies alarmingly highlight two aspects of performance measurement in public institutions:

1. On the one hand, there is still a lack of concern and interest from public institutions in using and implementing the performance measurement systems;
2. On the other hand, implementing performance measurement systems, or even measuring the actual performance, where it exists, is done improperly, without interest and support form officials or managers of the institutions – this latter situation is putting the public institution in a state of confusion, upheaval and frustration.

Thus, paradoxically, in many public institutions (local or central), we are dealing with a PMS that do not contribute to the improvement of the institution's features – the improvement of service quality and/or increase efficiency and effectiveness of internal processes, a better distribution of budgetary funds, respectively, a more rational spending of public money. In fact, Meyer (2002), note that performance measurement rarely lives up to the expectations. From his point of view, the measurement systems become overwhelmed by a multitude of indicators, aspect which will eventually lead these systems to lose their ability to clearly highlight the performance level of the institution (the moderate from the high one). On the other hand, some studies have shown that the implementation of PMS, in some public organizations cases, is used only to meet regulatory requirements and tends to have a rather symbolic dimension, with no substantial impact on internal operations (Cavalluzzo, & Ittner, 2004, Raboca, 2015).

Regarding the use of PMS, some studies have highlighted that both the technical knowledge regarding the measurement of performances (acquired formally or informally) and the commitment of managers have a major impact on the level of use (Akbar at. al.). The purpose of the article is to examining, evaluating and analysing the different aspects related to the main characteristics of PMS in Romanian 'local government' (some of the institution from the local and territorial public administration level: (1) municipalities and town hall, (2) communes hall, (3) county councils, (4) prefectures, (5) general county public finance directorates and (6) labour and social protection directorates). In fact, the goals and objectives of the research are to highlight and elaborate an overview of performance measurement in local public organizations from Romania (the local and territorial public administration level). More precisely based on some undertaken research, the present paper will attempt to highlight:

I. The level of interest manifested by the key actors in implementing performance measurement systems (PMS). In general, local government can identify many categories of stakeholders in implementing PSM, namely: (1) heads of local public institutions; (2) heads of departments; (3) institution employees; (4) central institutions; (5) citizens (members of the local community); (6) representatives of the media; (7) businessmen and private companies;

II. The main purposes why the PMS are implemented in local public institutions;

IV. The main features of PMS (performance measurement) of local public organizations

### **The importance of performance measurement for public institutions**

Speaking of performance measurement systems in public institutions, Robert D. Behn (2003), considers that at nowadays, due to the awareness of performance system importance for public institutions on one side, but also due to the pressure, unrest and discontent from citizens and the media, on the other side, regarding the ineffectiveness of public institutions, implementing performance measurement systems in public institutions, is the „hot topic for the governments”.

Also of interest is to ask which are the grounds and reasons for leaders and managers of public institutions (as well as employees) to measure, monitor and report institution's performance. What benefits could performance measurement bring upon local institutions? Why are the elected officials, citizens, but also the media so interested in implementing performance measurement systems in public institutions?

After all, performance measurement does not represent a value in itself, the importance and value occurs when these types of measurements are being used in a certain way, more precisely, in achieving and accomplishing certain goals and objectives. If in the private sector, the implementation of this kind of performance measurement system is useful, being considered by many experts a form and a way to survive to the external environment, could this be considered valid also for local governments? The fact that private managers, in a greater or lower extent, measure and monitor their organizations' performance, can it be considered as a strong argument for implementing a performance measurement system in public institutions?

Indisputable, most experts agree that performance measurement systems can be considered, explicitly or implicitly, managerial tools for: increasing accountability, improving organization' performances, increasing efficiency and effectiveness in delivering services (Poister 2003; Berman & Wang, 2000; Newcomer, 1997; Wholey 1999; Wholey, 2010; Nicholson-Crotty et al., 2006; Marchand & Raymond, 2008, Moxham, 2009; Kloby & Callahan, 2009; Padovani, et al., 2010; Halachmi & Holzer, 2010).

In their studies, Kopczynski and Lombardo (1999) believe that performance measurement can be used by managers mainly for: (1) recognition of high performance; (2) identification of objectives and performance targets; (3) comparison between institutions in terms of performance results, accountability, building partnership and trust. Instead, related to the reason of using performance measurement in public institutions, Behn R. D. (2003) believes that this type of measurement can serve diverse purposes based on their interests, both elected officials and citizens or even managers and civil servants. Thus, from his point of view, using performance measurement in public institutions serves primarily for managerial goals, which are illustrated as questions in in the table below (Table 1).

**Table 1 The eight managerial purposes of performance measurement**

Intended purpose of using performance measurement	Type of question that performance measurement can find an answer
Evaluation	How well do public institutions function and work?
Control	How can I ensure that my subordinates are working as they should?
Budget	On what should a public institution spend its money?
Motivation	How should I motivate subordinates to work on a certain standard of quality and performance?
Promotion	How can I convince decision-makers –politicians, government, media, that the institution accomplishes its tasks?
Celebration	What achievements deserve to be included in the organizational rituals in order to celebrate success?
Learning	What are the issues that can be seen as negative and which are the causes and teachings that can be drawn to be avoided in the future?
Improvement	What should be done differently to improve performance?

Source: Behn, Robert D., 2003: 588

As well, the specialist Harry P. Hatry (2006) also believes that performance measurement is crucial especially in public management. In this regard, he considers that the managers of public institutions could use performance measurement information, helping them directly for the following activities:

1. Responding to the citizens and elected officials 'requests and inquires on the assumptions of institution's responsibilities;
2. Efficient budget construction and expenditure justification;
3. Allocation of resources throughout the year;
4. Detailed examination of performance issues and alternatives to correct them;
5. Employees motivation;

Therewith, in research related to measuring performance of municipalities of Canada, Rail Pollanen (2005), points out that these measurements are used more for internal purposes such as: (1) decision - making process regarding project management; (2) resource allocation and budget construction; (3) checking how to achieve the objectives and performance target (or performance standards); (4) reporting to the elected officials or hierarchical superior body.

Last but not least, should be noted that after some experts, (Michael J. & Mucha, 2010) the main goal of the performance measurement is to highlight the comparative performance results of various public institutions (benchmarking analysis), while other authors (Carassus et al., 2012; Carassus et al., 2014) consider that the adoption of performance-oriented management by local public organizations is a great challenge for them and a major factor of change and behavioural transformation, values and way of internal and external interaction and communication, enabling the organization to meet the challenges of the turbulence and tensions of specific environment which characterize the current public sector.

However, in terms of PMS within local public institutions in Romania so far there are 2 major approaches (legislative concerns). Thus, from a legal point of view, a first approach aims to focus the efforts of public authorities on determining sets of performance indicators based on which to identify the financial performance of local authorities (Moldovan B., 2014; Oprea, F., 2013). The second approach focuses on the development and implementation of tools related to quality management in order to increase the quality of services provided (Raboca et al., 2017). In this sense, we must mention the initiative of the Romanian government (Ministry of Regional Development and Public Administration) to carry out projects, financed from European funds, which aim to develop quality management in public institutions, respectively the development of specific methodologies for monitoring and integrated evaluation of public services in Romania.

## **Research methodology**

From a methodological point of view, analysing and evaluating issues related to PMS in local public organizations, was made through a sociological survey, involving a total of 90 local institutions from the North-West of Romania (survey covering the main local organizations within 6 counties from north-west of Romania). In terms of criteria based on which public institutions were selected for the interview, we opted to use a complex sampling scheme (table 2).

**Table 2. The sampling scheme**

<b>Item no.</b>	<b>Institution type</b>	<b>The sampling scheme (number of institutions)</b>
1	City Hall	Municipalities in the first three cities from counties (18)

2	Town Hall	The main 2 Town Halls from counties (12)
3	Communes Hall	Communes Hall from counties with a random statistical step of 4 (36)
4	Prefectures	Prefectures from the 6 counties (6)
5	County Councils	County Councils within the 6 counties (6)
6	General County Public Finance Directorates (de-concentrated entities)	General County Public Finances Directorates within the 6 counties (6)
7	Labor and Social Protection Directorates (de-concentrated entities)	Labor and Social Protection Directorates within the 6 counties (6)

Furthermore, to each institution has been sent a different number of questionnaires. The allocation of questionnaires has been done as follows: Number of organizational departments x 2 questionnaires. Thereby, each department has been assigned 2 questionnaires. One of these has been filled out by the head of the department, and the other one, by an employee of the department who fulfills several conditions such as: seniority, education, and has the birth date closest to May 1. Lastly, should be noted that, the total number of respondents is (all those interviewed and considered for data analysis is) 1300 (the response rate was 70.2% of total sent questionnaires – 1852). The level of non-responses was 29, 8%, meaning 553 questionnaires. The questionnaires were sent by post, between December (2019) - March (2020), addressed to head of institutions and public relations departments. From the total of 1300 respondents, 586 were male and 714 were female. University studies reflects the educational level of respondents, which occupies executive positions –872 respondents and leading positions – 428 respondents.

### Analysis and data processing

#### The main stakeholders interested in implementing performance measurement systems (PMS) in local public organizations

In terms of stakeholders using PMS, the survey data reveals that only respondents that are in leading positions (the heads of local public administration, departments) are clearly interested in implementing such systems (Table 1.3). In order to analyse this aspect we used a Likert scale (5 measuring level scale).

**Table 3 The main stakeholders interested in performance measurement systems**

Dimension/Question	Responses' mean (scale 1-5) (1- not at all interested, 5- totally interested)
1. Leading positions respondents (head of institutions, institutions leaders)	4.19
2. Heads of local institutions departments	3.08
3. Executive civil servants	3.06
4. Central public institutions (ministries or hierarchical superior forum of the institution)	2.90
5. Citizens (members of the local community)	2.85
6. Representatives of the media	2.18
6. Businessmen and private companies	2.08

Instead, the least interested in the implementation of PMS are business people and private companies and media representatives, even central public institutions and citizens (members of the local community) are not quite interested in such implementation. Somehow disappointing, regarding civil servants, is that not all civil servants categories are quite interested in PMS. In this sense, “executive civil servants” and “heads of departments” seem to be not very interested in the implementation of PMS (taking into consideration that 3 – represents neither interested nor disinterested).

From certain points of view, it was expected that heads of local public organizations to be interested in implementing performance measurement systems, respectively, to have concerns focused towards monitoring and measuring performance. But on the other hand, giving that just only heads of local public institutions are seriously interested in implementing PMS, it drastically reduces the benefits and impact that these systems may have. After all, the more categories of stakeholders are interested in PMS, the greater are the impact and benefits of these systems.

### **Main reasons why performance measurement systems are implemented in local government**

To analyse and explore the reasons for which PMS are used, we used two different statistical methods, namely: univariate statistical methods (statistical mean analysis) and multivariable statistical methods (multivariable linear regression equation).

On the other hand, to identify the main purposes of using performance measurement systems in local public organizations we looked, (in fact), to what extent these type of systems are use a number of 11 activities (Table 4), activities that are thought to be relevant and important for managerial activity in a public institution. In fact, by analysing the purposes why performance measurement systems are used, we wanted to see to what extent those are built as managerial tools.

**Table 4 Main reasons why performance measurement systems are implemented in local government**

Item no.	Question/Dimension: “Measuring/ reporting performance in your organization is used to...?”	Answers mean (1 – totally against, 5-totally agree)
1	Statistical reporting purposes (reports required by the hierarchical superior forum of the institution )	3,57
2	Improving quality of provided service	3,29
3	Improve decision making	3,12
4	Efficient problem solving of citizen’s needs	2,99
5	Setting objectives and priorities for the institution	2,98
6	Increased responsibilities for the mayor and officials	2,95
7	Improving institution’s image among citizens	2,90
8	Motivate employees	2,73
9	Comparing performance with similar organizations (benchmarking)	2,59
10	Efficient resource spending	2,45
11	Budget construction	2,41

Thus, using the univariate analysis, the survey data (analysed using mean of answers) shows that PMS are not used as real managerial tools, and is not a major concern for local government. In this respect, the results showed that PMS doesn't serve much and real to develop or efficiency internal processes or activities in the institution (answers 'mean ranges between 2, 41 and 3, 57).

Based on the results from the survey, we can assert that PMS are mainly used by local public institutions for:

- (1) Statistical reporting purposes;
- (2) Improving quality of provided service;
- (3) Improve decision making.

By contrast, local public institutions use less performance measurement systems for the following activities:

- (1) Budget construction;
- (2) Comparing performance with similar organizations;
- (3) Efficient resource spending;
- (4) Motivate employees.

In general, the image about the main purposes of using PMS is somewhat disappointing. We do not say that local public institutions do not use PMS or is not use for different purposes, but the scores obtained are extremely disappointing. In this respect, it is clearly visible that local public institutions have some concern for using the PMS in different purposes, such as improving decision-making or quality of service (although here the scores are relatively mediocre), but in the same time it is clear that there are a number of economic activities such as budgeting and or efficient resource spending, where these institutions do not use these systems. After all, the power and serious impact of PMS does not necessarily reside in the fact that it is used only in a certain field or activity but also in using cumulatively in a wide range of fields and activities. The reason why performance measurement in local institutional from Romania doesn't take into account resources allocation, budget construction or motivating employees could be a political one. If we think at budget construction inside a Local Council or County Council we can identify that the budget is made politically, being voted by the political majority inside that Council, without taking into consideration financial management scenarios or rely on a capital investment plan.

The second analysis implies a multivariate statistical analysis like multivariable linear regression equation (tables 5 and table 6). We used the statistical analysis of multivariable linear regression equation to understand and quantify the relationship between one continuous dependent variable (or criterion – in our case how PMS is used) and two or more independent variables (or predictors - in our case the main activities where PMS is used). We basically wants to see if there are differences between the way PMS is used by heads of local public institutions comparative with heads of departments in these institutions. With other words, we highlight the main objectives of performance measurement systems used by institution managers, namely: heads of the institution and heads of departments.



**Table 5 Main purposes for which performance measurement systems are used by leaders of local public institutions**

Model		Unstandardized Coefficients		Standardized Coefficients		
		B	Std. Error	Beta	t	Sig.
(Constant)		1,638	,229		7,15	,000
Improve decision making		,301	,060	,279	5,03	,000
Statistical reporting purposes		,128	,043	,126	2,95	,003
Improving quality of provided service		,069	,060	,063	1,14	,052
a. Dependent Variable: Measuring/ reporting performance in your organization is used by top management (institution managers)						
R	R Square	Adjusted R Square	Std. Error of the Estimate	Change Statistics		
,650	,422	,402	,81311	R Square Change	F Change	Sig. F Change
				,422	30.329	,000
				df1	df2	
				4	479	

Therefore, regarding the use of performance measurement systems (PMS) by leaders of public institutions, data analysis results (Table 1.5) indicates two aspects:

(1) First, it is confirmed that measurement performance systems are partially managerial tools designed to increase efficiency and effectiveness of management activity in the hierarchy of public institutions;

(2) Second, the main activities that are used/employed by local public institution' leaders are those related to:

- (1) Improve decision making;
- (2) Statistical reporting purposes;
- (3) Improving quality of provided service.

Note that the power of explanation of the model is not very high ( $R^2$  is relatively small).

**Table 6 Main purposes for which performance measurement systems are used by heads of departments of local public institution**

Model		Unstandardized Coefficients		Standardized Coefficients		
		B	Std. Error	Beta	t	Sig.
(Constant)		2,128	,190		11,21	,000
Improve decision making		,287	,049	,255	5,84	,000
Improving quality of provided service		,177	,043	,180	4,12	,000
a. Dependent Variable: Measuring/Reporting performance in your organization is used by heads of departments (departments and offices)						
R	R Square	Adjusted R Square	Std. Error of the Estimate	Change Statistics		
,720	,518	,509	,86828	R Square Change	F Change	Sig. F Change
				,518	45.546	,000
				df1	df2	
				2	568	

In terms of departments' heads of local public institutions, data analysis equation indicates that they use performance measurement systems in two main managerial activities, namely (Table 1.6):

- (1) Improve decision making;
- (2) Improving quality of provided service

From the point of view of this second statistical analysis, on the one hand, it is very clear that the heads of public institutions use much more PMS compared to heads of departments. On the other hand, although PMS are not being used to the real potential by heads of local public institutions or heads of departments, second statistical analysis clearly shows that in the local public institutions the management (leaders of public institutions from different hierarchical levels) used such system in 2 main direction namely: improving their decision making and quality of provided service - which is an encouraging aspect

Last but not least, the results of the second statistical analysis reveal that performance measurement systems (PMS) are still not used by the management of the local public institution (not only by the heads of institutions but also by the heads of department) to motivate their own civil servants. We consider this to be a discouraging and alarming aspect in the sense that this thing may create a serious problem with the proper implementation and use of these systems. Practically when civil servants do not clearly identify what benefits they have as a result of implementing PMS, for instance to be motivated and rewarded depending on the recorded levels of performance, they tend to feel "legitimate" to sabotage the implementation and use process of these systems. Obviously, in this case, not only the implementation process but also the process of using PMS will be considered by all civil servants (especially executives) as just another bureaucratic and routine task, which was received from "somewhere higher" and therefore not worth to be fully embraced and act in an appropriate manner. The reason or possible explanation why performance measurement in local institutional from Romania doesn't motivate could be also a political one. Here we refer to the fact that in many cases the access and allocation of resources of the local public institutions is made on political and discretionary criteria and not on the analysis of the degree of their performance. Obviously, when the access and resource allocation are made on political criteria and not on performance criteria the motivation of employees is done not on performance criteria but on political criteria.

### **Main features of performance measurement systems in local public institutions**

In order to identify the main features of PMS of Romania local public institutions, we started from a set of 9 statements (which correspond to 9 dimensions/aspects – items) that we consider relevant and important to characterizing a performance measurement system (Table 7). In other words, we wanted to see how well PMS of local public institutions can be characterized through the 9 statements (dimensions) that are relevant to describing these systems. In same time, in order to highlight the main features of performance measurement systems, we used a univariate analysis (statistical mean analysis) and a Likert-type scale (5 measuring level scale) concerning this 9 statements (Table 7).

**Table 7. Main dimensions that describe the performance measurement systems (PMS) implemented in Romanian local government**

Question/Dimension: “To what extent do you agree with the following statements related to performance measurement of the institution?”	Answers mean (1-totally against, 5-totally agree)
Performance measures reflects the overall objectives that we have to fulfill	3.92
Performance measurements are mainly based on financial indicators	3.84
Performance measurements accurately and precisely reflects the performance of the institution	3.05
The performance results of the institution are reported and presented annually to the public (using reporting, posting on the institution's website, organizing public meetings)	3.02
Performance measurement focuses on what is important to be measured not on ease of obtaining data	2.90
Performance measurement includes customer satisfaction as an indicator	2.60
Performance measurement is performed frequently and continuously	2.51
We use similar measurements for comparing department's performance	2.32
Performance measurements are based on non - financial indicators	2.21

Analysis results of the 9 issues deemed relevant to characterize the PMS in local public institutions, reveals a fairly contradictory and complex image. Hence, based on the results we can state the following:

1. First, performance measurement systems, although they tend to reflect the objectives needed to be fulfilled, do not always accurately reflect the performance of local public institutions. In this respect, the results indicate that performance measurement systems, by measurements, reflect the way of accomplishing general objectives set by the institution, although it does not very much accurately reflect the performance of the institution and is not performed frequently and continuously. In same time not always the reporting of the performances of the local institutions that is annually brought to the attention of the public;
2. Secondly, performance measurements are still concentrating on financial and the fiscal perspective and less focus on non-financial aspects (like customer satisfaction). Thus, local public administration is clearly most focus more on evaluating institutional performance through financial evaluation and not non-financial indicators;
- 3.. Thirdly, local public institutions performance measurements are not taking very serious into consideration customer satisfaction as a performance indicator – an important aspect that reflects, from some point of view, the deficiency regarding the concern for the client need – the citizen, and points out the shortcoming of the good direction for the development of performance measurements;
4. On the fourth, the analysis results revealed that performance measurement systems (PMS) clearly isn't use for comparing department's performance, and definitely are not based on non - financial indicators. On the other hand, there is a clear tendency among local public institutions to measure performance based on the ease of obtaining data and not on what is important to measure.

## **Final remarks**

The exploratory research about the local Romanian public institutions performance measurement reveals an ambiguous and complex picture concerning these measurements. From some points of view, this picture reveals that performance measurement as a concept is poorly conceptualized in local public institutions in Romania, although the use of performance measurement systems (PMS) is clearly visible.

In that sense, research findings reveal, first of all, that performance measurement for Romanian local public institutions are not, at least until now, a major concern. In this respect, many local institutions still not use frequently on a routine basis performance measurements. From certain points of view, this situation in Romanian local institutions, validates the existing trend in some countries which is highlighted by Poisert and Sreib (1999) and Pollanen (2005), regarding the widespread of non-using performance measurements in public institutions.

Secondly, research results show that a small group of local public institution key stakeholders are actually interested in performance measurement. Consequently, only the heads of local public institutions are interested in actual implementation and use of performance measurement systems, although we expect other key stakeholders to be interested in performance measurement, respectively in performance measurement systems. In this respect, citizens, media representatives and business people are less interested in this thinks.

At the same time, the fact that only leaders of local public institutions are interested in organizational performance measurements can be viewed both from a negative or positive perspective. In his respect, the positive perspective is related to the fact that indeed there is a concern among local public institutions in measuring and monitoring their performance. On the other hand, the negative perspective is related to the fact that, excluding local institution managers, the executive civil servants doesn't always use PMS, which is somehow disappointing.

Thirdly, performance measurement is still not regarded as a useful managerial tool in Romanian local public institutions. Thus, the majority local public institutions do not envision the potential benefits that could be brought by these types of measurements. In fact, the survey results show that PMS are very limited use - only to certain activities or domains (even if we are talking about head of institution or heads of departments). Of course, we do not say that local public institutions in Romania do not use PMS, but only that their use, from certain perspectives, is quite limited. Basically, performance measurement is used by local governments in Romania rather for statistical reporting, improving the quality of services provided and making decisions on highlighting certain aspects of a financial nature. Even if measuring performance is an excellent opportunity for resource allocation, or budget building or employee motivation the local administration still does not take these aspects into account.

In terms of general characteristics that involve performance measurement for local institutions, again no pleasing aspects are revealed. Basically, in terms of general characteristics, the performance measurement picture is extremely disappointing and confusing, emphasis more negative aspects than positive ones. In this sense, the only positive aspect related to performance measures is that they tend to reflect and are connected to the overall objectives that local public institutions have to reach, taking also

in consideration the financial indicators – which is not bad as a good direction for performance measurement direction. However, the fact that PMS still does not contain measurements of non-financial indicators (especially indicators of citizens' satisfaction), it does not perform frequently and continuously, are not used for comparing the department's performance and finally this systems are focuses not on what is important to be measured clearly represent a great shortcoming of these systems.

Finally, as a general conclusion, in the case of Romanian local governments, our findings did not support the fact that in these institutions there is a sequential and major development of PMS. Several elements of PMS exist, especially in measurement, while the purposes for which performance measurement are used and systematic application, from certain points of view, are very problematic. The research data confirms that on the local government level in Romania performance measurement is in its infancy and we can find performance measurements more at a theoretical level than at an implementation level. In terms of Bennett's Bouckaer and J. Halligan's ideal model of the three stages of performance measurement development (Bouckaert & Halligan, 2008), this picture of performance measurement is more negative than positive, confirming that the local government tin Romania is in its first stage of development, namely managing performance.

From some points of view, survey data clearly support the results regarding the shortcomings in measuring performance at local level reported in different states, as well as the fact that the implementation and institutionalization of this practice in local public sector remain problematic and confusing (Turc, et al., 2016; Hajnal, & Ugrosdy, 2016; Wargadinata, 2017).

One reason why performance measurement isn't use as a full managerial tool could be that many managers of local institutions (for e.g. heads of local institution and heads of departments) don't have enough managerial skills or management studies - they don't know very well the importance and how to apply to performance measurement systems as a managerial tool. Indeed, many of managers don't apply performance measurement for measuring the institutional performance because according to the „local Romania tradition of performance measurement”, institution performance is measured in numbers of votes - mandates won by heads of local institution, so basically we have to deal with a political performance measurement not with a managerial one.

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## **A POLITICAL APPRAISAL OF ECONOMIC SELF-RELIANCE IN NIGERIA'S FOURTH REPUBLIC: ISSUES AND CHALLENGES**

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**Abstract:** *This paper examines a political appraisal of the effort of various governments in Nigeria fourth republic toward economic self-reliance as a critical element to the overall Sustainable development of the country. However, due to the internal contradiction inherent in most developing Societies like Nigeria, achieving economic Self reliance has continued to elude these States. Nigeria's public sector driven economic system has been replaced by government in Nigeria with difference privatization model aimed at strengthening the institutional mechanisms of the state and creating inefficient and effective economic system to drive its development agenda. The paper argues that there is need for an alternative model for development in the country which avoids creating overdevelopment on foreign aid and -allows for the empowering of people to trust in their own capabilities and spirit. Economic Self-reliance as an alternative to the western model if properly understood and applied can bring hope for a bright and more sustainable future. The paper identified the factor militating ageist economic Self reliance and mad recommendations to address these factors with the goal of engendering economic Self reliance in Nigeria.*

**Keyword:** *Economic self reliance, Development, Social Policy, Nigeria.*

### **Introduction**

The new democratic dispensation in Nigeria was lunched again in 1999 leading to the emergence the forth republic .Meanwhile, it is not an overstatement to contend that since the return of democracy in 1999, the country has witnessed the emergence of political entrepreneurs and predators who have acquired political influence to direct and control economic policy. In the process, they became predators, destroying the incipient industrial sector. They are not pro-industry and have succeeded in destroying major industrial sub-sectors, particularly the textiles, tyres, paper and vegetable oil. Their tactics are to influence government policy to allow unrestricted imports through waivers. Alternatively, they create strong cartels for smuggling under the watchful eyes of government agencies. Several administrations in Nigeria, whether military or civilian, have tried to create policies and programmes that promote economic self-reliance and national development (Adamu, 2006). Over the years however, these policies have failed to deliver the anticipate dividends due to systematic contradictions and the Nigerian factor (Imhonopi & Urim, 2010). In spite of the efforts of successive administrations' efforts to pursue the objectives of economic diversification and self-reliance, the Nigerian economy still remains a mono-product. Crude oil exports account for 95% of foreign exchange earnings and 80% of budgetary



revenue. Also, more than 50% of industrial raw materials and significant amount of consumer goods are imported into the country annually (Aluko, 2008).

However, the upsurge of economic turndown racing through sub-Saharan African countries generally and Nigeria in particular has overwhelming impact on the vest rural population, subjecting it to unprecedented economic and social dislocation (Kin & Isma'il, 2013). The worsening problem of resource scarcity in sub-Saharan African dictates that governments can no longer rely on conventional means to successfully address the basic needs of their populations. The question of economic self-reliance for Nigeria remains a pipe dream. Patriotic citizens wonder at the gross inadequacies in the country's social and economic life, in spite of the abundant resources the country is endowed with. This paper seeks to examine the concept of economic self-reliance, the policies, programmes and efforts of government to achieve economic self-reliance for and in Nigeria, factors militating against economic self-reliance in Nigeria and finally presents some suggestions and recommendations with respect to correcting the present challenges strustrating efforts aimed at revitalizing self-reliance economic development.

### **Conceptual Discourse**

Self-reliance is defined by independence. It is the ability to think and act without the help or influence of others, the ability to decide what you should be or do. It is one of the bases of effective community development in Nigeria as it is in most of sub-Saharan Africa. Thus, Ojameruaye (2004) defines self-reliant economic development as that type of development that relies on the human and material resources of the economic unit whose development is the subject of discussion. In other words, it is development that relies on "internal" resources as opposed to development that relies heavily on "external" resources.

Economic self-reliance in the context of this paper is defined as an individual being able to supply his/her own needs without external assistance. It refers to the amount of income needed to satisfy basic needs, such as food, clothing and shelter, without receiving public assistance like food stamps, child care, public housing or aid from family or friends. As an economic measure, self-reliance is a measure of one's operating income versus operating expenses. Anyanwu (1992) posits that the widespread acceptance of this concept in the development planning of most African countries has the tendency to give greater stimulus and cohesiveness to community development in these countries. Self-reliance encourages the need for people to improve their living conditions using home initiatives and resources at their disposal. It is pertinent to note that self-reliant development is not autarky; it should allow for "external" support, however, it is propelled and sustained by "internal" resources (Kim & Isma'il, 2013). Consequently, one general objective discovered in economic plans or blueprints of continental, regional, national and state organizations or governments is "to promote self-reliant development". This means that in as much as rural and urban economies are encouraged to pursue policies of self-reliance and strive to ensure "autonomy", they should allow for substantial external support.

However, Ojameruaye (2004) contends that in many cases external resources do make a difference and can challenge the independence of the economic unit. Hence, self-reliance ought to be viewed as a continuum that is bounded on the left-hand side by parasitism and on the right-hand side by autarky but which does not include both boundaries. Thus we can talk of different degrees or levels of self-reliance; the farther an

economic unities to the right-hand side of the continuum, the more self-reliant it is. In the similar vein, Ikoku (1980); Mansour (1979) and Bloom (1988) submits that economic self-reliance should be seen as a development strategy based on indigenous socio-economic engineering. Its philosophy is improvement from within. This does not imply a return to the past, nor does self-reliance equate to autarky or dismiss some advantages of international relations (Kim & Ismai'il, 2013). It means, rather, the search for and the application of scientific and rational knowledge to the resolution of local problems, within the context of maximum autonomy in decision-making. Ghari (1980) aptly noted that the concept of economic self-reliance is closely allied to the principles of self-help and mutual help. The Oxford Advanced Learner's Dictionary defines self-help as "the use of one's own efforts, resources, etc to achieve things, without depending on others". It is "do-it-yourself" (DIY). Today, there are very many self-help or DIY books, tools and other resources to assist individuals in doing a wide variety of things. In practice some form of "external" assistance is usually required for an individual to improve himself. For example, you may need to read a self-help book (written by somebody else) to be able to fix a problem (e.g. electrical or plumbing) by yourself. This is why economists take a more robust view of self-help as "helping poor and disadvantaged people to help themselves". In other words, it is "assisted self-help" or "autonomy-respecting help" (Eade, 1997). It is recognized that poor and disadvantaged people find it extremely difficult to improve their condition of living without outside help. Sometimes they even become "complacent with poverty" (Kim & Isma'il, 2013). In such a situation, external help or support can serve as a catalyst or provide the push for action against poverty or to improve condition of living, and even to sustain improvement actions.

Economic self-reliance is a key factor in national development which demands that people apply their knowledge and skills to the resources at their disposal. This is in perfect accord with Anyanwu's (1992) observations that the development of related skills and attitude of a people can enable them to satisfy their basic needs, to grow self-reliant and to minimize precarious dependence on agencies external to their communities. There is no doubt that the current situation in Nigeria and other sub-Saharan African countries calls for the read option of a self-reliant approach to development if we are to overcome some of the current maladies in Nigeria and the other sub-Saharan African countries.

#### Theoretical Framework

For the purpose of this paper, achieving economic self-reliance in Nigeria will be placed against the backdrop of the World System Theory, the State Theory and Functionalist Theory. The world system theory is more or less a version of the modernisation theory, which is self-contained within a set of boundaries held together by a variety of forces (Ritzer, 1996; Offiong, 2001). In specific terms, Wallerstein (1974) recognizes two major separate world forces: the metropolis (developed countries) and the periphery (developing countries). According to him, the countries of the world belong to either of the two. The dominant countries (metropolis) are capable of dynamic development responsive to their internal needs. Whereas the dependent ones (periphery) have a reflexive type of development, that is, one constrained by its incorporation into the global economic system and which results from its mere adaptation to the requirement of the expansion of the metropolis. The core or the metropolis according to the world system theorists is technologically advanced, pays higher wages, has relatively powerful states and a relatively free market. The periphery, on the other hand, is characterized by relatively backward and

simpler technology, very low wages, weak and fragile states and cheap labour (Wallerstain, 1974; Bosewell, 1989; Shannon, 1989). According to the World System Theorists, the above situation explains the reasons for the weakness and inefficiency of institutions in developing countries like Nigeria, such as state-owned enterprises and why they malfunction; thus necessitating the development of different privatisation models, Xeroxed from developing countries and introduced into weak and developing economies to strengthen their institutions and grow their economy (Imhoponi & Urim, 2010).

The state theory differs strongly from the view point and central postulations of the world system theory. State theory is based upon the view that the economy is intertwined with politics and therefore the take-off period in development is unique to each country. State theory emphasises the effects of class relation and the strength and autonomy of the state on historical outcomes. Thus, development involves interactions between the state and social relations because class relations and the nature of the state impact the ability of the state to function. Development is dependent upon state stability and influence externally as well as internally. State theorists believe that a developmentalist state is required for development by taking control of the development process within one state (Preston, 1988; 1996). From the standpoint of the state theorists, looking at development from the interaction between the metropolis and periphery does not arise, while the state is given a key role to play in the development of the institutions within developing countries. Besides, state theorists believe that the development is not a unilineal process but is dependent on the internal make-up or composition of each state. Thus, they argue that developing economies have hope of turning around the fortunes of their institutions and the polity by pursuing internal growth through strengthening the institutions and agencies of government putting in place a value system to which all stakeholders must subscribe to and committing to the development agenda of government. This position agrees with the arguments of functionalists like Talcott Parsons, Robert Merton and Gabriel Almond, that society would function better based on four functional imperatives which are embedded in all system of action such as: adaptation, goal attainment, integration and pattern maintenance (Ritzer, 2007). Adaptation here refers to the fact that a system must adjust or cope with its external environment, particularly when this environment is deemed threatening. In order for a system to function effectively, it must also first define the goal it hopes to achieve.

Parsons called this functional imperative goal attainment. Integration is also important to a system because it needs to regulate the interrelationship of its component parts. Finally, a system needs to furnish, maintain and renew motivation for individual participation, including the cultural patterns that create and sustain this motivation. Parsons referred to these functions as latency and pattern maintenance. Hence, to achieve economic self-reliance, political and economic managers of the Nigerian state must understand and define the goals it wants to achieve, develop the requisite value system needed to furnish, maintain and renew motivation for the individual participation of all Nigerians to make this goal a reality (Imhonopi & Urim, 2010).

In line with these thoughts, this paper argues that for institutions in developing economies to function effectively and for the development of the polity, leadership in developing economies should embrace holistic adaptation of the way and manner development administration is being carried out by developed economies.

Furthermore, there is need for policy makers and political leaders in developing countries to strengthen the internal composition of their various institutions and imbibe the right values to drive these institutions towards economic self-reliance as the functionalist theory advocates. The state theory principally believes that economic self-reliance can be internally achieved and sustained when states are committed to their development process. It also advocates for collaboration between the political and economic managers of the state in the pursuit and realization of economic self-reliance for the polity.

### **Government's Efforts to Achieve Economic Self Reliance for and in Nigeria**

The concept of economic self-reliance as a development strategy however escaped mention in budgets speeches since independence. Our leaders have always appreciated the need for Nigeria to be economically self-reliant (Osazua, 2012). Consequently, over the years, Nigerian governments have evolved well-articulated policies and programmes aimed at achieving economic self-reliance in Nigeria. This is succinctly captured by Imhonopi and Urim (2010); Kim and Isma'il (2013) as follows:

First, the Operation Feed the Nation and the Green Revolution Programs of President Olusegun Obasanjo in the late seventies and President Shehu Shagari in the early eighties respectively. Prior to the discovery of crude oil in commercial quantities in the mid-fifties, agriculture was the basis of the national economy. Thus, the programs were intended specifically to revitalize agriculture in the country so that the country could have stability and self-sufficiency in food production.

Second, the Structural Adjustment Program (SAP) of the Babangida administration in 1986. This was in reaction to the paradigm shift from a public sector dependent economy to a private sector-led enterprise and to a certain extent forced on the country by the steady drop in its revenue profile (Adamu, 2006). The objective of the program was to:

reform and diversify the productive base of the economy, with the aim of lessening dependence on the oil sector and imports;

achieve a fiscal and balance of payment feasibility over the medium term.

and lay the basis for a sustainable non-inflationary growth over the medium and the long-term. To actualize the aforementioned, government had to embark on partial or full privatization of its companies and parastatals. Therefore, seventy-three of the 95 government enterprises put on the block were privatized.

Third, the Obasanjo civilian administration on May 29, 2004, launched the National Economic Empowerment Development Strategy, NEEDS. According to Chief Obasanjo, the NEEDS was to address the development challenges of Nigeria. He said that the program would lay a solid foundation for sustainable poverty reduction, employment generation, wealth creation and value reorientation. The same program at the state and local government levels were known as State Economic Empowerment Development Strategy (SEEDS) and Local Government Economic Empowerment Development Strategy (LEEDS) respectively. NEEDS rested on the following pillars, which were, forming the way government and its institutions worked, boosting the private sector, implementing a social charter for the people and reorienting people's values. NEEDS was strongly supported by the federal government with comprehensive reforms in the public sector. Most especially, the banking consolidation, where twenty-five mega banks emerged each with a minimum capital base of 25 billion naira. The banks were burly enough to support

private initiatives and entrepreneurship. Subsequent to the NEEDS were also Millennium Development Goals to be actualized by the year 2015. These goals in a nutshell were to see to poverty reduction and environmental sustainability among others (Adamu, 2006).

Fourth, others were the 7-point Agenda, the Eight-point United Nations Millennium Development Goals (MDGs), the American AGOA, the African New Partnership for African Development (NEPAD) and the sudden Food Crisis Policies of the late president Umar Musa Yar'Adua (Imhonopi, 2010).

#### The 7-Point Agenda

What then constitutes Yar'Adua's seven point agenda? The major policy thrust of this administration, otherwise referred to as the 7-point agenda are:

- Critical infrastructure: This would involve paying attention to adequate power supply to facilitate industrialization, development of rail, road, air and water transportation to facilitate movement of persons, goods and services.
- Niger Delta: This would involve complete overhaul of the region to ensure provision of physical infrastructure and empowerment of the people.
- Food security: Through this vision, the administration has declared interest in enhancing agricultural and water resources to ensure adequate food supply for local consumption and export.
- Human capital development: This would involve reform of education sector to improve skills and enhance standards.
- Land tenure and home ownership: Review of the land use laws to facilitate proper use of the Nation's land assets for socio-economic development; and citizens' access to mortgage facilities.
- National security and intelligence: Through this strategy, the administration intends to give adequate attention to the provision of security to lives and properties.
- Wealth creation: This aspect would be used to initiate the process of diversification of the nation's revenue base and increased production to provide jobs (FMIC, 2007).

#### **The Eight-Point United Nations Millennium Development Goals (MDGs)**

The MDGs thus refer to the eight major goals identified by international leaders, which if pursued with vigor, is likely to lead to better lives for the people of the world. These eight goals have been identified as:

- reducing extreme poverty and hunger;
- achieving universal primary education;
- promoting gender equality and women empowerment;
- reducing child mortality rates;
- improving maternal health;
- fighting disease epidemics such as HIV/AIDS, malaria and others;
- ensuring environmental sustainability and
- developing a global partnership for development

As at the year 2000, these international goals had received the consent of 192 United Nations member states and at least 23 international organizations. The leaders set 2015 as the target year for the maximum realization of these goals (Robert, 2010).

#### **The African Growth and Opportunity Act (AGOA)**

AGOA was signed into law by President Clinton in May 2000 with the objective of expanding U.S. trade and investment with sub-Saharan Africa, to stimulate economic growth, to encourage economic integration, and to facilitate sub-Saharan Africa's integration into the global economy. The Act establishes the annual U.S.-Sub-Saharan Africa Economic Cooperation Forum (known as the AGOA Forum) to promote a high-level dialogue on trade and investment-related issues. At the centre of AGOA are substantial trade preferences that, along with those under the Generalized System of Preferences (GSP), allow virtually all marketable goods produced in AGOA-eligible countries to enter the U.S. market duty-free.

The U.S. Government provides assistance most notably through four regional trade hubs to African governments and businesses that are seeking to make the most of AGOA and to diversify their exports to the United States (AGOA Fact Sheet, 2008).

### **The New Partnership for Africa's Development (NEPAD)**

NEPAD which is a program of the African Union (AU) was adopted in Lusaka, Zambia in 2001. It is fundamentally new intervention, organized by African leaders with the intent to track new priorities and methods to achieve the political and socio-economic transformation agenda of Africa. NEPAD specifically is aimed at enhancing Africa's growth, development and participation in the global economy (Rawia, 2008).

Lastly we have the Transformation Agenda of President Goodluck Jonathan. The Transformation Agenda is based and draws its inspiration from vision 20:2020 and the 1st National Implementation Plan (NIP). The objective is to deepen the effects and provide a sense of direction for the current Administration's all-inclusive development of Nigeria during its term. The agenda is based on a set of priority policies and programmes which will transform the Nigerian economy to meet the future needs of our people. The cardinal elements of the Transformation Agenda of the current Administration include constitutional and electoral reforms and transformation of the budgeting process. Others will include overcoming the current security challenges through ensuring peaceful co-existence, tolerance, employment generation, poverty alleviation and job creation for our youths aside from determined focus on developing critical infrastructure and human capital development. There is an overriding push for effective planning, coordination and continuity of policies and programmes with creation of an enabling environment for private sector participation through Public Private Partnership (PPP). The Administration is also poised to deliver good governance through tackling corruption, value re-orientation, accountability and transparency as well as monitoring and evaluation for all priority policies, programmes and projects.

### **Challenges/Factors Militating against Economic Self-Reliance in Nigeria**

There are factors working against the genuine efforts of government to achieve economic self-reliance in and for the country. These factors are as follows:

*Corruption:* The genuine efforts of government over the years have suffered incessant drawbacks as a result of the entrenched corruptive tendencies and sharp practices engaged in by public officials and political office holders. This frustrates the efforts of government to achieve economic self-reliance either through the development of state-owned enterprises or through the creation of social and economic programmes in the country.

Although, government has put in place the Economic and Financial Crimes Commission (EFCC) to checkmate the incidence of corruption among political office holders and public officials, Nigerians are yet to see the tangible benefits of the anti-corruption war engaged in by the agency.

*The Nigerian factor:* The efforts of government to pursue economic independence for Nigeria has resulted in failed policies and programmes because of factors like nepotism, tribalism, lack of meritocracy, federal character, bribery, practicism of benefits and privileges and other corruptive tendencies that have continued to weaken our resolve as a nation to lead the rest of the continent and even the world.

*Frequent change of policies:* Each new government comes into power with its own virginal economic blueprint which it promotes in the place of existing policies. This frequent change in policies does not help us to stabilize existing programmes, so they can deliver their dividends to Nigerians. Therefore, before a policy implementation process matures, a new policy is introduced, terminating the existing process and denying Nigerians the benefits that could have accrued from such programmes. Many healthy and pragmatic programmes initiated in the time past by successive administrations in the country have suffered this fate.

*Multiplicity of economic advisers:* One of the strong drawbacks of achieving our economic self-reliance is the engagement of many economic advisers in the life of one single administration. These advisers come on board with different ideologies, programmes and initiatives which collapse on one another and entrench the culture of frequent policy somersault and back-flips (Imhonopi, 2010). As Aluko (2008) observed, during the eight years rule as the President of Nigeria, Chief Olusegun Obasanjo had six different Economic Advisers/Ministers of National Planning who were supposed to have been responsible for the midwife of the NEEDS. They were Chief Philip Asiodu, Dr. Magnus Kpapol (now Director of NAPEP), Professor Charles Soludo, Professor Ode Ojogwu, Dr. Osita Ogu and Senator (Dr.) Wali. This situation creates setbacks to the policy formulation and implementation process towards economic self-reliance.

*Lack of continuity of policies:* As a corollary to the above points, genuine efforts of government at achieving economic self-reliance for the nation cannot be realized within a climate of inconsistent policy formulation and implementation. This is one area that the country has almost become accumulated to as a nation. Lack of continuity has led to the existence of many policies but fewer results in practical terms for Nigerians.

*Law-level of technology:* No nation develops its economic constituents without having an enabling technology backbone. The absence of a home-grown or customisable technology platform has denied the country of access to an industrialized and vibrant economic system. The history of the Asian Tigers is an instructive lesson on the need for developing nations like Nigeria to invest in technology tools and the manpower to run these technology in order for the country to achieve the much anticipated economic self-reliance.

*Lack of infrastructure:* This is another deep-seated crisis facing the nation. The absence of an effective road network, power supply and other social amenities further limits government's efforts to achieve self-reliance. In fact, today, many multinational companies like Dunlop Nigeria and a few others are leaving Nigeria for countries like Ghana where the infrastructural facilities are in place and where the economic climate is supportive of and mild to their business operations.

*Political instability:* Before now, the frequent change of government in Nigeria, which created political instability, resulted in the frequent change in policies. Since independence, Nigeria has experienced repeated change of governments and political leadership. This situation engendered the abandonment of existing policies and the repeated introduction of new policies, creating waste of resources, waste of government's time and denying Nigerians from being positively impacted by these policies.

### **Suggested Ways to Achieve Economic Self-Reliance in Nigeria**

Having looked at the challenges militating against government's genuine efforts to achieve economic self-reliance for Nigeria, the following are suggested ways by which the present challenges can be addressed:

First, accountability: One of government's greatest challenges is lack of accountability of its resources. The political leadership and public office holders have taken advantage of the loopholes in government accounting system, poor financial monitoring and the absence of the digitalization of government financial records to steal from government coffers. However, the present massive digitalization and computerization of government business, that is e-government, will help to reduce government's exposure to the activities of political fraudsters and thieves.

Second, the empowerment and independence of anti-corruption agencies: The Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC), are two agencies of government created to stem the growing tide of political and other forms of corruption in the country. For these agencies to effectively discharge their functions, the government needs to empower them and let them have total independence from government interference and encroachment so as to dispense justice as they carry out their duties.

Third, renewal of ethical standards: The government of the day must evolve programmes aimed at reviving the fallen ethical standards and morals such as sincerity, credibility, transparency, truth and honesty. It should have a zero tolerance for those who engage in sharp and questionable practices whether in and outside government, while individuals who are found to support this paradigm shift are to be encouraged through a reward system to be put in place. Also, along this line, government business needs to integrate global best practices like professionalism, creativity, innovation, meritocracy, performance-based reward systems and planning.

Fourth, consistency in policy formulation and implementation: To achieve economic self-reliance, government needs to be consistent in its policy formulation and implementation.

Fifth, development of home-grown technology: Today's global economy is governed and controlled by those who own the technologies in place. Nigeria for many years, has remained a consumer nation and this will continue to frustrate the genuine efforts to transform our economy. As long as Nigeria remains at the receiving end of the technology trade, the desire to achieve economic self-reliance will be far-fetched.

Sixth, the need for entrepreneurship development: Globally, countries are beginning to look inwards towards developing and empowering their small businesses, creating a climate that supports small business growth and encouraging citizens and young



graduates to create businesses rather than seek employment. By investing in the growth and development of small businesses in the country, the massive result to be realized from this effort can facilitate economic self-reliance for Nigeria.

Seventh, the political will and commitment of government to economic self-reliance is key to achieving economic development. Government, at whatever level, must refuse to pay lip service to the question of economic growth, development and independence for the country. Government needs to put its money where its mouth is by making a genuine commitment to efforts aimed at achieving economic self-reliance in Nigeria and for Nigerians.

#### Conclusions

Conclusively, self-reliance is defined by independence. The whole idea is the ability to think and act without the support or influence of others, the ability to take decisions as to what should be done. Whereas dependency is a reference to the act of relying on others to make decisions for you. Hence, people with power and privilege often take responsibility for the lives of those that are less fortunate. Dependent people often fail to find the motivation to solve problems on their own. Hence, economic self-reliance is vital for residents in developing countries to successfully govern their own lives and economies.

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# ***FINANCE***



## **CREDIT CHANNELS OF FINANCIAL SECTOR DEVELOPMENT AND ECONOMIC GROWTH IN NIGERIA**

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**Abstract:** *The development of the Nigerian financial system has been scrutinized in the recent years as to whether the system support the growth of the economy according to financial sector development theories. However, the inability of previous studies to adequately pay attention to the credit channels of financial sector development necessitated this study. Thus, using data from 1986 to 2018, this study provide a nexus between credit channels of financial sector development and economic growth in Nigeria estimated with Autoregressive Distributed Lag technique (ARDL). Findings from the Bound Co-integration result suggested a long-run relationship between credit channels of financial sector development and economic growth in Nigeria. The study found and concluded that, credit to core sector and credit to government impede economic growth in the short, with credit to core sector stimulating economic growth in the long run. The study recommended that effective policies should be formulated to further allocate more credit to the core sector as major driver of economic growth. Credit allocated to government should be judiciously utilized for growth enhancing purposes.*

**Keywords:** *credit channel, growth, financial development, repression*

**JEL:** *F43, E51, G1, O47, G28*

### **Introduction**

The development of the financial system is germane to promoting economic growth and development in a modern economy. Financial sector development ensures the flow of funds from the surplus unit to the deficit unit of the economy for investment purposes which is crucial for economic growth and development (Guiso, Sapienza, & Zingales, 2004; Schmidt & Hryckiewicz, 2006; Geenwood & Jovanovic, 1990). Financial system development stimulates economic growth and development through technology and innovation improvement that promotes intermediation efficiency in the economy (Rousseau, & Wachtel, 1998; Levine, Loayza & Beck, 2000; Dawson, 2015; Arestis, Chortareas, & Magkonis, 2015). Thus, a well developed financial system plays a vital role in the development process of an economy.

The credit channel through which financial sector development influenced economic growth emphasizes on the effective allocation of mobilized financial resources inform of credit to the real and productive sector. Theoretically, it is suggested that, effective allocation of credit to different sector like industrial, services, agriculture, and conduction sectors engenders economic growth and development (Beck, 2013; Levine, 2004; Schumpeter, 1911). Robinson (1952) opined that adequate and efficient allocation

and provision of credit enhance investment and real sector productivity. Availability of credit facilitate production of goods and services of the real sector which has multiplier effects on different sectors of the economy (Gilchrist & Himmelberg, 1995; Popov, 2017). Allen and Santomero (2001); Mehl and Winkler (2003) asserted that, a developed financial system allocates credits at low cost, less risks and eliminate asymmetry information. According to Shaw (1973), credit development and allocation supports economic growth both in the short run and long run.

The credit allocation of financial sector especially commercial banks in Nigeria has received significant attention from government and policymaker. Prior to the adoption of deregulation policy, it was believed that there is inefficiency in credit allocation due to interest rate control, credit ceiling, and special directives on credit allocation (Fapetu & Obalade, 2015). Over the years, especially since 1986, the Nigerian financial sector has undergone different reforms which were aimed at ensuring not only effective mobilization of financial resources but also adequate allocation of credit to real sectors (Soludo, 2004; Okpara, Onoh, Ogbonna & Iheancho, 2018).

Despite diverse policies and reforms formulated to enhance the performance of the financial sector, it is widely believed that the sector has not achieved its aim of meeting the credit need of the real sector (Nkoro & Uko, 2013). Also, Adekunle, Sakami and Adedipe (2013) stated that, there is weak connection between the financial sector and the growth because production and investment sector of the economy that are germane to promoting economic growth are not adequately financed by the sector. However, studies conducted on the relationship between financial sector development and economic growth in Nigeria did not give special attention to the credit channel of financial sector development (Abubakar & Gani, 2013; Madichie, *et al.*, 2014; Iheancho, 2016; Okpara, *et al.*, 2018; Egbo & Nwankwo, 2018; Obamuyi & Faloye, 2018). For instance, Fadare (2010); Bhusal (2012) looked at the effect of financial reforms and economic growth and found reforms to influenced economic growth. In addition the study of (Abubakar & Gani, 2013; Madichie, *et al.*, 2014; Iheancho, 2016; Okpara, *et al.*, 2018; Egbo & Nwankwo, 2018; Obamuyi & Faloye, 2018) mainly employed overall credit to the private sector and it influence ON economic growth. The Nigerian financial system has witnessed growth and expansion in terms of size and financial instruments. However, the need to further position the financial system as a major credit provider and driver of inclusive growth while weathering different macroeconomic internal and external challenges necessitated this study. The main novelty of this study lies in the adoption of credit to core sector and credit to government as a departure from previous studies. This study employed credit to core sector of the economy because the sector is the major driver of economic growth in Nigeria. Also credit to government measures the ability of the financial sector to provide finance to government which determines the capacity of the government to support it revenue shortage and provide facilities to support growth in the economy. In lieu of the aforementioned gap, this study explored the nexus between credit channels of financial sector development and economic growth in Nigeria. The rest of the paper is divided into methodology, presentation of results and conclusion.

## Methodology

### Theoretical Frameworks

Series of theories have linked the credit channels of financial sector development to economic growth. Schumpeterian Model of Economic Growth initiated by Schumpeter (1934) acknowledged the role of efficient allocation of credit to promote economic development through entrepreneurship innovation. However, Neo-Classical Model of Growth of Solow (1956) laid more emphasized on technological improvement as the major driver growth by treating credit capital as exogenous variable. Endogenous Growth Model of Levine (1997), Bencivenga and Smith (1991) and Saint-Paul (1992) stressed on the effective and efficient allocation of mobilized finance in terms of credit to the real sector by eliminating liquidity risk and promote savings which are germane to induce real investment and growth.

Finally, the financial repression hypothesis of McKinnon (1973) and Shaw (1973) recognized the critical role that financial institutions play in fostering economic growth through resources mobilization and credit allocation. McKinnon (1973) and Shaw (1973) are of the opinion that a liberalized and effective financial system has the capacity to eliminate inefficiency in savings allocation, reduce risk and promote competitions which in turn support real sector activities by providing the required credit to the sector.

### Data and Model Specification

This study employed quantitative data from 1986 to 2018. All data for the study were secondary and time series sourced from Central Bank of Nigeria Statistical Bulletin (2018) and World Development Index. In collecting the data, the focus was mainly on the key variables which include credit to core private sector, market capitalization, monetary policy rate, total saving, net credit to government and real gross domestic product.

### Model Specification

The model for this study was modeled following the empirical study of Shaw (1973); Rousseau and Wachtel (1998); Levine, *et al.*, (2000); Dawson (2015); Arestis, *et al.*, (2015). As a medication to reflect the main focus of this study, Credit to Core Sector and Credit to Government are employed as credit channel of financial sector development. Thus, the simple model for this study is given as:

$$RGDP = f(CCS, CG, MPR, TSGDP)$$
$$LRGDP = \alpha_0 + \alpha_1 CCSGDP + \alpha_2 CGGDP + \alpha_3 MPR + \alpha_4 TSGDP + u$$

Where: LRGDP = Log of Gross Domestic Product, CCSGDP = Credit to Core Sector as a percentage of Gross Domestic Product, CGDP = Credit to Government as a percentage of Gross Domestic Product, MPR = Monetary Policy Rate, TSGDP = Total Saving as a percentage of Gross Domestic Product.  $\alpha_0$  = Constant Term  $\alpha_1 - \alpha_4$  = Coefficient of Parameters.  $u$  = Error Term

### A priori Expectation

Theoretically, the adequate allocation of credit to important sector of the economy is expected to enhance economic growth. Thus,  $\alpha_1 - \alpha_4 > 0$ . This in tandem with the

assertion of Levine (1997), Bencivenga and Smith (1991); Saint-Paul (1992); McKinnon (1973) and Shaw (1973).

**Method of Data Analysis**

This study was built upon multiple regression model to examine the effect of credit channel of financial sector development on economic growth in Nigeria. It is necessary to determine the stationarity of the data series employed. This process is required to avoid the issue of non-stationarity of time series data which may lead to misleading results and wrong conclusion. Thus, Augmented Dickey-Fuller unit root test was adopted to assess the stationarity level and order of integration of the individual data series. The, data series are however expected to be stationary at purely level, first difference or combination of level and first difference. The estimated series indicated that the data series are combination of level and first difference which led to the adoption of dynamic technique of Autoregressive Distributed Lag modeling approach.

The Bound Co-integration test was employed to determine the long run relationship among the variables. This technique provided more robust result than other co-integration technique because it has the capacity to investigate long and short run relationship among data series of different integration. Autoregressive Distributed Lag technique was employed to establish the short run and long run effect of credit to core sector, total saving, monetary policy rate, credit to government on real gross domestic product. This technique determine the speed of adjustment from short run to long run equilibrium state while estimating the coefficient of each variables employed in the study in a dynamic manner.

**Result and Discussion**

**Table 1: Summary of Unit Root Test**

Series	ADF Test (Level)	Probability Value	ADF Test (First Difference)	Probability Value	Remarks
LGDP	-0.704465	0.8312	-3.114380	0.0358	1(1)
CCSGDP	-0.986714	0.7460	-5.481712	0.0001	1(1)
CGGDP	-3.410994	0.0182	-	-	1(0)
MR	-3.14970	0.0328	-	-	1(0)
TSGDP	-2.093901	0.2483	-5.151718	0.0000	1(1)

Source: Researchers' Computation, 2021

Table 1 presents the unit root test for the data series employed in the study. The result shows that, credit to government as a percentage gross domestic product and monetary policy rate are stationary at level while log of real gross domestic product, credit to core sector as a percentage gross domestic product, and total savings as a percentage gross domestic product are stationary at first difference.

**Lag Selection Criterion**

**Table 2: The Lag Selection Criterion**

Lag	LogL	AIC
0	-394.685	26.71234



1	-248.093	19.33953
2	-193.38	18.09200
3	-138.793	16.85287*

Source: Researchers' Computation, 2021

The result of the lag selection criteria is presented in table 2. The information Akaike Information Criterion helps suggest the best model will give adequate empirical result. The result according to Akaike Information Criterion shows that the optimum lag for the estimation of the ARDL model is lag 3.

**Bound Co-integration Test**

**Table 3 ARDL Bounds Test Result**

Critical Value Bounds		
Significance	I0 Bound	I1 Bound
5%	2.62	3.79
Estimated Bound F-statistic at k = 10.72561		

Source: Researchers' Computation, 2021

The result of the ARDL Bound test for long run relationship is presented in table 3. The result indicates confirmation of long run relationship among the macroeconomic variables employed in the study. This is because the F-statistic value of 10.72561 at k is greater than the lower bound critical value of 2.62 at 5%. This implies that there is long run relationship credit channel of financial sector development has long run relationship with real gross domestic product in Nigeria. The implication of this is that increase in the allocation of credit to core sector and government in the economy will significantly influences economic growth in the long run.

**Autoregressive Distributed Lag Results**

**Table 4: Error Correction Model**

Dependent Variable: LRGDP				
Variable	Coefficient	Std. Error	t-Statistic	Prob.
D(CCPSGDP)	-0.007052	0.003242	-2.175091	0.0487
D(CGGDP)	-0.004670	0.001388	-3.364239	0.0051
D(CGGDP(-1))	-0.002445	0.002098	-1.165361	0.2648
D(CGGDP(-2))	0.004330	0.001440	3.006372	0.0101
D(MPR)	0.002754	0.001068	2.578876	0.0229
D(TSGDP)	-0.009287	0.003903	-2.379512	0.0333
D(TSGDP(-1))	-0.009574	0.002104	-4.550740	0.0005
CointEq(-1)	-0.120244	0.014011	-8.582138	0.0000

Source: Researchers' Computation, 2021

The result of the dynamic relationship between financial sector development and economic growth is presented in table 4. The result shows that credit to core private sector as a percentage gross domestic product has negative and significant effect on log of real gross domestic product in Nigeria. Furthermore, the result indicates that credit to government as a percentage of gross domestic product has negative effect on log of real gross domestic product both at current period and lag one but only significant at current

period. It is established that, credit to government as a percentage of gross domestic product has positive and significant effect on real gross domestic product at lag two. Also, monetary policy rate is found to have positive and significant effect on real gross domestic product in Nigeria. However, total savings as a percentage of gross domestic product has negative and significant effect on log of real gross domestic product but at current period and lag one. Finally, the co-integration equation has a value of -0.120244 with a corresponding probability value of 0.0000 which is statistically significant at 5%. This implies that there may be a distortion in short runs which will be corrected in the long run via adjustment mechanism. This indicates that short term distortions in the variables are of enormous importance in their long term relationship and 12% of this disequilibrium is corrected in the current period.

**Table 5: Long Run Result**

Dependent Variable: LRGDP				
Variable	Coefficient	Std. Error	t-Statistic	Prob.
CCSGDP	0.072031	0.012581	2.461460	0.0042
CGGDP	-0.098652	0.009565	-10.313511	0.0000
MPR	0.086896	0.019740	4.402011	0.0007
TSGDP	0.036414	0.015590	2.335803	0.0362
C	8.435384	0.370561	22.763849	0.0000

*Source: Researchers' Computation, 2021*

The result of the long run result is presented in table 5. The long run result shows that credit to core sector as a percentage gross domestic product has positive and significant effect on real gross domestic product with a coefficient of 0.072031. The implication of this finding is that increase in the flow of credit from financial institutions to the core or important sector of the economy like manufacturing, industrial, and agricultural sector enhances the sectors' performance and hence contribution to economic growth. The positive relationship between credit to core private sector and gross domestic product conformed with the assertion of Beck (2013); Levine, (2004); Schumpeter (1911); Robinson (1952); Gilchrist and Himmelberg (1995); Popov (2017); Allen and Santomero (2001).

However, credit to government as a percentage gross domestic product has negative and significant effect on real gross domestic product with a coefficient of -0.098652. This may result from the fact that government prefers external debt to domestic credit. Also, it may large be due to mismanagement and underutilization of credit where financial resources are diverted for personal use other than investment in long term capital project that would enhance economic activities and growth.

Furthermore, it is found that monetary policy rate has positive and significant effect on real gross domestic product. This may result from stable monetary policy rate being adopted by government which promotes deposit mobilization and lending activities which are germane for promoting economic growth. Finally, total savings as a percentage of gross domestic product has positive and significant effect on real gross domestic product with coefficient of 0.036414. This implication of this is the ability of financial institutions to mobilize savings would promote lending and real sector activities thereby promoting economic growth.

## Conclusion and Recommendations

This study investigated the nexus between credit channels of financial sector development and economic growth in Nigeria from 1986 to 2018. A well developed financial system has the capacity to ensure effective mobilization and allocation of credits to the real sector to enhance growth through optimum utilization of credits. Findings from this study provide evidence of long run relationship between credit channels of financial sector development and economic growth in Nigeria. This study in line with findings concluded that, credit to core sector and credit to government impede economic growth in the short, with credit to core sector stimulating economic growth in the long run. The study recommended that effective policies should be formulated to further allocate more credit to the core sector as major driver of economic growth. Credit allocated to government should be judiciously utilized for the provision of infrastructural facilities to support economic activities and growth. Finally, the current monetary policy rate should not only be sustained but also reduce to a certain threshold to facilitate adequate mobilization of financial resources and credit allocation for growth purpose.

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## **REAPING THE MINERAL WEALTH: WHAT ARE THE LESSONS FOR NIGERIA?**

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**Abstract:** *Presently, income from petroleum resources accounts for 95% of revenue accruing from exports to the Nigerian Government. Nigeria is however, rich in diverse minerals, with 34 mineral types in 450 locations, which if well harnessed can provide a new stream of income. The establishment of a Ministry of Solid Minerals Development is an indication of government's preparedness to explore the opportunities presented by this sector of the economy. The question, which becomes apparent, is whether the fiscal regime for mineral exploration is well formulated to yield maximum and sustainable benefits for the parties involved. Bearing in mind the existence of mature mining regions all over the globe, this paper draws from their experiences, including likely pitfalls, with the aim of providing suggestions for policy makers in Nigeria in order to guarantee an optimal utilisation and sustenance of the benefits accruable from the sector.*

**Keyword:** *mineral wealth, resources, royalties taxation and sustainable development*

### **Introduction**

Resource-rich developing countries rely on incomes accruing from the exploitation of the hydrocarbons occurring in their territories. While ownership and control of these substances are usually vested in the state (Okonkwo, 2017), with a few country-specific exceptions, the capital intensive nature as well as the high technical requirements of the extractive industry allows the participation of individuals and companies other than the governments of these countries, at a cost which often involves being subjected to some form of tax regimes (Smith, 2000). Taxation is therefore is one of the traditional means by which the exploitation of a public asset is paid for (Garnaut and Ross, 1983). Governments seek to attract the needed investment and to obtain from them, the maximum revenues possible without discarding the principles of sustainable development (Sarma and Naresh, 2001). Achieving this balance lies at the heart of a successful fiscal regime and determining what substances and commodities would bring in the much-needed income provides the basis for design. More than ever, countries with a high dependency on the exportation of petroleum resources are seeking means to diversify their income stream (Aigbedion and Iyayi, 2007). This is not unconnected to the volatility of international prices for crude oil and its ripple effects on Governments' revenue and ultimately, budgets and spending (the recent fall of world prices for crude have led to uncertainties and a rethink of the wisdom in sole reliance on incomes from it). Nigeria is one such country with petroleum resources

accounting for about 95% of its total income from exports. This notwithstanding, Nigeria is similarly rich in diverse solid minerals with 34 different minerals occurring in 450 locations (Mobbs, 2001). The Nigerian government has given an indication of its preparedness to explore the opportunities presented by this sector of the economy. The question, which becomes apparent, is whether the fiscal regime for mineral exploration is well formulated and able to yield the expected benefits for all parties involved. Further, it is not evident whether one can yet lay hold of any official geological mapping of the solid mineral deposits in Nigeria. In addition, there are cases of illegal mining and conspiracy theories to this extent. Bearing in mind the existence of mature mining regions all over the globe and their different levels of successes and failures, this paper evaluates the present state of the Nigerian Mining industry with particular emphasis on taxation. Additionally, it draws wisdom from different countries and attempts to provide lessons for policy makers in designing the most appropriate fiscal regime for solid minerals in Nigeria.

### **Why Tax?**

Taxing of minerals is important to governments and its effects important to the taxpayer, which in many cases are companies. The effects of taxation on companies would influence their decision-making on the kinds of projects or the sectors in which they invest and the countries for choice of investments. This is because companies are established for the primary goal of maximising profits and must therefore channel their investment decisions towards this goal. However, governments have several reasons for levying taxes and these can be classified into two major categories. These are discussed below:

### **Revenue Mobilisation**

The political obligation and social responsibilities' role of government require that it raise money to effectively function and implement its policy objectives. Mineral taxation provides a means of achieving this goal. Setting low taxes may attract the needed investment but rob the country of adequate revenues to justify the mineral extraction. A responsibility is therefore placed on governments to retain investments, attract new investments and at the same time, devise a means of maximising incomes (Jenkins, 2003). A strive towards this balance is influenced by several factors which include but are not limited to the instruments that are adopted for taxation and the available tax allowances. These form the basis for design of the fiscal regime that is finally chosen in for each country.

### **Influencing the Taxpayer**

The obligations of governments extend to their ability to use their position to influence the behaviour of persons conducting business within its territory. Its ability to attract investors is one of such means. Most important is its role in monitoring and controlling of attitudes of investors to reinvest some of their income rather than repatriate all of it; to take cognisance of and adhere to environmental best practices, and to increase their investment levels. Thus, tax management like most core management issues require transparent and consistent application of taxation methods for optimum results.

### **What are the Available Options?**

It is not uncommon for governments to design a special regime for the taxation of certain sectors of its economy (Toye, 1978). Though other revenue – yielding activities of an economy are generally subject to taxation, certain distinctive characteristics of the minerals sector give rise to considerations for designing a special regime. One of these characteristics is the cost of extracting the minerals and the risk of loss that can arise in the event of failure. Closely connected to its capital intensive nature is the issue of location. The geographical location of most mineral deposits increases the risk level that is already inherent in the business. Other reasons are the existence of fixed and immobile assets in remote areas; the need for special technological knowledge; non-renewable and finite nature of the resources; unpredictability and cyclic nature of international market; social economic impacts resulting from loss of incomes when mines take over arable land amongst others. In fact, risk associated with location is most often of higher significance than most other risks like political risk.

### **Income Tax**

Income tax is that tax that is levied on the profit income of the taxpayer. It is taxed after the profits have been determined. The taxable profit is usually that remaining income after operating costs and allowances are subtracted from the total revenue of the company (Kumar, 1995). Such taxes are usually called ‘corporate tax’. It should be noted that income tax is the tax system commonly used in the mining industry, and it revolves around two major indices that characterises policy decision. They are as follows: (Cordes, 1996).

- Selection of tax rate
- Defining and determination of various operational variables.

By selection of tax rates, the government will have to employ the various tools available in order to determine the taxable income. On the other hand, the government will have to determine the extent of the operations throughout the mining activity to determine the value of the income to come up with a conclusive income tax. This would, of course, require available tax expertise, as such, taxes are not easy to administer.

### **Royalties**

Royalties are levies paid by the mining, either upon the attainment of particular landmark in the project or on the value of the mineral product, i.e., *ad valorem* or both. This tax structure is easy to administer because they are usually pre-determined from the start of the mining project, and so are determined as the company meets those thresholds. They may not be that common in the mining industry compared to the income tax, as governments are careful to avoid them to encourage investment in the mining industry.

### **Where is the Nigerian Mining Sector?**

The Nigerian mineral sector has undergone several stages of development. The petroleum sub-sector, which had been in the public eye for many decades, is not the focus of this paper. Rather, it is the solid minerals sector, which is presently assuming a more central stance that is being considered. The historical perspectives as well as the trends that have developed over time provide a starting point for creating an effective tax environment for the future.

### **Historical Perspective**

Mineral operations in Nigeria first started in 1904 and a Minerals Act aimed at regulating the sector was enacted in 1946. With the variety in the mineral types and the spread in terms of locations, Nigeria was and still is described as having the highest concentration of varieties of solid minerals in Africa (Ezekwesilli, 2005). The discovery of oil in the late 1950s however led to a complete neglect of the rich potentials available in the mining sector. Until recently, Nigeria did not have a clear-cut approach to taxing its solid minerals but rather took the role of owner and operator (Adeniji, 2007). This contributed immensely to the under-utilization of the sector, especially low level of income generated from the sector compared to its potentials. This phenomenon is known as the 'Dutch Disease'. Revenue from exports is an important source of wealth for governments but is not the focus of this paper. Although government made concerted efforts to develop an attractive fiscal regime for its solid minerals, revenues from the sector contributed a paltry 0.3% to the overall national income.

The mineral sector has remained sparsely developed mainly due to the oil boom, which changed the attitude and the vocabulary reference to minerals in Nigeria to always meaning oil and gas prospecting and development. Though there was an acknowledgement of the rich mineral deposits, government bias for the seemingly more lucrative oil sector cast a shadow on the prospect for vigorous pursuit of the 'buried wealth'. This bias was naturally characterised by a period of lack of zeal in developing a coherent approach to taxation in this regard. Artisan and illegal mining activities were prevalent, further affecting projected expectations on government income, and failing to deliver desired results.

The later part of the 1990s saw a general drive to attract investment to a seemingly stable Nigeria, and this led to a move towards reviving the hitherto neglected solid minerals sector. Part of the reform drive led to the promulgation of the Minerals Act of 1999, which did not achieve the desired goals of acting as a stimulus to investors and increasing the financial benefits to the country. The limitation in terms of its success was traceable to several factors, which include the fiscal terms and a lack of adequate geological information on the existing minerals. The shortfall resulting from the lapses caused the enactment of the 2007 Minerals Act.

### **Developing Trends**

It has been identified that while in developing countries it is usual that the fiscal regime for minerals to consist of contractual arrangements as well as general state laws and regulations, those of developed countries are usually spelt out in general legislation (Kumar, 1995). It is instructive to note that the trend in Nigeria leans closer to the position obtainable in the developed countries. The 2007 Minerals and Mining Act is a comprehensive law, clearly providing a special tax regime for minerals. Its main features are captured below. The International Council of Mining and Metals' report on the challenges of mineral wealth (Mineral Taxation Regimes, 2009) suggests that while the fiscal regime for the minerals sector of most countries have undergone changes in recent times, these changes were triggered by a need to improve performance in terms of revenue realisation and maximisation, rather than for the aim of reverting to tax systems that are predominantly regressive. This argument is buttressed by an inclusion in the Nigerian law, of incentives, which are targeted at attracting private investors (Mobbs, 2009).



At first glance, the new Minerals Act seems to have incorporated the criteria that should have investors falling over themselves to invest. These include the following:

- \*Tax relief period of three years renewable for a further two years period
- \*95% CAPEX deductible as capital allowance from assessable profits
- \*Annual capital cost indexation of 5% of mines starting production within five years of the commencement of the Act
- \*Losses may be carried forward indefinitely
- \*Liberal exchange control regime

Two years down the line, the question is: are there results or at least prospects that should create an assurance of better times to come in the sector? The saying that no man is an island is also applicable to countries. Studying and applying the lessons available from other countries help history to remain history rather than repeating itself in present times.

### **Lessons from Other Countries**

The major advantage existing for a developing country like Nigeria is the fact that creating the appropriate fiscal policy for solid minerals is not a new phenomenon, but one that has received attention and comment over the decades. It is inevitable to measure success on a scale of a system's ability to attract and sustain veritable income. This section therefore presents a summary of two countries' experiences in the sector with the aim of providing a platform for achieving success in Nigeria.

#### **Brazil**

Brazil's early struggle with success in its mining industry is a classic example of the effects that a fiscal and regulatory regime can have on productivity. Productivity in this regard is used in terms of achieving expected results. Despite the existence of proven mineral reserves and a high potential for further discovery, it failed to attract foreign investment and thereby income from that source (Andrews-Speed, 1996). This does not however imply that foreign investments are the only basis of measuring economic success. The importance of foreign investments to an economy cannot be overemphasised and extend to the fabric of both developing and developed countries (OECD, 2002). This is even more so for developing countries of which Nigeria is one. With a study of international regimes for mining revealing a high tax rate and a regressive taxing system, Brazil was described as 'one of the most unfavourable' among the major mining nations. Another important factor that worked against it at the time was a perception of the risk involved in conducting business in Brazil. Regardless of whether this was a true position or not and because taxation does not work in isolation but incorporates the whole situation prevailing within a country, it generally deterred a healthy investment environment. The issues, which prevailed against Brazil's initial success, were multifaceted. Amongst these was the fact that though it is settled that the special features of the mining industry qualifies it for a special tax regime, only few of its applicable tax regulations were industry-specific taxes. The downward trend in the investment climate coincided with reforms and constitutional amendments, which along with others allowed municipalities and provinces to tax mineral exploitation. A federal tax system was in operation and taxes and other levies were paid at the federal, state and municipal levels not to mention a form of royalty paid to landowners. This arrangement was very cumbersome, time consuming and

generally discouraging to prospective investors. It was reported that it would take 2,600 hours for a firm to comply with tax requirements in Brazil. Further regulatory reviews and a massive campaign led to a dramatic turn of events. Specifically, were the opening of the minerals sector to foreign capital; a decline in the tax burden due to reduction in tax rates; tax exemptions; creating special incentives for less developed regions amongst others (Fernandez, 1997). Within one year, the investment levels in monetary terms moved from USD73 million to USD100 million with about 40 new foreign companies carrying out surveys and many more seeking to partner with local holders of existing mineral rights. This study does not conclude that everything has become settled and perfect with the Brazilian mineral sector. A lot still needs to go into finalizing recommendations, implementing set rules and the adding the flexibility required to adapt to changing circumstances. The main lessons to be drawn from the Brazilian experience is in the fact that the changes to the sector were not limited to the fiscal regime of the minerals industry, but rather adopted a holistic approach by considering a wider range of circumstances which in essence affect the sector and resulting in the level of success attained.

### **Canada**

Evidence that a tax system can be very complicated and yet fair is clearly reflected in the Canadian fiscal regime for minerals (Parsons, 1995). A study of the success recorded in such a complex system is important particularly in equipping Nigeria for the challenges inherent in managing states and communities that host the mineral resources and avoid the present challenges emanating from conflicts in its oil-rich Niger Delta region. Nigeria's potential in oil and gas exploration is being thwarted by conflicts and disturbances in the oil producing regions, the Niger Delta, leading to fear and a loss of confidence by investors due to reduced production rates. Emphasis is being laid on the avoidance of a similar trend in the solid minerals sector. The taxes in Canada though multiple, are mostly income based with additional incentives and this on its own presents an incentive to investors. The Canadian constitution places substantial powers on the provinces and therefore gives them a right to tax. An opportunity also exists for the communities to compete against each other for investments, which inevitably improves the investment climate for the whole country. Taxation of minerals is generally characterised by three separate levels of income tax to wit: federal income tax; provincial income tax and provincial mining tax or royalty as well as federal goods and service tax; federal and provincial capital taxes; provincial water tax; provincial water taxes; provincial payroll taxes; provincial and municipal property tax. There is wisdom in creating specific tax rules for different mineral types. This has been tested in Canada where the mining regulation differentiates between industrial and non – industrial minerals and treats them differently (Otto, 1992). This gives an opportunity to a prospective investor to decide ahead of time, the line of mining business that is most suited for its investment capacity. Lessons abound from the minerals taxation regime in Canada, but this does preclude the fact that its complexity is not one that can be easily and completely replicated in developing countries. Recognition by Canada of the great benefits it derives from the sector causes it to take as a very serious business while improving on its workability.

### **Recommendations for the Way Forward**

Nigeria's eagerness to earn reasonable income and create sustainable wealth from its solid minerals should serve as a motivation for learning from the practices of more developed mining regions, which have been presented in the foregoing section. Its ability to sift the wheat from the chaff and to arrive at a most appropriate fiscal regime that is both attractive and workable is a clear indicator for achieving success. The aim of this section is to draw lessons from Brazil and Canada.

### **Applying the Models**

Like every system, the Brazilian fiscal regime for minerals is not perfect. One of the things it has in common with Nigeria is the perception of the risk by the outside world. Persistent change of governments and recent oil and gas exploration disruptions resulting from actions of dissatisfied host communities has also earned Nigeria that reputation (Ross, 2003). No company sets out to conduct business where its revenues are not secure. While the allowing the municipalities an opportunity to tax is not a welcome approach, getting the communities involved with other activities consequential to the exploration and development of the resources will no doubt help to forge a friendly and inclusive relationship among the parties. However, this has to be balanced with the economic objective and long-term goals of the parties especially concerning issues like sustainable use and corporate image of the main actors.

### **Managing the Revenues**

Most federal systems are usually faced with the problem of effectively managing revenues from their natural resources. The two methods, which are available for managing revenues, is either that of fiscal decentralisation or sharing of revenues. Nigeria operates a federal tax system where the bulk of the taxes applicable to mining are collected by the Federal government and then distributed based on the budgets emanating from its 36 states and Federal Capital Territory (FCT). Most of the agitations that have become a daily mantra among politicians and citizenry, especially from the Niger Delta of Nigeria are informed by their dissatisfaction and expectation of more income from the share of the tax income and wealth generated from the mineral deposits in their respective areas. The inability to devise a satisfying sharing formula that leads to a viable creation of wealth in the affected areas has continued to put exploitation and mineral development at greater risks that have affected not just capital resources but human capital at an alarming level.

### **Conclusion**

An important message, which is central to this paper, is the fact that an abundance of mineral resource endowment does not automatically bring wealth to a nation. Solid minerals are seated deep within the earth's crust and for effective utilisation; they require pragmatic contractual arrangement based on well-defined rules and law to be implemented on a core total quality management principle. Although, the analysis and views expressed in this paper will not be a total panacea for other social developments or infrastructure inadequacy in Nigeria, it will go a long way to allow the citizenry to enjoy on a sustainable level, the proceeds of their natural wealth that had hitherto appeared like an economic mirage to them. Learning is a never-ending process and opportunities to maximally utilise

available the lessons of other regions, avoiding their failures and seeking a proper more enlightenment from their wealth of wisdom, will place Nigeria amongst the top solid minerals in the world.

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## **STREET VENDING: MEANS OF LIVELIHOOD FOR THE URBAN POOR AND CHALLENGE FOR THE CITY ADMINISTRATION IN ETHIOPIA**

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**Abstract:** *Street vending in Ethiopia is a very important yet unbridled component of the informal sector. In the context of the current demographic dynamics and absence of sufficient job opportunities, street vending has become an important economic shelter for the urban poor. The key reasons for joining street vending include the small capital requirement, lack of access to credit facilities, and lack of suitable and commercially viable trading outlets. Street vendors use their personal savings, family transfers and informal credits as start-up capital. Street vendors generate by far better income than they used to get in their original villages. The social network is vital for joining the sector. The common narrative that operators in the informal sector are mainly with no formal education is frequently attacked as more people with formal education, including school dropouts, high-school completers and college graduates, are rapidly joining the sector. One of the major effects of street vending in Addis Ababa is the disruption in pedestrians' free movement and vehicle traffic. Presence of large crowd of vendors in a given space is the function of the size (volume) of items carried by an individual vendor. Formal shop owners identify street vendors as unfair competitors. Many people in Addis are accustomed to "shopping" at the streets since vendors offer merchandise at relatively lower prices. Street vending has unregulated feature whereby the government loses tax income which could have been collected had the transactions taken place legally. Local governments are forced to allocate huge budgets to hire as many officers to control street businesses. However, given the recurrent rise in the crowd of immigrants and weakness of institutions, the task of regulating street business is becoming almost unfeasible. In Ethiopia, the economic and social significance of street vending is not yet well studied and articulated to guide state policy directions aimed at alleviating urban poverty.*

**Keywords:** *Informal Sector, Street Vending, Domestic Immigrants, the Urban Poor, Megegnagna*

### **Introduction**

The dualistic nature of the economy of the LDCs is described by the parallel existence of a modern (urban, industrial, capital intensive) and traditional (rural, agrarian, labor intensive) sectors (Todaro and Smith, 2012; Todaro, 1997). When the analysis of the dualistic feature is applied to the urban economy, it is based on the dichotomy between the formal and informal sectors. According to Dewar and Watson, in Elias (2014), the informal sector plays a vital role for those who need or desire to generate income outside the 'formal sector' The majority of new comers to the urban labor market often strive to create their own employment or to work for micro and small-scale enterprises engaged in diverse economic activities. Macharia, cited in Elias (2014), describes the informal sector as "[...] all those small scale business activities that operate without direct state regulation." Wandscheider (ibid) complements that "the more informal is the enterprise, the more interactions with government agencies are often kept to a minimum". Assuming an "ideal

market economy”, without any level of regulation, the difference between formal and informal would be totally meaningless as all business activities become entirely “informal” (Castelles and Portes 1989:13). Moreover, “the more a society institutionalizes its economic activities following collectively defined power relationships and the more individual actors try to escape this institutionalized logic, the sharper the divide between the two sectors” (ibid).

Large proportion of the urban population, which embraces more of domestic immigrants in SSA, finds employment in the informal sector (Loop 2000:19). Studies show that the informal sector accounts for more than 60% of the “non-agricultural employment” in developing countries (ILO, 2013; Chen, 2012). LEDNA (2011) discloses that the informal sector contributes to 77% of non-agricultural employment and 55% of the GDP in SSA. Moreover, it is imperative to see the fact that informal activities are not confined to the economic realities of developing countries alone since such engagements also occur in advanced countries (Castells and Portes, 1989).

In Africa, strategies developed for promoting informal sector enterprises not only serve employment creation purposes, but can also be taken as measures of “direct attack on poverty” (Dewar and Watson, cited in Elias 2014). The role of the informal economy goes beyond providing employment opportunities for the poor; if properly “engaged”, it could enhance “the fiscal base of local governments” (UN-HABITAT 2009: 2). In view of this, [...] “any analysis of Africa’s economy that does not focus on informality” can be seen as totally deficient (Macharia, cited in Elias 2005). Unfortunately, macroeconomics tends to focus only on the formal sector activities and generally has little concern for the informal sector (Pederson 2000:131; ILO 2009).

Street vending is a very important and increasingly proliferating component of the informal sector, particularly in LDCs. Academic discourse on street vending does not afford to ignore the genesis of the concept and salient features of the informal sector. Street vending engages people (street vendors), essentially the urban poor (resident and domestic immigrants), who sell items of different assortments for pedestrians and irregular customers of the general public in streets, lanes, sidewalks, footpaths, pavements, public parks or any other public place or private areas, from temporary built up structures or by moving from place to place (Pinki, 2015).

The literature in this material deals with brief discussions on the informal sector and its theoretical foundations. The discussion extends into the features of street vending with a focus on causes, virtues and challenges of the sector. A brief description of research methods is provided after the review of related literature. The data collected from primary and secondary sources will be analyzed and presented using mixed methods of analysis, mainly with a focus on qualitative approach. The focus of the study is on street vending in one of the busiest city centers and business hubs of Addis Ababa, namely Megegnagna. This area of the city is characterized by heavy concentration of street vending, assumed to providing means of income earning for the urban poor, including the resident poor and domestic immigrants.

## **The Informal Sector**

The concept of informal sector was introduced into the international discourse by ILO in the 1970s when it launched a series of large, multi-disciplinary “employment

missions” to various developing countries to study the impact of the 1960s development strategies on peoples’ livelihoods. The Kenya Employment Mission, in its official report, recognized that the former traditional sector which was expected to wither away and give way to a modern sector, had not just persisted but had expanded to include “profitable and efficient enterprises” as well as marginal activities (ILO, 1972). To highlight this fact, the mission chose to use the term ‘informal sector’ rather than ‘traditional sector’ for the range of small-scale and unregistered economic activities. The sector is named “informal” since it is not officially licensed by the pertinent government agency. It is not engaged in taxation. The informal sector does not need formal regulation, high capital, permanent working place, higher education or well organized training. Without these qualities, it is open for anyone who wants to join the sector (ILO, 1972). Seven criteria were identified to distinguish the sector: ease of entry, unregulated and competitive markets, reliance on indigenous resources, family ownership of enterprises, small scale of operation, labor intensive and adapted technology, and skills acquired outside of the formal school system (ILO, 1972). Moreover, the ILO 1993 International Conference on Labor Statistics (ICLS) described the informal sector as “... consisting of units engaged in the production of goods or services with the primary objective of generating employment and income to the person concerned”. The informal sector is recognized by different nomenclatures as the informal economy, the unofficial economy, the shadow economy, the parallel economy, the transient economy and many more.

### **Theoretical viewpoints**

There have been various schools of thoughts and debates on the subject matter of the “informal sector”. The schools provide explanations for the reasons why informal sectors exist and persist. They hold contending perspectives regarding the salient features of the informal economy. Here, some of the major ones, including the dualist, modernist and structural, Marxist and dependency, neo-liberalist, legalist and voluntarist schools are briefly discussed.

The Dualistic Perspective is traced to the Arthur Lewis’s labor market theory of the 1950s which divides economies of developing countries into two as the modern (urban) industrial sector and the traditional (rural) agricultural sector. The modern sector is described by capitalist mode of production, capital accumulation and economic growth whereas the traditional sector is described by pre-capitalist mode of production and agrarian subsistence with mere survivalist level of production (ILO, 2002; Chaudhuri and Mukhopadhyay, 2009; Chen, 2012). Lewis’s surplus labor theory assumes availability of unlimited supply of unskilled labor in the traditional rural sector, which will be sooner or later absorbed by the modern industrial sector. In the dualist labor market approach informal employment is considered as involuntary solution to unemployment, a temporary coping strategy till job opportunities are available in the modern formal sector (Todaro and Smith 2012; Todaro, 1997). This school views the informal sector at large and street vending in particular as comprising marginal activities that provides income for the poor and a safety net in times of risk (ILO, 1972). The Dualists promote the notion that street vending business has small linkages to the formal economy as it operates in a distinct, marginalized and separate sector.

According to the Modernization Perspective, the informal sector is a marginalized sector characterized by survival activities of the urban poor. Informal business was seen either as a residue from a pre-modern era that is gradually disappearing or as a part of the pre-modern economic order surviving only on the fringes of modern society. This thinking is rooted in the assumption that informal economic sector is a residual labor class which is destined to disappear (Cross & Morales 2007, Bromley, 2000). As it should not indefinitely exist, the informal sector has to give way to or eventually get integrated with the formal modern sector. The Structural Perspective, on the other hand, focuses on the structure of formal and informal relationships as part of a unified economic system instead of viewing the informal sector as separate from the formal economic sector (Barnes, 2012; Chaudhuri and Mukhopadhyay, 2009; Chen, 2012; ILO, 2002). One typical case of the main linkages between the formal and informal sectors is the provision of low cost goods and services to the formal sector's work force. Engagement in the informal sector is necessity-driven since marginalized people resort to join it in the absence of alternative ways of securing livelihood (Castells and Portes, 1989).

According to the Marxist Perspective, unemployment and underemployment is caused by the profit maximization motive of the capitalist system. A reserve of unemployed and underemployed population is beneficial to the capitalist mode of production since it increases cheap labor supply and decreases wage rates. This approach argues that the informal sector is not merely linked to, but also is a necessary condition for the existence of the modern capitalist accumulation, specifically with its potential to lower consumption and lower costs within the formal sector (Barnes, 2012). In the Dependency Perspective, the informal sector is seen a subordinate to and its change condition dependent upon the dynamics of the formal sector. Its visibility as an alternative weakens when the formal sector is strong and expands when the formal sector is weak or is in crisis (ibid). Those engaged in the informal sector serve to reduce input and labor costs and, thereby, increase the competitiveness of large capitalist firms. The informal and formal businesses are intrinsically linked. Informal enterprises and wage workers are subordinated to the interests of capitalist development, providing cheap goods and services (Moser, 1978; Castells and Portes, 1989).

The Neo-Liberal Perspective focuses on the assumptions of a rational economic choice. In recent years, participation in street entrepreneurship has been redefined as a rational economic choice. For the neo-liberals, informal entrepreneurs are the ones who break the hurdles created by burdensome state machinery. Such entrepreneurs make a rational economic choice to escape over-regulation of the formal sector. The development of the informal sector is not due only to the labor market dynamics (i.e., surplus labor) but basically due to costs of government regulations that induced small-scale entrepreneurs towards informal activity. This perspective views the informal sector not as an involuntary substitute for insufficient job creation, but a voluntary cost-saving strategy for small business owners trying to avoid excessive government regulation. Business venture in the informal sector is a direct by-product of the advent of a de-regulated open world economy (Castells and Portes, 1989). The neo-liberal school suggests deregulation of the market, abolition of state intervention (appreciation of the role of a minimalist state) in the economy.

Like the neo-liberal perspective, the Legalist Perspective sees street vending business as comprised of "plucky" micro entrepreneurs who choose to operate informally



in order to avoid the costs, time and effort of formal registration. The Legalists argue that a hostile legal system leads the self-employed to operate informally with their own informal extra-legal norms. They argue that states should introduce easy bureaucratic rules and procedures to encourage informal enterprises to register and operate formally (Chen, 2005). According to Chen (2012), those who work informally have one thing in common: they lack legal and social protection. This view attributes the division of formal and informal economies to the legal, bureaucratic position of the state. In this approach, the legal status is the main element distinguishing informal from formal activities. Proponents of the neoliberal and legalist perspectives often adopted views similar to the structural perspective in terms of their notion of dualism, the marginalization of certain economic activities and actors, and on the commanding role of rural-urban migration for informality. However, they differed on the root causes of informality and on its importance in income generating efforts and economic growth roles. The Voluntarist Perspective also focuses on informal entrepreneurs who deliberately seek to avoid regulations and taxation but, unlike the legalist school, does not blame the cumbersome registration procedures. The Voluntarists argue that street vendors choose to operate informally after weighing the cost benefits of informality relative to formality. The Voluntarists pay relatively little attention to the economic linkages between street vending business and formal business but subscribe to the notion that street vending businesses pose unfair competition for formal businesses because they avoid formal regulations, taxes, and other costs of production and service. They argue that street vending business should be brought under the formal regulatory setting in order to increase the tax base and reduce the unfair competition with formal businesses (Chen, 2012).

## **BREIF ACCOUNT OF THE INFORMAL SECTOR IN ETHIOPIA**

About 21.3% of the Ethiopian population (i.e., 24.46 million) is urban. According to the Central Statistical Authority report (2012) the growth rate of urbanization in Ethiopia is about 4%, the national population growth is about 2.7%. Recently, in particular, the rural-urban migration is quite high to the extent it becomes beyond the carrying capacity of urban areas in terms of municipal services, infrastructure and the economy at large. According to the World Bank (2007), the Ethiopian urban economy is segmented into three, namely, a large (formal) public sector, a small (formal) private sector, and a large informal sector. The informal economy in Ethiopia is estimated at about 38.6% of the GDP compared with an average 38.4 % for SSA and 38% for all low income countries (IMF, 2013). The informal economy in Ethiopia is estimated to accommodate 50-60% of the urban employment (UNDP, 2012) and about 42% of these informal sector operators earn their livelihoods from microenterprises (CSA, 2005). The figure for the neighbor Kenya, for instance, is significantly higher than that of Ethiopia. The 2015 Kenya economic survey report confirms that the informal sector had the largest share of employment accounting for 82.7% of the total employment.

Unemployment has been a long standing problem in urban areas of Ethiopia. About 90% of rural-urban migrants to the cities are not employed in the formal sector due to lack of skill, working premises and capital. As a result, they are forced to engage in the informal sector (CSA, 2013). Small entrepreneurs in the informal sector do not have the capacity to get support and finance from formal financial institutions. Instead they rely on saving and

credit schemes to get finance needed for business ventures. Those who are engaged in informal activities depend mainly on finance from families, friends, and a little personal savings (CSA, 2006). In general, the sector is under multiple challenges which are exacerbated by several factors. Amidst of these problems, the sector sustains and proliferates in the streets of the urban centers.

**Table 1 Urban labor force employed by the informal sector**

Percent	Year	Source
50 percent	1998	CSA, 1999
60 percent	2002	CSA, 2003
38.5 percent	2005	CSA, 2006
25.8 percent	2012	CSA, 2013

Source: Reproduced from Chalachew (2018:40)

Founded in 1886, the capital of Ethiopia, Addis Ababa, is one of the oldest and largest cities in Africa. The current population of the city is estimated to be 4.79 million. The city is located at about the center of the country and has been a pool of people from all corners of the country in search of better opportunities, including employment. The high rate of rural urban migration accounts for more than 40 percent of the growth. The recurring trend of political instability and absence of employment opportunities in other parts of the country has forced many people to migrate to the city. The trend has been further exacerbated by lack of proper development policies that would create ample job opportunities hence curb the current excessive migration.

**Table 2 Population of Addis Ababa (10 years data)**

Year	Population No (in Millions)	Density (km2)	Growth Rate (in Percent)
2020	4.79		4.40
2019	4.59		4.36
2018	4.40		4.36
2017	4.22		4.36
2016	4.04		4.37
2015	3.87		4.37
2014	3.71		4.36
2013	3.55		4.38
2012	3.40		4.35
2011	3.26		4.38

Source: Macrotrends.net (2020)

Not only the trend of an overall increase in population was very high, but the rate at which it increases was also quite high. The highest rate was recorded in the years between 1968 and 1984 (i.e., between 4.72% and 4.99 %) followed by the next highest increase in the recent years between 2008 and 2020 (i.e., between 4.37% and 4.40 %). This remarkable increase in the population of the City was basically attributed to an ever increasing trend of rural-urban migration. And it is a matter of deep concern to discuss about what would happen to the people that migrate into the City in large numbers. And more seriously, it is a matter of profound concern to think about what should be done in

the political, economic and demographic domains and other pertinent components of overall development policies in order to curb the exodus of people from rural areas.

**Table 3 Population of Addis Ababa (rates of increase)**

Year	Range of Percentage Increase in Population	Remark
2008 – 2020	4.37 – 4.40	
1995 – 2007	2.05 – 2.58	The range of lowest rates of increase
1985 – 1994	3.91 – 3.98	
1968 – 1984	4.72 – 4.99	The range of highest rates of increase
1950 – 1967	2.65 – 3.05	

Source: *Macrotrends.net* (2020)

In the year 2002, a study by the Association of Ethiopian Microfinance Institutions (AEMI) estimated that the informal sector in Addis Ababa to be fifty one percent (51%) of the productive economy (UN, 2006). While the informal economy in Ethiopia is stated as considerably large, for every ten registered (formal) firms there are almost four non-registered (informal) firms. This number is significantly lower compared to Ethiopia’s regional counterparts. For instance, the average for Sub-Saharan Africa is 7.5. Ethiopian entrepreneurs also indicated one of the lowest rates of firms in Ethiopia (only 11%), identifying competitors in the informal sector as a major constraint. This number is over three times higher in Sub-Saharan Africa (37%) (ibid).

A survey conducted by the Central Statistical Authority (CSA) two decades back, showed that there were 584,913 informal sector operators and 2,731 small-scale manufacturing industries, employing a total of 739,898 people. The survey further indicated that informal activities concentrate in micro and small manufacturing and trade (47%) and services sectors (42%). According to the 1997 data by the CSA, the size of labor force engaged in the informal sector activities and small-scale manufacturing industries was eight times larger than that of the medium and large-scale manufacturing industries. Recent estimates of the informal sector in Ethiopia place the sector at 69% in Addis Ababa, compared to the national average, which lies below 15% (World Bank 2014, as cited in Amsale, 2017).

Within the scope of the informal sector, street vending comprises a widespread economic activity in Addis Ababa. The urban poor, mainly immigrants, are typically involved in this informal activity. Street vending in the city is believed to significantly contribute to employment opportunities. As an integral part of the urban economy, street businesses provide a wide variety of goods at bargaining prices. One finds street vendors in almost all the districts of the city selling goods and services without obtaining permit, giving receipts or paying taxes. Some of the vendors operate at sidewalks, busy roadways or at bus terminals where many people are likely to gather. Others walk around the city selling goods or services without a traceable place to operate. The vital question at this juncture is that, had it not been by means of informal economic engagements, notably street vending, what would happen to the livelihood of a large number of local immigrants that enter the city almost on daily basis?

## **STREET VENDING**

Many scholars have different definitions to describe the street vending business. Street based self-employment has been described as a poverty trap or a stepping stone for migrant youth in Africa (Bezu and Holden, 2015). The operators, street vendors, could be stationary and occupy space on the pavements or other public areas, or could be mobile and move from one area to another carrying their wares in baskets on their heads, or could sell their wares in moving carts and vehicles. The term “street vendor” in English is typically used interchangeably with “street trader,” “hawker,” and “peddler” (Moser, 1978). Street vendors are the persons who sell goods in public space as well as those who provide services in public spaces without having a permanently built structure but with a temporary static structure or mobile stall (ILO, 2013; Bhowmik, 2005; 2007). Other scholars define street vending as all non-criminal commercial activity dependent on access to public space, including trade from unlimited locations and mobile vending (ibid; Moser, 1978).

Street vending is an ancient and important occupation found virtually in every country around the world (Broomley, 2000). Even in developed economies, street vendors continue to play a big role in the informal economy. It is difficult to obtain accurate and reliable information on the street vending sector, resulting in a lack of initiation and implementation of appropriate policy interventions unlike other informal sector economic activities. There has also been inconsistent report among policy makers on how they perceive street vending activities. Street vendors are viewed as a nuisance and menace which does not motivate to conduct research. However, according to ILO (2002), Mitullah (2003), and Adhikari (2011), many countries around the world have in recent years realized the importance of street vending for the urban economies and considered it as a way of poverty reduction and started to conduct research as an appraisal of its contributions to socioeconomic and environmental concerns.

Street vending has been practiced in several different ways. Most vendors sell goods, but some sell services, and some sell both of them. Some vendors are fixed in one location, using a kiosk or a heavy stall which remains in the same location for months or even years and is locked up and left under the supervision of a watchman when not in use. Others use heavy mobile stalls which are pushed from a storehouse into the sales position at the beginning of the working day and pushed back at the end. Still others are fixed in location, but simply lay their merchandise out on the ground or on a plastic sheet. Mobile vendors may use wheels to move merchandise or operate on carts or, more commonly, carry their merchandise themselves. Some mobile vendors sell to passers-by, some do door-to-door delivery, and still others hawk from building to building (Bromley, 2000).

Major cities of the world are experiencing swelling growth of street vending coupled with substantial increase in the number of street vendors (Mitullah, 2003; Adhikari, 2011). The major factors identified as generic causes of street vending are linked with lack of employment and rising poverty in rural and urban areas that have pushed people to leave their villages and communities to sell goods in the streets (ILO, 2013). These migrants do not have the education or the skills to find gainful jobs in the formal sector. Low productivity in agriculture in LDCs forces millions of people to migrate to urban areas in search of better opportunities. Contrary to the classical assumptions of Arthur Lewis, the “surplus labor” from rural areas cannot be fully absorbed by the urban

(formal) industrial sector of the LDCs as it is not yet ready to engage more people due to its infant stage of growth. Rather, the immigrants settle for work in the informal sector. The reasons for the spread of the informal sector differ from one country to the other owing to the economic, demographic, social and political backgrounds of the countries concerned. Street vending activities flourish as a result of slow rate of economic growth coupled with a faster rate of population growth (mainly caused by rural-urban migration). The formal sector cannot create job opportunities for the surplus labor supply; hence people would resort to work in the informal sector. For the dualists, the sluggish economic growth that does not match the population growth is an important cause for the informal sector to flourish (Chen, 2012). Todaro (1997) argues that many factors are behind rural-urban migration in developing countries. Demographic, environmental (including climatic hazards) social, cultural and communication factors (like improved transportation and modernization impacts of the media) trigger high rate of rural-urban movement of people. The creation of one job in the formal sector attracts more than one migrant. Due to push and pull factors, the rate of migration from the rural to the urban areas is greater than that of the number of jobs generated by the formal sector. For the neo-liberalists, tax burden and bureaucratic red tape are important causes for the proliferation of street vending activities and the informal economy at large. People would hence prefer the informal sector to avoid red tape, rigorous regulations and tax burden. The legalists also believe that the informal sector is driven by micro entrepreneurs who deliberately want to avoid costs of formally operating. Informality is thus the result of micro-entrepreneurs' choice and decision to operate illegally (Maloney, cited in Chen, 2012). The formal sector normally creates more of high-skill jobs; hence those without the skills are forced to join the informal sector. The micro and small business sectors generally create more jobs than the formal sector.

Some scholars (particularly from the school of structuralism) argue that informality in production relation is the inherent character of the capitalist system (Moser, 1978; Castells and Portes, 1989). In modern times, economic crises also lead to increased unemployment through loss of jobs in the formal economy and inversely to increased employment in the informal sector. Greater number of people who lost their job turned to street vending as a possible source of income. When enterprises in the formal sector are downsized or shut down, due to economic restructuring and economic crisis, the workers who are laid-off and cannot find alternative formal jobs often end up working in the streets (Chen, 2012). A typical case in point is the closures, downsizing or mergers in industries of South Asia, which forced most of the laid-off workers to join the informal sector in general and street vending in particular (Dendukuri, 2007).

## **METHODS OF DATA COLLECTION AND PRESENTATION**

Most of the vendors in the streets do not have stable selling places. Vendors that provide some services that require ground spaces like shoe shining services (together with vending other items) are the ones to be traced in fixed places. Therefore, the possible way to contact sample vendors is on random (chance) basis as they are accidentally encountered on the streets. Random contacts have been made to collect data from 120 sample respondents. Four data collectors, all of them higher education students, are engaged in the data collection process.

Brief checklist of questionnaire was administered to solicit information from the busy and, at times, impatient street vendors. Most of them are not interested to take time leisurely and talk non-business matters. They are keen only to see that passersby purchase their merchandise. Hence the checklist had to be precise, focusing on elemental issues alone. The street scene does not allow surveyors to go beyond the basic affairs. In many cases vendors expect surveyors to buy certain goods. In this survey context, the data collectors are expected to make a swift attempt to promptly obtain data as per the checklist. They are also expected to switch to other vendors in the vicinity in case the ones encountered are not willing to participate. The duty was relatively easier with some of the vendors who are engaged in shoe shining for the very reason indicated earlier.

On top of the checklist, physical observation in the district of Megenagna was valuable addition to firmly grasp the manner and street processes of vending. Physical observation helped enrich the primary data collected through the questionnaire. The data are presented using tables and graphs. Analysis and interpretation are in due course complemented with narrative descriptions, explanations and presentations.

### **EVIDENCE FROM THE MEGENAGNA DISTRICT OF ADDIS ABABA**

Megenagna, the hub of commercial and transport activities, is one of the city centres in Addis Ababa. The area is among the city centres very well known for a crowd of street vending.

The most common form of street vending is whereby the seller just holds his/her items by hand using some big plastic sheet and try selling it wherever people are abundant along the streets. This common and mobile form of vending is relatively widespread and risky for both the vendors and buyers. Street business is in sheer violation of many laws, including traffic, trade and health-related rules and regulations. Code enforcing groups constantly chase vendors; force them for nonstop running and hiding. Those in case caught could lose their items and thrown into jail at least for a short period of time. The daily experience of street vending is thus characterized by chase-and-run situation between law enforcers (locally known as Denb Askebari) and the street vendors. One can also imagine the random prevalence of corrupt practices, particularly, bribes at this juncture. This being the case, however, we still witness an increasing number of people, particularly the youth, joining the sector.

**Table 4 Personal particulars: original residence, gender, marriage and education**

Original residence:	Addis Ababa (AA)	Around AA	North of AA	South of AA
No:	14	10	29	67
Gender of vendors:	No (percent)			
Male	68 (56.67)			
Female	52 (43.33)			
Family status of vendors:				
Married	15			
Single	115			
Education status of vendors:				
No formal education at all	10 (8)			
Grade 1-6 (primary education)	56 (46.6)			
Grade 7-10 (secondary education)	42 (35)			

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Preparatory and higher education	12 (10)
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Sample surveys indicate that most of the vendors are from areas south of the city (i.e., southern Ethiopia) followed by those who came from regions of the north. The number of vendors who came from areas around the city (immigrants) and from the city itself (residents) are by far lower than those who came from the south and the north. More than eighty percent of the vendors do have formal education of primary or secondary levels. Only ten percent of the vendors have no any formal education. The traditional anticipation and ensuing narrative that operators in the informal sector are mainly with no formal education can be frequently attacked as more people with formal education are joining the sector. As per the data from the samples, about ten percent of the vendors have attended preparatory and higher education levels. Given the absence of job opportunities in the formal sector, the informal sector will be a readily available economic shelter for the school dropouts and even the large army of graduates from the mushrooming regional universities.

#### Major Reasons for Joining Street Vending

As has been seen earlier the driving forces behind street vending are manifold. Several factors may push people to leave their villages in search of means for livelihood and better opportunities. For many of the urban poor, particularly for the immigrants, street vending is the sole means of income generation and livelihood. Few of them, of course, use it as a means of supplementary income to support family resources and efforts.

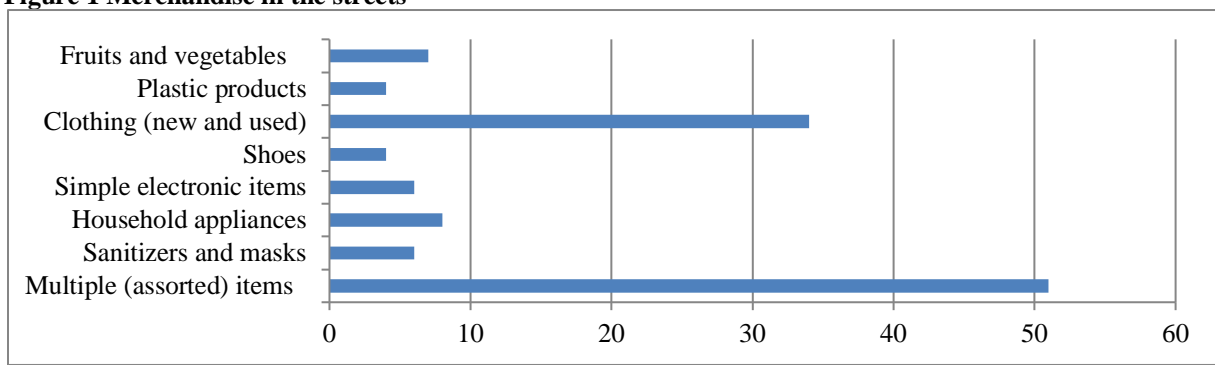
The immigrants and the existing (resident) urban poor resort to do some sort of job in order to generate income. Most of them are compelled to join the informal sector, particularly street vending, for certain viable reasons. One key reason stressed by the vendors was the relatively small capital requirement of street vending. Vendors did not have fixed property of value to be held as collateral to get finance from credit institutions. Lack of access to credit facilities is mentioned as the key reason for vendors to join the sector and stay through street vending until they are able to save the bare minimum required to even think of becoming a legal trader. According to the respondents, another basic reason for vendors to join and stay in street vending is lack of suitable and commercially viable trading outlets or shops. The current rental price of shops in Addis Ababa is virtually unaffordable to many people thinking of joining licensed business leave alone to those fresh vendors with meager financial and material recourses. This reality forces even experienced vendors to work on streets for an indefinite period of time.

The streets of Megenagna are very much crowded with vendors who came to the city from different parts of the country. The vendors, notably the immigrants, had different ways of joining the informal businesses. Some of them came to the city through peer influence and family advice whereas the others made their own decisions to migrate to the city and eventually join street vending as a viable means of livelihood. The social network is very important for joining street vending particularly for the new comers. This could be one reason that we observe young vendors, both male and female, speaking local languages of distinct ethnic groups concentrate in certain areas of the streets. Their original places are the same; they work together and mostly share rented shelters with their closer friends and relatives. Living together, beyond its role to share burdens of rental costs, is a means to wield strong social support within that small group.

Street vendors offer assorted goods at relatively lower prices for pedestrians and other walking customers. Many people in Addis are these days accustomed to “shopping”

at the streets. Closings (new as well as used), shoes, plastic products and household appliances are some of the commodities available for buyers at fair prices. Some of the vendors carry one type of item (for instance, shoes or simple electronic items) whereas others carry assorted commodities that are meant for different purposes. Those vendors who work on fixed spaces carry relatively large volume of assorted commodities. They also provide shoe shining services along with vending. For the mobile ones, most of the goods are easily portable as packed in large plastic bag and can be easily carried away when sudden raids are made by the law enforcing officers. Clothes, wears for women and men, are the common commodities carried by the mobile vendors. As can be seen on the graph, most of the vendors carry multiple (assorted) items and clothing (new and used). Presence of large crowd of vendors in a given space is partially the result of the size and volume of items carried by an individual vendor.

**Figure 1 Merchandise in the streets**



**Capital: Initial and Current**

People require some amount of capital, basically finance, to start any business. With this financial capital they may acquire tools, machines, inventory, raw materials, labor and working premises as the case may be. The idea of labor encompasses factors of skill and experience required to perform a particular economic activity. Street vending does not under normal circumstances entail all of these as fundamental requirements. Vendors rather require certain amount of money as an initial capital to start street business of their choice. Initially, they acquire small inventory of items with the money they have. Gradually they can acquire more money and inventory depending on the circumstances. The combination of favorable business climate, business caliber and personal behavior of individual vendors in handling and managing their meager financial and material resources would help them gradually build more and more asset.

**Table 5 Capital and daily average income of individual vendors**

Capital (in Birr)	No of vendors (Initial Capital)	No of vendors (Current Capital)	Daily average income	No
Less than 1000	54	9	Below 10 Birr	0
1001 – 3000	21	19	10 – 50 Birr	24
3001 – 5000	18	25	51 – 100 Birr	40
5001 – 7000	11	21	101 – 200 Birr	36
7001 – 9000	9	17	201 – 300 Birr	20
9001 – 11000	7	14	Above 300 Birr	0
11001 – 13000	0	7	--	--



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13001 – 15000	0	5	--	--
Above 15000	0	3	--	--
Total	120	120		

Majority of the respondents were found to have initial capital of less than 1000 Birr. Up to 3000 Birr, the graph of initial capital (the number of vendors within that bracket) is greater than the graph of the current capital. Those vendors who have current capital of below 3000 Birr are new comers to the business. Few of the respondents reported that they have current capital closer to 15000 or above 15000 Birr; and those were vendors who sell items of relatively higher value like clothing, home appliances and electronic materials. With this level of capital and small amount of daily income, vendors (except few of them) are unlikely to save much and expand the business or make alternative moves to change the type of business. “Business expansion” in this context is not constrained by the availability of meager capital alone but also by the nature and working place of the business itself. Vendors are either mobile or relatively permanent. They work informally and have no any legal and regulatory coverage. If there is some level of business expansion in the true sense it is only for the non mobile vendors. Hence most of the vendors are likely to remain at subsistence level till they grow and change the nature and modality of the business. Current capital of a vendor is an aggregate of available finance and estimated value of items to be sold.

Street vendors normally use their personal savings as start-up capital to begin street business. In addition to this, however, there are other sources including, family transfers and informal credits. Moreover, some of the vendors reported that they got the initial money from their relatives and friends as grants; together constitute a sum slightly lower than the amount secured through informal credits. Vendors bear the burden of settling credits on top of the money required for living expenses and running the business. Personal savings followed by family transfers become very important sources of initial capital for most of the vendors. In Ethiopia, particularly in the capital city, people join street vending to be self-reliant, to support their family and more importantly due to the absence of opportunities to engage in the formal sector. Immigrant vendors are of the opinion that street vending in Addis Ababa generates by far better income than they used to get in their original villages. Because of these many people, essentially the youth, are attracted to come to the city to join street business activities.

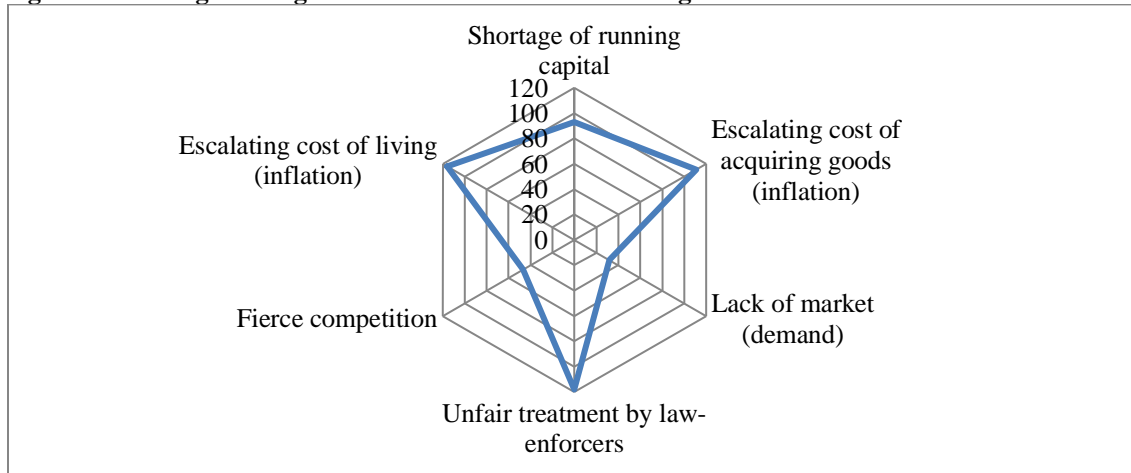
Street vendors maintain the business and sustain livelihood with what they earn on daily basis. The street vendors who sell assorted items together with shoe shining services are likely to get more income. Ray and Mishra (2011) argued that despite the low incomes generated from vending activities, vendors do not wait for handouts and/or employment opportunities from the government or engage in begging or stealing. This is a clear sign that street vending is not only a form of economic engagement and income distribution but also an effective means of addressing social problems emanating from population pressure and absence of opportunities in the formal sector. Street vending does not only enable the marginalized to meet their minimum daily expenses, but also teaches and inspires the youth to value work.

## Challenges of Street Vending

Street vendors face a lot of financial constraints and non-financial obstacles. The main challenges confronting street vendors include shortage of finance, absence of the right to trading space, security, transport and municipal services, environmental problems and routine disputes with the local governments. Street vending is perceived as a major crisis and an eye-sore in the urban authorities and criticized for causing or contributing to a number of social ills that negatively affect cities. Beyond these, street vendors are entrenched in a web of complex livelihood challenges. In Africa, local authorities were major challenges to the development of street vending activities. Most of them use restrictive policies, by-laws and regulations initially intended to regulate and control the growth of indigenous enterprises. The restrictions make vending principally illegal, and view vendors as responsible agents for making cities dirty, causing air pollution and obstructing traffic. Hence street vendors are perceived as a public nuisance. The policies did not totally appreciate the role of street vending in an urban economy (Palmer, 2007).

In Addis Ababa, street vendors are confronted with multitude of challenges, related both to their day to day lives and the business itself. Escalating costs of living due to inflation causes lack of appropriate place of living often situated at distant places from the working place. This is the key problem challenging the lives of most of the street vendors. In terms of living standard, the rampant inflationary situation (which is estimated to be 15.81 % in 2019, 20.6% in 2020 and 11.47 % in 2021) in the country poses at least two key challenges: (i) difficulties beyond the capacity of vendors to have dissent living place and (ii) difficulties to make affordable expenses on routine consumption. Vendors often acquire rented houses in groups at remote and slum areas of the city. Vendors rely on street foods that are relatively cheaper than foods available in restaurants of even lower grades.

**Figure 2 Challenges facing street vendors and street vending**



Shortage of running capital (finance) coupled with escalating costs of acquiring goods, unfair treatment by law-enforcement officers and fierce competition are the major challenges related to street vending. Unfair treatment by law-enforcers, followed by escalating cost of acquiring goods (as induced by inflation), are the key challenges of street

vending. The initial capital was so small that vendors could not elevate it to the level of sufficient capital to run the business. Inflation and daily requirements for other expenses restrain the money to be available for acquiring sufficient inventory. In order to let more money into the business, vendors have to constrain their daily living expenses. Law enforcers are reported to be the day to day impediments, not only because they enforce rules and regulations but also they exercise maltreatment and corrupt practices. The vendors are not licensed hence normally expected to be watched out by the law enforcers. However, the manner of treatment by the officers goes beyond the level expected by the local government and the rules and regulations set to guide the same. Of course, the government of Ethiopia has exerted relentless efforts to bring informal businesses to formal, licensed ones. Despite this effort, street vending is increasing at an alarming rate as a result of multiple economic, political, demographic (particularly migration) and related factors. These days one can observe main streets of Addis crowded with mass of vendors and buyers starting from mornings to late afternoons till the night.

The number of buyers is likely to offset the competition among vendors. By the virtue of their proximity to walking customers, street vendors have more product accessibility than the shop owners. Demand is normally active since vendors offer lower prices for most of the goods. The table below shows variations on selected goods between street vendors and shop owners. There is a considerable price difference on the same products, vendors' prices being below that of formal shopping prices. Vendors have the advantages of not paying for licenses, rents, workers, the VAT and annual trade taxes that would have impacts on prices of commodities. Such price differences on same products make many people prefer to buy from the streets vendors.

**Table 6 Comparison: street Vs shop prices**

Commodity	Vendor price	Shop price	Difference
Face mask 1	5 -10 birr	10 - 25 birr	5 - 15 birr
Face mask 2	20 - 50 birr	50 - 70 birr	20 - 30 birr
Banana	15br /kg	20 - 25br/kg	5 - 10birr
Shirt	150 - 225/pc	250 - 300	25 - 100birr
A pair of trousers	200 - 350birr	300 - 500	150 - 300birr
A pair of socks	15 - 20 birr	25 - 30 birr	10 birr
Electric coffee boilers	450 birr	600birr	150birr
A pair of shoes	250-350 birr	500-650 birr	250-300 birr
Soft paper	10 birr	20 birr	10 birr
Ordinary earrings	20 birr	30-40 birr	10-20 birr

On the other hand, street vendors also cause many challenges on the operation of municipal governments, pedestrians and drivers. Pedestrians are annoyed by the encroachment of sidewalks. At some places it is difficult to walk straight. People then will have to pass the narrow aisles between seller stalls walking sideways. When the sidewalks are too crowded people are forced to step onto the road to walk which is a dangerous exercise. Drivers and other road users dislike street vendors because they cause jams on traffic and pedestrian sidewalks. One of the major effects of street vending in Addis Ababa is the disruption in pedestrians' free movement and vehicle traffic. Vendors usually trade on sidewalks and suddenly chased by code enforcers, who often confiscate their belongings. To escape from the officers, the vendors would rush into the main roads

thereby creating a possibility of traffic jams and accidents to themselves and pedestrians in some cases.

Shop owners dislike street vendors for their illegal use of the shops ‘front sidewalks’, which the street vendors modify to suit their own needs. This modification often involves semi-permanent roof to protect their wares from the sun and rain, usually in the form of blue/industrial plastic tents, which obstructs sun light from shining on the shops and hampers the flow of fresh air. All this deprive the sidewalk of its convenience and deters walking customers into the shops, hence reducing the business of formal shop owners. Formal businesses are directly threatened when street vendors carry similar goods to that of the shops. Formal shop owners define street vendors as direct and unfair competitors, since street vendors steal their customers out in front before the customers enter the market. As was mentioned above, vendors do not pay taxes so have an option of selling products for much lower price than legal traders which results in reduction in sales volume of the latter as people will usually prefer cheaper products with comparable quality. This puts a toll on profitability of legal, taxpaying traders. There is an unfair advantage at the disposal of vendors which needs to be checked for healthy functioning of the market system. Street vending has negative effects on buyers since people cannot return or get substitutes for the products purchased in case of defects as the vendors do not have stable places and are often in constant run away from code enforcing officers. It is important to identify two types of street vendors on the basis of the venue in which they conduct businesses. One is those who work in fixed places along the streets and the other is those without fixed places. The latter group poses problems to the city government as vendors cannot be traced for statistical, registration, monitoring and support purposes. Even those who are assumed to have relatively fixed places can suddenly move away to any part of the city.

### **Brief Remarks on the Legal Aspect**

Another effect of street vending is the illegal or unregulated nature of the business whereby the government loses tax payment which could have been collected had the transactions took place legally. Local governments are forced to allocate huge budgets to hire as many officers as possible to control street businesses. The budgets could have been used for other development purposes if street businesses were at their minimum. Municipal governments have tried to set guidelines as to how one can operate on legal basis while trading in the streets with registration and identification badge (through article 53 of the business code). As per this article, the vendors can obtain a badge ascertaining the fact that they are recognized traders by the local authorities which gives them some sense of security while trading on the streets. This was intended to create favorable conditions for them to be more productive. Related benefit is the possibility of obtaining designated and regular trading spaces for those who are registered. Vendors (including new vendors) of similar products would converge in one venue so that buyers could easily spot them. The effort has been relatively successful with regard to some shoe shiners who need a permanent place to settle and work. These shoe shiners are also engaged in vending other commodities on the spots designated to them.

Registered street vendors are expected to pay taxes. However, they would not pay taxes until they reach a certain level of financial stability, experience and business growth.

This gives vendors the opportunity to gradually learn formal and licensed trade. The registered vendors indicated that registration could have a positive correlation with generating more income on regular basis. Since registered, their income started growing regularly and some of them even joined daily ekub in their vicinity. Ekub is informal saving association, in which members (usually traders) contribute (save) certain amount of money and take the collected amount in a rotating fashion. The saving doesn't of course bear any interest. Yet there is some amount of fee paid by the members as an administrative or running cost. The most noticeable advantage of Equb is that it encourages saving and members will get a sum of money required for an economic purpose (Elias, 2014; Gebrehiwot and Wolday, 2006)

The majority of street vendors, however, do not have the basic knowledge of the requirements for operating on streets based on the guidelines set to govern the street businesses. This creates a problem whenever code enforcing units try to implement the rules. The consequence is that many vendors lose their property for not respecting the rules. Street vendors are not registered as per the guidelines for different reasons: they don't have kebele, they do not believe that they would get ideal trading spaces, they simply don't want to come to the regulated business perhaps for the fear of paying taxes. Kebele is the lowest administrative unit of the city government

Majority of the vendors are not permanent residents of the City which creates a problem when they try to get local government (kebele) ID, which is one of the basic requirements to operate as a registered street vendor. Because of this vendors are not able to obtain registration badge, consequently end up vending illegally (i.e., without registration) in the streets and often chased by the law enforcers (the denb Sakelaris and other regular police officers). In the last 15 years or so, the Ethiopian government has made relentless efforts to bring informal businesses to formal. However, that was mainly possible when such businesses were located on fixed places. Mobile businesses like street vending have been very difficult to register and regulate. Given the recurrent increase in the number of immigrants to the city, the task of regulating street vending has been almost impossible.

## **Conclusion**

The focus of this study was on street vending in one of the busiest hubs of Addis Ababa, very well known as Megenagna. This area of the city is characterized by heavy concentration of street vending and other formal economic activities. The recurring trend of political instability and absence of employment opportunities in the country has forced many people to migrate to the capital city. The trend has been further exacerbated by lack of proper development policies intended to create ample job opportunities hence curb the current enormous migration to the city. People join street vending to be self-reliant, to support their family and due to absences of opportunities to engage in the formal sector. Immigrant vendors are of the opinion that street vending in Addis Ababa generates by far better income than they used to get in their original villages. Because of these many people, essentially the youth, are attracted to the city to join street business activities.

The streets of Megenagna are very much crowded with vendors who came to the city from different parts of the country. The social network is very important for joining street vending particularly for the new comers. This could be one reason that we observe young vendors, both male and female, speaking local languages of distinct ethnic groups

concentrate in certain areas of the streets. The key reasons for joining the sector include the relatively small capital requirement of street vending, lack of access to credit facilities, and lack of suitable and commercially viable trading outlets or economically affordable shops. For many of the urban poor, particularly for the immigrants, street vending is the sole means of livelihood.

Street vendors were found to start with small sum of capital. They use their personal savings, family transfers and informal credits as start-up capital to begin the business. With this level of capital and small amount of daily earning, vendors are unlikely to expand the business or make alternative moves to change the type of business. Street vendors offer goods at relatively lower prices for pedestrians and other walking customers. Many people in Addis are these days accustomed to “shopping” at the streets. Most of the goods in the streets are easily portable as packed in large plastic bag and can be easily carried away when sudden raids are made by the law enforcing officers. Presence of large crowd of vendors in a given space can be taken as a function of the size and volume of items carried by an individual vendor.

Shortage of running capital (finance) coupled with escalating costs of acquiring goods, unfair treatment by law-enforcement officers (locally known as Denb Askebari) and fierce competition are the major challenges related to the business on streets. Some of the law enforcers are blamed to exercise maltreatment and corrupt practices. The manner of treatment by the officers goes beyond the level expected by the city government and the rules and regulations set to guide the same. Despite government’s effort to regulate, street vending is increasing at an alarming rate as a result of multiple economic, political, demographic (particularly migration) and related factors.

On the other hand, street vendors also cause many challenges on the operation of municipal governments, pedestrians and drivers. One of the major effects of street vending in Addis Ababa is the disruption in pedestrians’ free movement and vehicle traffic. Not only that, informal trading also reduces the business of formal shop owners. Formal businesses are directly threatened when street vendors offer similar goods carried by the shop-owners. Formal shop owners define street vendors as direct and unfair competitors, since street vendors steal their customers out in front before the customers enter the regular market. Vendors do not pay taxes hence can sell products for much lower price than legal traders which results in reduction in sales volume of the latter as people will usually prefer cheaper products with comparable quality.

Another effect of street vending is the illegal or unregulated nature of the business whereby the city government loses tax income which could have been collected had the transactions taken place legally. The city government is forced to allocate huge budgets to hire as many officers as possible to control street businesses. The city government has tried to set guidelines as to how one can operate on legal basis while trading in the streets with registration and identification. Related benefit is the possibility of obtaining designated and regular trading spaces for those who are registered. Vendors (including new vendors) of similar products would converge in one venue so that buyers could easily spot them. Registered street vendors are expected to pay taxes. However, they would not pay taxes until they reach a certain level of financial stability, experience and business growth. This gives vendors the opportunity to gradually learn formal and licensed trade. For the last 15 years or so, the Ethiopian government has made relentless efforts to bring informal businesses to formal, licensed ones. However, that was mainly possible when such

businesses were located on fixed places. Mobile businesses like street vending have been very difficult to register and regulate. Given the recurrent increase in the number of immigrants to the city, the task of regulating street vending has been extremely difficult.

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## **AUDIT COMMITTEES IN BANKS AND THEIR RESPONSIBILITY TO INTERNAL AUDIT FUNCTION - THE CASE OF THE REPUBLIC OF NORTH MACEDONIA**

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**Abstract:** *Audit committees are responsible for overseeing internal controls and internal audit functions, as well as the external financial reporting process in banks. They are one of the most important organizational structures in the banks after the board of directors, and certain functions in the banks report directly to the audit committees. The paper analyzes the audit committees and internal audit function in the five largest banks in North Macedonia, whether they work efficiently and effectively, and whether the committees fulfill their responsibility to the internal audit function as best they can. The research was conducted through a structured questionnaire sent to the largest banks, namely to members of the audit committees, as well as employees of the internal audit department in those banks. All the results of the research are summarized in a conclusion that assesses the placement and adequacy of audit committees and internal audit function in the banks, as well as the extent to which the audit committees exercise their responsibility to the internal audit function.*

**Keywords:** *Audit Committee, Internal Audit, Banks*

### **Introduction**

The importance of audit committees in financial institutions has been increasing in the past few years and has played a crucial role in the good governance of these institutions. Audit committees are becoming a key aspect in determining the efficiency, controls, professionalism, and transparency of companies in the need to increase financial performance. In North Macedonia, audit committees are defined by the Law on Audit, and specifically in banks, the audit committees are more closely defined in the Law on Banks. According to the Law on Banks, one of the bodies of the bank is the audit committees, and the same law sets the minimum requirements for the competencies and responsibilities that audit committees have in banks. For banks' audit committees to be adequate, they need to be very well structured, they need to work efficiently, effectively and with high performance, and they need to best fulfill their responsibilities. These mentioned issues together form the adequacy of audit committees.

The audit committee has too many responsibilities that can be classified into several components. One of those responsibilities is overseeing the banks' internal audit function. Internal audit staff work closely with the audit committee and are expected to have the most information related to the committee. The audit committee through its relationship with the internal audit function in the banks tries to reduce the asymmetry of the information between the managers and the stakeholders. A very important function of an internal audit is to help the audit committee effectively perform its responsibilities and improve its ability to monitor the performance of managers. The relationship between the audit committee and the internal auditors should be strengthened by extending the committee's responsibilities to include an audit of the effectiveness of the internal audit functions. This would entitle the committee to hold meetings with external and internal auditors even without the presence of other staff and directors.

This paper contributes to the literature in several ways. First, to the best of our knowledge, no research has been conducted so far to analyze the audit committees and internal audit functions in the banking sector in North Macedonia. Second, this is an empirical study that explores and analyzes the placement and adequacy of audit committees and internal audit functions in banks in North Macedonia. Third, the paper includes two main sections dealing with issues related to audit committees and internal audit functions in banks, and issues related to the responsibilities of audit committees in relation to internal audit functions. Respectively, the paper consists of five parts and is organized as follows. Following the introduction, section 2 provides an overview of the relevant literature related to audit committees and internal audit function in the banking system. Section 3 describes the data and the methodology used in the paper. Section 4 analyzes the results obtained and Section 5 summarizes the results of the paper.

## **Literature review**

In North Macedonia does not have sufficient studies related to research on the set-up and adequacy of audit committees in the banking sector, their general competencies, as well as their responsibility to the internal audit function. More broadly, however, the literature on audit committees and their responsibilities is very rich and well researched. Audit committees can be defined as an administrative structure that supports the independence of internal auditors and assists independent auditors (Uzay, 2003). It is a subset of the management function in companies, but it must be borne the fact that the committee does not replace internal or external audit functions, nor does it interfere with the operational responsibilities of the management. Instead, the committee's role is to ensure the existence of effective systems of internal control, risk management, and financial reporting. To do so, the committee relies on management, internal audit, accounting, risk management, and the external audit function (Camilleri, et al., 2007).

A large group of studies has analyzed the audit committee in terms of its independence and performance. Thus, Akyuz (2008) has stated that certain performance criteria should be established first in order to measure the performance of the committee, and the results should be monitored by the Board of directors (Akyuz, 2008). KPMG (2013) concludes that the audit committee needs to understand how digitalization and social media are changing the business environment. Their study also found that the effects of digitalization and social media on corporations and the supervisory role of the Board of

directors need to be understood by audit committees (KPMG, 2015). Dogan (2016) identifies that audit committees increase the quality of financial reporting (Dogan, 2016). According to DeFond and Jiambalvo (1994), companies that have not established an audit committee are more vulnerable to prepare fraudulent financial statements (DeFond & Jiambalvo, 2014).

Before linking the audit committees with the internal audit function in the banks, it should be noted that the internal audit function plays a key role in the ongoing maintenance and evaluation of internal control systems, processes, risk management and management systems and processes. - areas in which supervisory authorities have a strong interest. The internal audit function should develop an independent and informative view of the risks faced by the bank based on their access to all bank records and data (Bank for International Settlements, 2011). Furthermore, the internal audit function should be able to discuss their views, findings, and conclusions directly with the audit committee and the board of directors, which would help the audit committee to oversee the senior management of the bank.

It has been suggested by various reports, such as the Blue-Ribbon Committee Report (BRC, 1999) and the Toronto Stock Exchange Committee on Corporate Governance (TSECCG, 1999), that the internal audit activity and the audit committee should communicate directly regarding review and examination. on basic issues. Also, the communication between the audit committee and the internal audit services is found in the study of Goodwin (2003), which analyzes the situations when the audit committee cooperates with the internal audit and when they act separately (Goodwin, 2003).

For large banks as well as internationally active banks, the audit committee is typically responsible for providing oversight of the bank's internal auditors (Bank for International Settlements, 2011).

The oversight function of the audit committee includes ensuring that the internal audit function can carry out its responsibilities independently. It also includes reviewing and approving the audit plan, its scope, and the bank's internal audit budget (Bank for International Settlements, 2011).

### **Research objectives and development of the questionnaire**

As defined in the literature review, the existence of the audit committee in banks is of particular importance, as well as its responsibilities to the internal audit function. On the one hand, there should be an objective and completely independent audit committee that will work successfully, and on the other hand, there is the internal audit function that is important in the overall operation of the bank. The questionnaire used in the research consists of all the most important aspects related to the audit committee, the internal audit function, and their connection. The research is based on three main objectives:

- To analyze the opinion and attitude of the members of the audit committees and the employees in the internal audit department in the banks, related to the overall operation and adequacy of the audit committee itself, the internal audit and their connection;
- Do the internal auditors believe that the members of the audit committees are completing their responsibilities in a good way and that they are competent to do the job;
- Are both parties satisfied with the way each other functions, in order for the bank to operate successfully?

The target group of respondents was the members of the audit committees and the employees of the internal audit departments in the five large banks in North Macedonia. In North Macedonia, 14 banks have received a work permit from the National Bank of The Republic of North Macedonia and they can be divided into three categories, according to the amount of assets of a particular bank, as follows:

**Table 1: Structure of the banking system in North Macedonia**

Group of large banks (assets greater than 37.95 billion MKD as of December 31, 2019)	Group of medium-sized banks (assets between 9.45 and 37.95 billion MKD as of 31.12.2019)	Group of small banks (assets less than 9.45 billion MKD as of 31.12.2019)
five banks	six banks	three banks

Source: National Bank of the Republic of North Macedonia, 2021

Considering that North Macedonia is a small country wherein the assets of the 5 largest banks in North Macedonia is as much as 75% of the total assets of all banks in the banking system in North Macedonia. Thus, this paper investigates the adequacy of audit committees through a structured questionnaire in the five major banks in North Macedonia. The number of responses received from the members of the audit committees and internal audit function is 29, but although this number seems small at first glance, it represents 55% of the total number of members of the audit committees and employees of the internal audit functions. or more specifically 32% of the committees' members answered the questionnaire and 75% of the internal audit staff.

The questionnaire was intended to take no more than 10 minutes. 95% of the questions were answered from 1 to 5 (Likert scale), where 1 refers to "strongly disagree" and 5 refers to "strongly agree". The questionnaire contains an introduction, as well as preliminary general questions related to the work engagement in the bank (a member of the audit committee or employee of the internal audit department), years of work experience in that position, level of education, and whether they have a license/certificate related to the audit. In table no. 2 descriptive statistics of the characteristics that refer to the respondents are given.

**Table 2: Descriptive statistics of the characteristics of the respondents**

Feature	Description	Number	Percent
Education	Intermediate	0	0.00%
	High	17	65.52%
	Master	8	27.59%
	PhD	4	6.90%
	Total	29	100.00%
Work engagement	Audit Committee	8	27.59%
	Internal Audit Department	21	72.41%
	Total	29	100.00%
License / Certificate (Certified Auditor, ACCA, etc.)	Yes	15	51.72%
	No.	14	48.28%
	Total	29	100.00%
Work experience in the position	1-5	12	41.38%

	6-10	7	24.14%
	11-15	0	0.00%
	over 15 years	10	34.48%
	Total	29	100.00%

Source: Author's calculation

Before starting any analysis, the Cronbach's alfa coefficient of 0.92 was calculated and shows that there is a high internal consistency and all items are significant to maintain.

## RESEARCH APPROACH TO ANALYSIS OF ANSWERS AND RESULTS

As previously stated in the paper, the main purpose of the research is to provide empirical evidence for the placement and adequacy of the audit committee in the banks in North Macedonia. The research was conducted with the research method - survey, by distributing an online questionnaire to the members of the audit committees and the employees of the internal audit departments in the five largest banks in North Macedonia. The questionnaire was mostly distributed to the respondents via LinkedIn, but a small part of the respondents also received the questionnaire via e-mail. The questionnaire was implemented in the period from 15.12.2020 to 10.01.2021, and it was answered by a total of eight members of audit committees and twenty-one employees in the internal audit departments of banks. The following Table 3 covers the descriptive statistics of the whole questionnaire.

**Table 3: Descriptive statistics of the questionnaire**

	N	Min	Max	Mean	Std. Deviation	Variance
<b>Audit Committee (AC) Questions</b>						
8. The AC reviews the financial statements of the bank and takes care of the accuracy and transparency of the published financial information for the operation of the bank in accordance with the accounting regulations and the international accounting standards.	29	4.0	5.0	4,862	.3509	.123
9. The AC reviews and evaluates the internal control systems.	29	4.0	5.0	4,897	.3099	.096
10. The AC monitors the audit process of the bank and evaluates the work of the audit company	29	4.0	5.0	4,966	.1857	.034
11. The AC adopts the accounting policies of the bank;	29	2.0	5.0	4,345	1.0446	1,091
12. The AC monitors the compliance of the bank's operations with the regulations related to accounting standards and financial statements	29	3.0	5.0	4,621	.7277	.530
13. The AC holds meetings with the Board of Directors, the Internal Audit Department, and the Audit Company regarding identified non-compliances with the regulations and weaknesses in the bank's operations.	29	3.0	5.0	4,828	.4682	.219

14. The AC reviews the reports of the Risk Management Committee	29	3.0	5.0	4,828	.5391	.291
15. The AC proposes the appointment of the audit company and termination of the concluded contract with the audit company	29	2.0	5.0	4,586	.8667	.751
16. The AC informs the Bank's Supervisory Board about its work at least once in three months.	29	3.0	5.0	4,793	.5593	.313
17. The AC submits a semi-annual and annual report on its work to the Supervisory Board of the bank.	29	3.0	5.0	4,897	.4093	.167
18. The AC ensures that the internal control system is examined according to international models (COSO etc.)	29	2.0	5.0	4,276	.9963	.993
19. The members of the AC have sufficient experience and knowledge in the banking sector, their responsibilities, banking activities, culture, and organizational structure.	29	3.0	5.0	4,724	.5914	.350
20. The members of the AC have enough time and are generally in the bank to fulfill their responsibilities.	29	1.0	5.0	4,138	1.1565	1,337
21. The members of the AC have experience in areas related to their responsibilities such as finance, auditing, internal system, and professional certification.	29	3.0	5.0	4,759	.5766	.333
22. The members of the AC have professional skepticism and adhere to a code of conduct	29	3.0	5.0	4,690	.5414	.293
23. The members of the AC are independent and objective in performing their tasks.	29	4.0	5.0	4,759	.4355	.190
<b>Internal Audit Department (IAD) Questions</b>						
The IAD performs a permanent and complete audit of the legality, regularity, and timeliness of the bank's operations through (refers to questions 1 to 8):						
1. assessment of the adequacy and efficiency of the internal control systems;	29	5.0	5.0	5,000	0.0000	0.000
2. assessment of the implementation of risk management policies;	29	4.0	5.0	4,897	.3099	.096
3. assessment of the location of the information system;	29	3.0	5.0	4,793	.4913	.241
4. assessment of the accuracy and reliability of trade books and financial statements;	29	3.0	5.0	4,586	.6278	.394
5. checking the accuracy, reliability, and timeliness of the reporting in accordance with the regulations;	29	3.0	5.0	4,690	.6038	.365
6. monitoring compliance with regulations, code of ethics, policies, and procedures;	29	4.0	5.0	4,862	.3509	.123
7. evaluation of money laundering prevention systems	29	4.0	5.0	4,897	.3099	.096
8. assessment of the services that the bank receives from the ancillary services companies of the bank	29	3.0	5.0	4,621	.6219	.387

9. The IAD carries out its activities in accordance with the principles and standards for internal audit, the bank's code of ethics, and the policy and procedures for the operation of the service.	29	4.0	5.0	4,897	.3099	.096
10. The persons in the IAD are employees of the bank and perform activities only in the service. At least one of the employees of the department is a certified auditor.	29	5.0	5.0	5,000	0.0000	0.000
11. The IAD prepares an annual work plan of the service, which is approved by the Supervisory Board.	29	5.0	5.0	5,000	0.0000	0.000
12. The plan must state the subject of the audit with a description of the content of the planned audit in certain areas and the schedule of controls during the year with the planned duration of the controls.	29	4.0	5.0	4,897	.3099	.096
13. The IAD prepares a semi-annual and annual report and submits it to the Supervisory Board, the Board of Directors, and the Audit Committee of the bank.	29	4.0	5.0	4,931	.2579	.067
14. The IAD informs the Supervisory Board and the Board of Directors if during the control it determines: non-compliance with the risk management standards due to which there is a possibility for disturbance of the bank's liquidity or solvency and that the Board of Directors does not comply with the regulations, general acts and internal procedures of the bank	29	5.0	5.0	5,000	0.0000	0.000
<b>Responsibilities of the AC to IAD (AC_IAD)</b>						
1. The AC ensures the independence of the IAD.	29	1.0	5.0	4,345	1.1734	1,377
2. The AC provides the necessary resources for the IAD to be able to fulfill its responsibilities.	29	1.0	5.0	3,828	1.3381	1,791
3. The AC supervises the scope and adequacy of the risk assessment made by the IAD.	29	1.0	5.0	4,103	1.2348	1,525
4. The AC requests separate audits from the IAD in addition to periodic and risk-based audits.	29	3.0	5.0	4,103	.8170	.667
5. The AC evaluates the professional education of the internal auditors, the level of adequacy, independence and objectivity, in order to fulfill their responsibilities in accordance with the professional standards.	29	1.0	5.0	3,828	1.3646	1,862
6. The AC provides a communication channel for internal auditors to communicate directly with the Audit Committee.	29	1.0	5.0	3,931	1.3870	1,924
7. The AC meets with the internal auditors at least 4 times a year.	29	3.0	5.0	4,621	.6769	.458
8. The AC provides a communication channel for the bank employees to inform the internal	29	1.0	5.0	3,897	1.3718	1,882

audit department about control problems and suspicious cases.						
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Source: Data analysis using SPSS

The analysis of the questionnaire was made based on a structured sample in two groups - members of the audit committees in the banks (8) and employees in the internal audit departments in the banks (21). It should be emphasized at the very beginning of the analysis that all AC members and all internal audit staff fully agree that the internal audit department performs a constant and complete audit of the legality, regularity, and timeliness of the bank's operations by assessing the adequacy and efficiency of the internal control systems (Q1-IAD), then that the persons in the internal audit department are employed in the banks and all perform work only in the service (Q10-IAD), the internal audit department prepares an annual work plan, which is approved by the Supervisory Board (Q11-IAD), as well as that the department notifies the supervisory and board of directors if during the control it finds non-compliance with the risk management standards or that the board of directors does not comply with the regulations, general acts and internal procedures of the bank (Q14-IAD). All these questions have answers with a mean value of 5.00 and normally, the conclusion based on the ANOVA analysis (Appendix 1) is that there is no difference between the groups regarding those questions.

Furthermore, most of the answers given related to the competencies of the audit committee and the internal audit department are highly reliable (mean value above 4.5), which ANOVA analysis confirms that there is no difference between the groups in the answers given. Regarding the fact that the audit committee ensures that the internal control system is examined according to the international models (COSO) (Q18-AC), the average value is 4.276, but there is a significant difference in the answers between the groups (ANOVA analysis).

The last group of questions regarding the responsibilities of the audit committee towards the internal audit department in banks deserves special attention.

Regarding the answers to the question of whether the audit committee requests special audits from the internal audit department in addition to the periodic and risk-based audits (Q4-AC\_IAD), there is a significant difference in the given answers of the groups. From this part, it can be concluded that there is room for improvement, which both groups agree on, more specifically in terms of providing the necessary resources by the audit committee of the internal audit department to be able to fulfill its responsibilities (Q2-AC\_IAD), then in the evaluation by the audit committee of the professional education of the internal auditors, the level of adequacy, independence, and objectivity of the internal auditors (Q5-AC\_IAD), and there is a need for the audit committee to make efforts in establishing a communication channel for the bank employees to be able to inform the internal audit department for control problems and suspicious cases (Q8-AC\_IAD).

A positive conclusion from the analysis is that the members of the audit committees have sufficient experience and knowledge in the banking system, their responsibilities, banking activities, culture, and organizational structure. Furthermore, the members have sufficient time to fulfill their responsibilities, as well as to have professional skepticism at work and to be independent and objective in carrying out their tasks.



On the other hand, the employees in the internal audit department carry out their activities following the principles and standards for internal audit, the bank's code of ethics, and the policy and procedures for the operation of the service. Appendix 1 of the paper provides the ANOVA analysis of the received answers.

## Conclusion

This research seeks to examine the set-up of the audit committee and internal audit departments in the five largest banks in North Macedonia, as well as the committee's accountability to the internal audit function. The focus was on three main objectives. In response to the objectives, from the conducted research and the results obtained from the questionnaire, it can be concluded that the set-up and adequacy of the audit committees and internal audit departments in the banks are following the legal regulations, rules, and standards, and the members of the audit committees are competent, and with the necessary work experience in the field to perform their competencies. The link between the audit committees and the internal audit departments of banks is high, and the results suggest that audit committees largely ensure the independence of internal audit function and hold frequent meetings, but little improvement is needed in setting up a communication channel for bank employees to report internal audit department to problems or suspicious cases. However, this paper has its limitations, which refer primarily to the sample that was covered by the questionnaire (55%), as well as the time period when the research was conducted, ie the situation with the COVID-19 Pandemic. A major limitation is the lack of similar research available in the country to compare the results obtained.

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## APPENDIX 1

**Table A-1: ANOVA Analysis**

		Sum of Squares	df	Mean Square	F	Sig.
AC_fin_reports	Between Groups	.210	1	.210	1,753	.197
	Within Groups	3,238	27	.120		
	Total	3,448	28			
AC_internal_control	Between Groups	.118	1	.118	1,241	.275
	Within Groups	2,571	27	.095		
	Total	2,690	28			
AC_external_audit	Between Groups	.013	1	.013	.372	.547
	Within Groups	.952	27	.035		
	Total	.966	28			
AC_acc_policy	Between Groups	4,742	1	4,742	4,961	.034
	Within Groups	25,810	27	.956		
	Total	30,552	28			
AC_compliance	Between Groups	.714	1	.714	1,367	.253
	Within Groups	14,113	27	.523		
	Total	14,828	28			
AC_meetings	Between Groups	.025	1	.025	.110	.743
	Within Groups	6,113	27	.226		
	Total	6,138	28			
AC_risk_management	Between Groups	.328	1	.328	1,135	.296
	Within Groups	7,810	27	.289		
	Total	8,138	28			
AC_audit_firm	Between Groups	1,892	1	1,892	2,668	.114
	Within Groups	19,143	27	.709		
	Total	21,034	28			
AC_reporting_AB	Between Groups	.473	1	.473	1,541	.225
	Within Groups	8,286	27	.307		
	Total	8,759	28			
AC_annual_reports	Between Groups	.118	1	.118	.698	.411
	Within Groups	4,571	27	.169		
	Total	4,690	28			
AC_COSO	Between Groups	3,966	1	3,966	4,494	.043
	Within Groups	23,827	27	.882		

	Total	27,793	28			
AC_experience	Between Groups	.007	1	.007	.020	.888
	Within Groups	9,786	27	.362		
	Total	9,793	28			
AC_knowledge	Between Groups	.139	1	.139	.100	.754
	Within Groups	37,310	27	1,382		
	Total	37,448	28			
AC_areas	Between Groups	.150	1	.150	.441	.512
	Within Groups	9,161	27	.339		
	Total	9,310	28			
AC_prof_skepticism	Between Groups	.046	1	.046	.153	.699
	Within Groups	8,161	27	.302		
	Total	8,207	28			
AC_independence	Between Groups	.197	1	.197	1,042	.317
	Within Groups	5,113	27	.189		
	Total	5,310	28			
IAD_internal_control	Between Groups	0.000	1	0.000		
	Within Groups	0.000	27	0.000		
	Total	0.000	28			
IAD_risk_management	Between Groups	.005	1	.005	.052	.822
	Within Groups	2,685	27	.099		
	Total	2,690	28			
IAD_IT	Between Groups	.312	1	.312	1,308	.263
	Within Groups	6,446	27	.239		
	Total	6,759	28			
IAD_fin_reports	Between Groups	.921	1	.921	2,460	.128
	Within Groups	10,113	27	.375		
	Total	11,034	28			
IAD_regulations	Between Groups	.040	1	.040	.107	.746
	Within Groups	10,167	27	.377		
	Total	10,207	28			
IAD_monitoring_policies	Between Groups	.139	1	.139	1,132	.297
	Within Groups	3,310	27	.123		
	Total	3,448	28			
IAD_money_laundering	Between Groups	.237	1	.237	2,612	.118
	Within Groups	2,452	27	.091		
	Total	2,690	28			
IAD_ancillary_services	Between Groups	.000	1	.000	.001	.982
	Within Groups	10,827	27	.401		
	Total	10,828	28			
IAD_ethics	Between Groups	.005	1	.005	.052	.822
	Within Groups	2,685	27	.099		
	Total	2,690	28			

IAD_employees	Between Groups	0.000	1	0.000		
	Within Groups	0.000	27	0.000		
	Total	0.000	28			
IAD_annual_plan	Between Groups	0.000	1	0.000		
	Within Groups	0.000	27	0.000		
	Total	0.000	28			
IAD_audit_subject	Between Groups	.005	1	.005	.052	.822
	Within Groups	2,685	27	.099		
	Total	2,690	28			
IAD_report	Between Groups	.053	1	.053	.784	.384
	Within Groups	1,810	27	.067		
	Total	1,862	28			
IAD_reporting	Between Groups	0.000	1	0.000		
	Within Groups	0.000	27	0.000		
	Total	0.000	28			
AC_IAD_independence	Between Groups	.867	1	.867	.621	.437
	Within Groups	37,685	27	1,396		
	Total	38,552	28			
AC_IAD_resources	Between Groups	3,311	1	3,311	1,909	.178
	Within Groups	46,827	27	1,734		
	Total	50,138	28			
AC_IAD_supervision	Between Groups	3.005	1	3.005	2,045	.164
	Within Groups	39,685	27	1,470		
	Total	42,690	28			
AC_IAD_audits	Between Groups	3.005	1	3.005	5,173	.031
	Within Groups	15,685	27	.581		
	Total	18,690	28			
AC_IAD_education	Between Groups	4,995	1	4,995	2,861	.102
	Within Groups	47,143	27	1,746		
	Total	52,138	28			
AC_IAD_communication	Between Groups	3,576	1	3,576	1,920	.177
	Within Groups	50,286	27	1,862		
	Total	53,862	28			
AC_IAD_meeting	Between Groups	.185	1	.185	.395	.535
	Within Groups	12,643	27	.468		
	Total	12,828	28			
AC_IAD_commun_chanel	Between Groups	4,023	1	4,023	2,232	.147
	Within Groups	48,667	27	1,802		
	Total	52,690	28			

Source: Data analysis using SPSS



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## **ROMANIA AS AN EU MEMBER STATE: OPPORTUNITIES, RESPONSIBILITIES, CHALLENGES IN ENTREPRENEURIAL ACTIVITY**

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**Abstract:** *Entrepreneurship is usually associated with younger people, such as those aged 18-40. A great opportunity that could benefit Romania as EU support is to focus on middle-aged entrepreneurs over 40 years. In order to accomplish this research, we have conducted a comparative between the characteristics of young people and the middle-aged determining entrepreneurial behaviour in Romania and who want to open a start-up. For this purpose, we have considered applying questionnaires for the two target groups. One of Romania's responsibilities towards young entrepreneurs and the second-age entrepreneurs at the start-up level is related to the increase in the number of entrepreneurial programs at national level by attracting EU funds, reducing the bureaucratic system, but also by providing facilities tax policy that makes the entrepreneur no longer burdened.*

**Keywords:** *Romania, EU, entrepreneur, opportunities, challenges*

**JEL Classification:** *L22, L26, O10, O15, O30.*

### **Introduction**

In the EU context, Romania should focus on enhancing the entrepreneurial role as it is the engine of economic development and recovery (Fuentelsaz et al., 2015). In addition, entrepreneurship is all the more useful that the baby boom generation will retire, the government will not have enough money to pay for pensions, the price of oil will explode, the dollar will devalue, and inflation will fall out of control (Trump and Kiyosaki, 2008). Usually, entrepreneurship is associated with younger people (Kelley, 2009; Wennekers et al., 2010), such as those aged 18-40 because young people take risks in contrast to the elderly. However, a great opportunity for Romania to benefit from EU support is to focus on second-age entrepreneurs (Kautonen et al., 2011) for more than 40 years. Given that the entrepreneurial activity of the elderly is an underestimated area, this area requires a thorough study (Kautonen, 2008).

### **Entrepreneurship in Romania, a theoretical perspective**

Today there are many social, political and economic challenges facing organizations. Thus, entrepreneurs need to innovate in the field to achieve valuable results (Dumitrașciuc and Jitaru, 2019). Also, entrepreneurs are the ones who contribute to

changing the way we live and the way we work (Dumitraşciuc, 2019). Regarding entrepreneurship through opportunity, it does not develop only in developed countries Mota et al. (2019), but also in developing countries.

Entrepreneurship through opportunity does not only develop in developed countries Mota et al. (2019), but also in developing countries. Romania needs EU support in this case, especially as small firms are increasingly struggling to maintain the same level of entrepreneurial effort as they grow. In this way, small firms turn to activities that aim at reducing the level of risk and also aim at strengthening the company's position (Collinson, 2001). But a significant role in entrepreneurial firms has its innovation, because it has the capacity to change people's behaviour as well as their working methods (Galindo and Méndez, 2014). Thus, entrepreneurial organizations can innovate either a new product or service, or they can come up with a number of improvements to a particular product or service based on the results of some new technologies or even on combinations of new technologies.

The innovation that an entrepreneur can bring can be linked to a particular product or service, may be linked to the process, marketing and sales, company management, financial, and organizational part in general. Thus, the European Union is a major actor and a leader in the scientific and technological activity of entrepreneurial organizations (European Commission, 2014).

The European Commission (2014, p.3) argues that "Europe's future is linked to its capacity for innovation, transforming great ideas into products and services that create both economic growth and jobs. For example, the Innovation Union initiative as an EU strategy to promote this process aims to provide an environment in which Europe will encourage new ideas. In practice, the Innovation Union initiative is part of the EU's growth strategy and is entitled "Europe 2020", which foresees that the public and private sectors reach a cumulative level of investment in research and innovation of 3% of gross domestic product (GDP) by 2020."

As far as Romanians are concerned, entrepreneur Ghenea (2011, p.313-315) tells us that Romanian entrepreneurs have a number of strong points. They are intelligent because the Romanian entrepreneurs come with out-of-the-box solutions to various problems that arise in everyday life, which means they can be turned into opportunities. Last but not least, Romanian entrepreneurs have good communication skills. In addition to strengths, there are also some weak points, such as lack of decision-making capacity in a quick way, as they focus very much on the "best decision". Just what they do not know is that there is never the "best decision". Each decision brings a number of results and consequences.

Another weak point is that entrepreneurs out of too much creativity do not support their idea of a feasible plan, which most of the time, the idea no longer develops and remains only at the stage of project or idea, without ever being implemented. And here we can talk about a lack of vision of entrepreneurs on the business as a whole. Also in the weaknesses category, we found the lack of delegation or insufficient delegation of key responsibilities from the entrepreneur to the people in his company (Akcigit, et. al, 2018). This is because the entrepreneur does not have enough confidence in his employees either because he likes to have excessive control over everything that's going on in the organization. So entrepreneurs need to have an overall vision if they want to be successful (Maxwell, 2012).

Another aspect for which Romanian entrepreneurs do not delegate enough of their responsibilities is that they like to be prudent in what they do (Kalirajan and Shand, 1994). So all these decisions only make employees feel aside for the simple reason that the entrepreneur makes the decision to do everything by himself, and because he goes on the principle of "I know best what I have to do."

Finally, another weak point of Romanian entrepreneurs is their lack of preparation as regards the financial planning of the business. This is because entrepreneurs rely on their own intuition and not on analyzing and planning the organization's cash flow. That is why a significant role is played by entrepreneurship and financial education courses that could be facilitated through the European Union, especially for those who have a start-up. These EU courses would also be indicated for families that do not have a revenue and expenditure budget planning. Romania needs EU support in this case, especially as small firms are increasingly struggling to maintain the same level of entrepreneurial effort as they grow. Therefore, Romania as an EU member state must focus on the innovation side, in which to implement their passions and talents, their creativity and the qualities they have in order to have a society that develops economically.

## **Methodology**

In the report by the European Commission (2014, p.11) it was found that "according to the World Health Organization, physical and social environments are among the main factors that can help us remain healthy, independent and autonomous as we age. Therefore, creating appropriate environments for second-age entrepreneurs is one of the most effective ways to respond to demographic changes."

Therefore, we propose to answer three questions of the research:

- (1) What are the characteristics of young people who determine entrepreneurial behaviour in Romania?
- (2) What are the characteristics of the elderly people who determine the entrepreneurial behaviour in Romania? and
- (3) What are the opportunities, responsibilities and challenges that Romania can benefit from as an EU Member State and growth and economic development?

Starting from the general objective and the research questions we have formulated the following specific objectives:

- O1: Analysis of entrepreneurial skills on entrepreneurial behaviour.
- O2: Analyze opportunities to become an entrepreneur on their behaviour.
- O3: Analysis of the satisfaction with the quality of personal and professional life on the behaviour of entrepreneurs.

Starting from the specific objectives, we proposed the following working hypotheses, as follows:

- O1: Analysis of entrepreneurial skills on entrepreneurial behaviour.
- H1: Passion positively influences the decision to open a start-up.
- O2: Analysis of Opportunities to Become an Entrepreneur of Behaviour of Entrepreneurs.
- H2: Innovation positively influences the decision to open a start-up.
- O3: Analysis of the satisfaction with the quality of personal and professional life on the behaviour of entrepreneurs.

H3: The balance between personal life and professional life has a positive influence on the decision to open a start-up.

In order to accomplish this research, we conducted a comparative analysis of the characteristics of young people and those of the second age who determine the entrepreneurial behaviour in Romania and who want to open a start-up. For this we applied online survey based on online questionnaire, opinion poll technique, and data collection process from respondents. For this purpose, we applied online questionnaires to the two target groups: young entrepreneurs and second-age entrepreneurs. The total number of respondents was 60 future Romanian entrepreneurs. They were picked up from Facebook Ads. Of the 60 respondents, we had 30 young entrepreneurs and 30 second-age entrepreneurs who want to open up an IT start-up. We have proposed a dependent variable: the behaviour of entrepreneurs measured by the decision to open a start-up.

Regarding the independent variables, we considered: the entrepreneurial skills (passion measured over the years in the field of activity), the opportunities to become an entrepreneur (innovations measured by the number of new products or services placed on the market) and satisfaction with the quality personal and professional life (balance of personal life and professional life measured by the number of hours spent on professional and professional life).

**Table 1. Dependent and independent variables**

Dependent variable	Independent variables
Behaviour of entrepreneurs	The skills of the entrepreneur
	Opportunities to become an entrepreneur
	Satisfaction with the quality of personal and professional life

Source: The authors.

Before we applied the questionnaire, we conducted four introduction questions for future entrepreneurs to get along with the questions. The introduction questions were applied to the two target groups and referred to: (1) Do you propose to become an entrepreneur ?, measured by yes, no, or do not know; (2) Are you going to start an IT start-up ?, measured by yes, no or not; (3) How long do you think you will open this IT start-up, measured by: 1-5 months, 5-10 months, 10-15 months, 15-20 months and over 20 months and age, specifying that the questionnaire was finished. The questionnaire itself contained 13 closed questions, with one choice, along with the socio-demographic data (see Annexes 1 and 2). So the questions have been analyzed and reviewed before administering amongst the entrepreneurs, by field specialists in order to see if the questionnaire is error-free and can be applied. Specialists were not included in the final investigation. We also looked at privacy and data protection of respondents, in which case entrepreneurs agreed to use these data for research purposes.

### **Main Results future young entrepreneurs versus future second-age entrepreneurs**

Regarding the questionnaire applied to young entrepreneurs, we obtained the following results in terms of introduction questions:

For question no.1 Do you propose to become an entrepreneur? we obtained the following results:



**Table 2. Become future young entrepreneurs**

Propose_become_entrepreneur		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	30	100.0	100.0	100.0

Source: The authors.

**Table 3. Become an second-age future entrepreneur**

Propose_become_entrepreneur		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	YES	30	100.0	100.0	100.0

Source: The authors.

All 60 self-considered future entrepreneurs have the intention to become an entrepreneur. Regardless of age, it is never too late to start a start-up. Especially since today, the world has become more and more competitive, so entrepreneurs have to raise their level of readiness to remain or to enter (Trump and Kiyosaki, 2008).

Question no.2 Are you going to start an IT start-up?

**Table 4. Start an IT start-up future young entrepreneur**

Open_startup		Frequency	Percent	Valid Percent	Cumulative Percent
va	Valid YES	30	100.0	100.0	100.0

Source: The authors.

**Table 5. Start an IT start-up self-considered future second-age entrepreneurs**

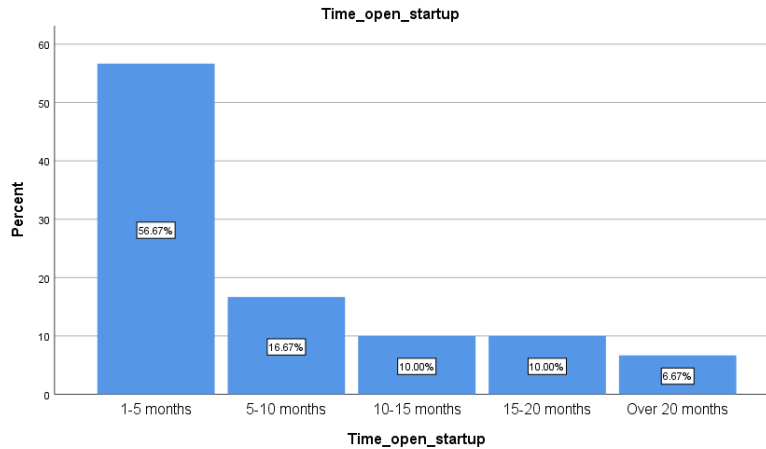
Open_startup		Frequency	Percent	Valid Percent	Cumulative Percent
valid	YES	30	100.0	100.0	100.0

Source: The authors.

Also, all 60 future entrepreneurs have the intention to open a start-up. There must be measures to support research and innovation in entrepreneurial organizations because they are meant to actually invest in the future of Europe. These investments, in turn, help entrepreneurial organizations to compete globally. At the same time, they improve the daily lives of millions of people in Europe and around the world (European Union, 2019).

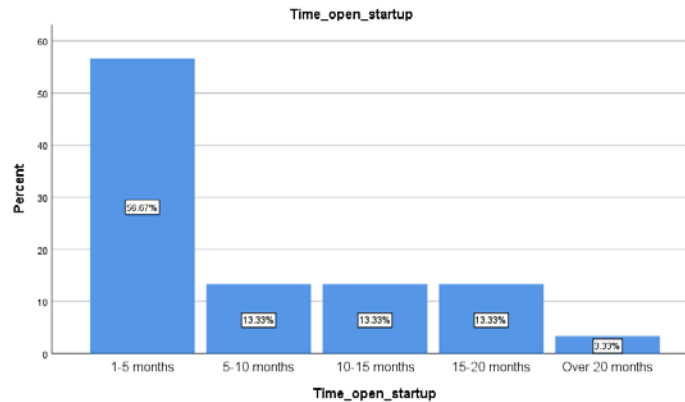
For question no. 3 How long do you think you will open this IT start-up

**Figure 1. Time open start-up self-considered future young entrepreneurs**



Source: The authors.

**Figure 2. Time open start-up self-considered future second-age entrepreneurs**



Source: The authors.

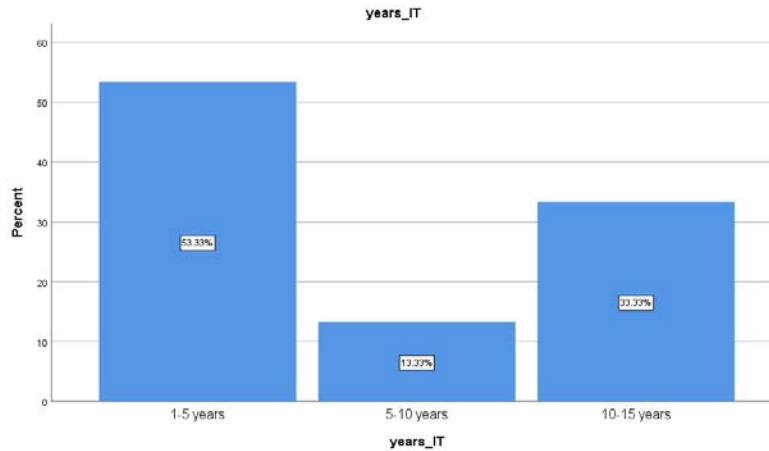
We found that data are the same in the first case for both groups of entrepreneurs, meaning that regardless of age, entrepreneurs want to open a business. 56.7% of future young entrepreneurs and self-considered future second-age entrepreneurs said they would open this IT start-up in the next 1-5 months. In Romania, entrepreneurs need to be encouraged because they represent the most valuable resource for the economic environment because entrepreneurs are the ones who contribute to job creation, they support: innovation, GDP growth, economic development and general progress of society and foster competitiveness (Popescu, 2017).

**Questionnaire**

For question no. (1) What are the characteristics of young people who determine the entrepreneurial behaviour in Romania?, the questionnaire included:

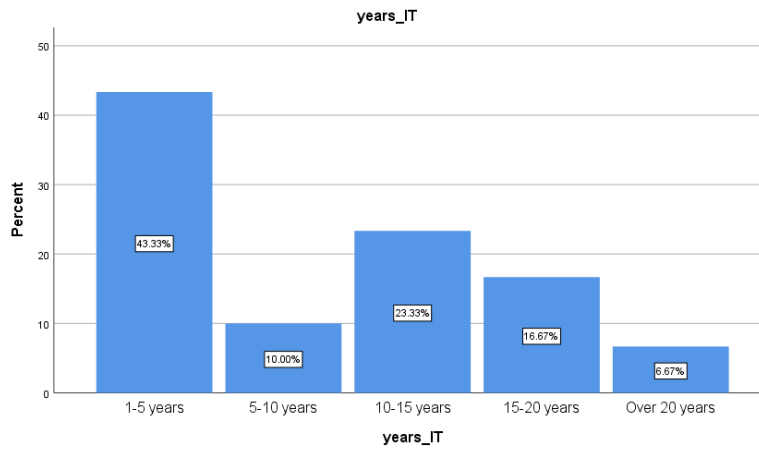
A. Abilities of entrepreneur: passion (measured by years of activity in the field of activity). To question no. 1 How many years do you have in the IT field?, we have obtained the following results:

**Figure 3. Years IT future young entrepreneur**



Source: The authors.

**Figure 4. Years IT self-considered future second-age entrepreneurs**

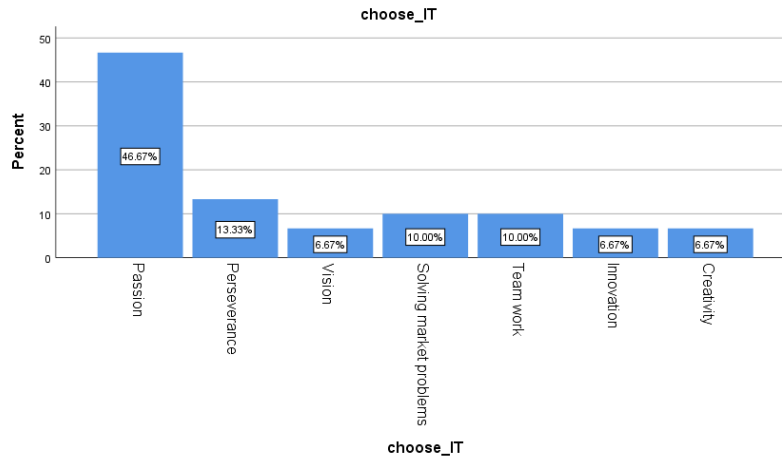


Source: The authors.

We found that 54% self-considered future young entrepreneurs are in their first 5 years of activity, which shows their interest, enthusiasm and passion to make changes in their lives. Immediately follow those with an experience of 10-15 years. While, 44% self-considered future second-age entrepreneurs are in their first 5 years of activity. Immediately follow those with an experience of 10-15 years like self-considered future young entrepreneurs. These results indicate to us that romanian entrepreneurs are creative because they come with innovative ideas unlike Central Europe that go on ideas already tested (Ghenea, 2011, p.313-315).

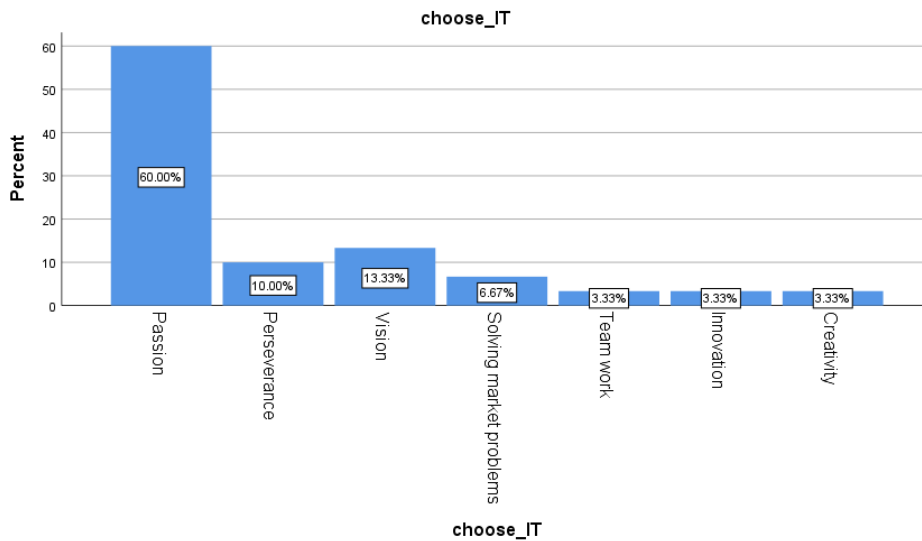
Question no. 2 What made you choose IT entrepreneurship? has provided us with the following information:

**Figure 5. Choose IT self-considered future young entrepreneurs**



Source: The authors.

**Figure 6. Choose IT self-considered future second-age entrepreneurs**



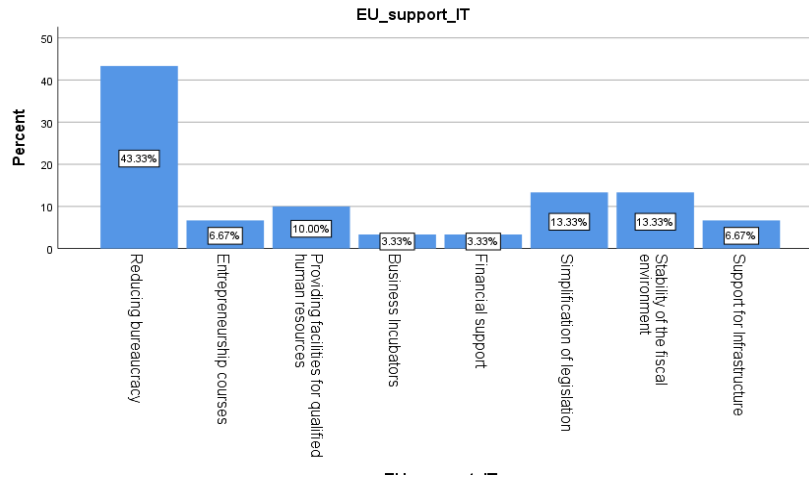
Source: The authors.

In both cases, passion leads future entrepreneurs to start a start-up, followed by perseverance. 46.7% for self-considered future young entrepreneurs, followed by the idea of perseverance 13.3%. And 60% for self-considered future second-age entrepreneurs. Before entrepreneurs open a start-up, they need to be passionate about a particular field. Because passion is more important than a plan because it instils energy. In addition, passion is the fuel for an entrepreneur (Maxwell, 2012) to get where he wishes, when others will say not to continue because he will fail. So what distinguishes enthusiastic entrepreneurs and those lacking in talent is enthusiasm, which is manifested in passion (Idem).

It was also found that IT is usually meant for men, but women have started lately to have a say. This domain is not just for men, as with the other domains that were formerly intended exclusively for them (Hampton et al., 2009; Hampton et al., 2009).

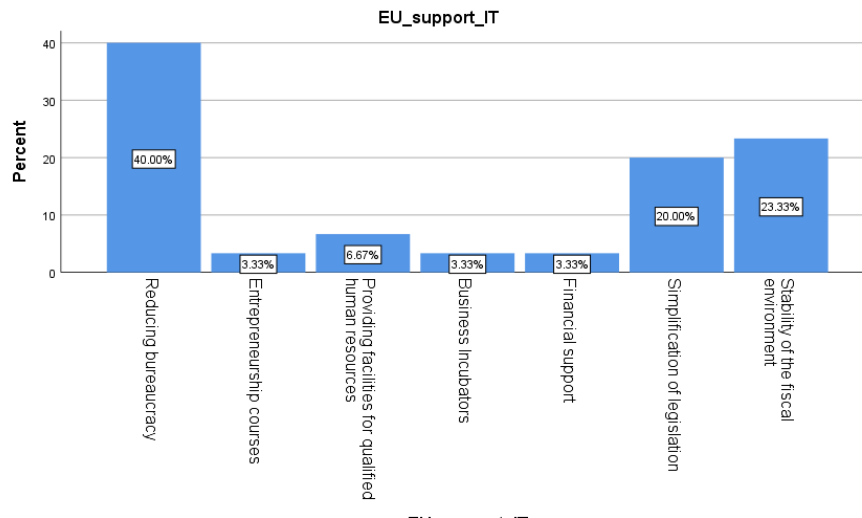
Question no. 3 How could the EU support you in this area of activity?

Figure 7. EU support IT self-considered future young entrepreneurs



Source: The authors.

Figure 8. EU support IT self-considered future second-age entrepreneurs



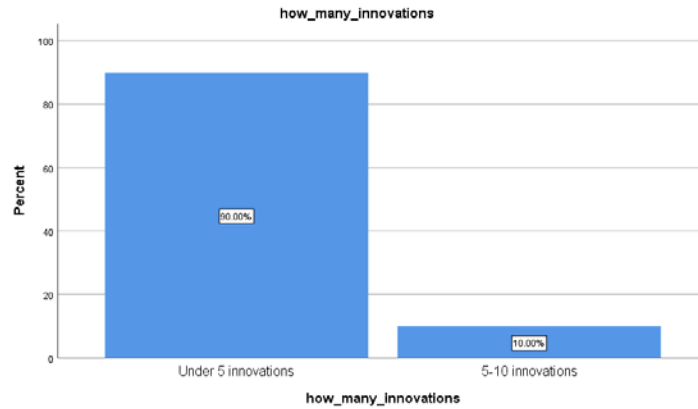
Source: The authors.

44% self-considered future young entrepreneurs have chosen reducing bureaucracy, while 40% self-considered future second-age entrepreneurs. As we can see the data is close in size. Followed by simplification of legislation and stability of the fiscal environment for self-considered future young entrepreneurs 14%. In the self-considered future second-age entrepreneurs case, 24% stability of the fiscal environment and 20% simplification of legislation. Also, the entrepreneur has to focus on the training courses of his employees, and if they face certain financial problems, entrepreneurs can turn their attention to the sources of funding received from the European Union. Regarding Romania as an EU Member State for entrepreneurial activity, it is recommended to intensify the dialogue and strengthen it through cooperation between the political and public actors and the research institutions of the two entities (Jitaru and Popescu, 2017).

B. Opportunities to become an entrepreneur: Innovations (the number of new products or services placed on the market).

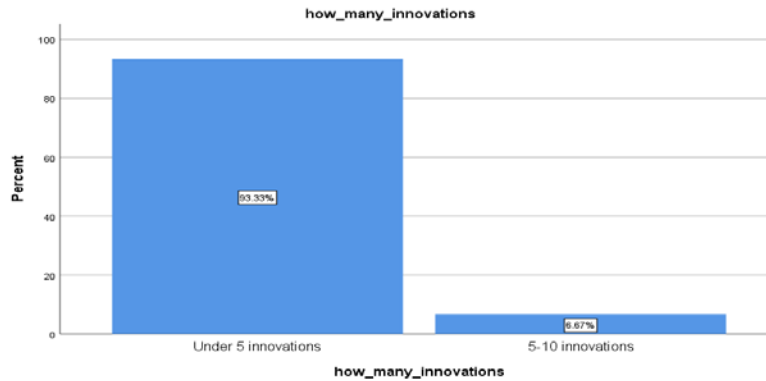
Question no. 4. How many innovations will you bring to the Romanian market?

**Figure 9. How many innovations self-considered future young entrepreneurs**



Source: The authors.

**Figure 10. How many innovations self-considered future second-age entrepreneurs**

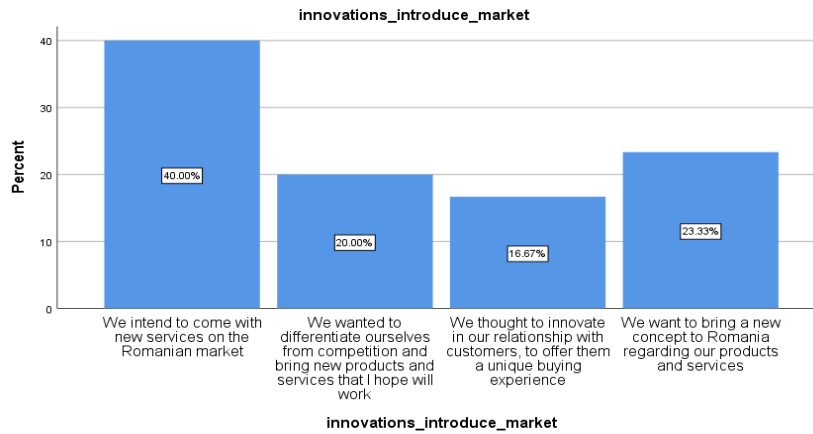


Source: The authors.

90% of self-considered future young entrepreneurs will bring under 5 innovation to the Romanian market, while 93% of self-considered future second-age entrepreneurs will bring under 5 innovation to the Romanian market. In terms of funding sources, entrepreneurs also have other mechanisms to act to start a business, even when the institutional environment is not well developed (Ali et al., 2019). A solution that can be used by IT entrepreneurs, as well as in other areas, is to search for sources of funding on crowdfunding platforms that aim at appealing to a community as a potential financier in order to develop a product, to develop more innovations in their field of activity.

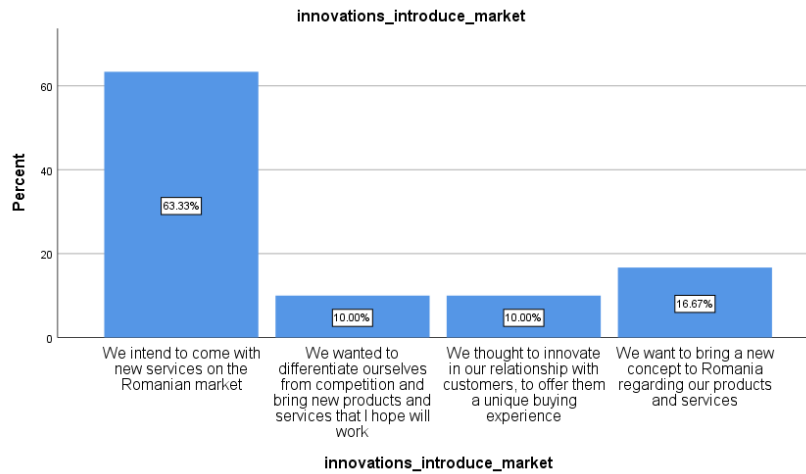
Question no. 5. What innovations will you introduce to the Romanian market?

**Figure 11. Innovations introduce market self-considered future young entrepreneurs**



Source: The authors.

**Figure 12. Innovations introduce market self-considered future second-age entrepreneurs**

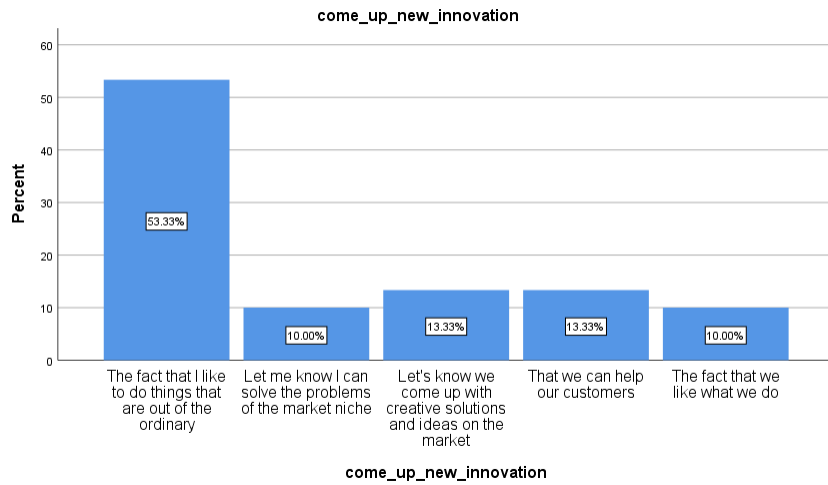


Source: The authors.

40% of self-considered future young entrepreneurs intend to come with new services on the Romanian market, followed by differentiate ourselves from competition and bring new products and services that I hope will work, 20%. While 64% of self-considered future second-age entrepreneurs intend to come with new services on the Romanian market, followed by differentiate ourselves from competition and bring new products and services that I hope will work, 10%. For start-up businesses to grow, entrepreneurs need to build a strong team to learn to grow and develop teams to achieve remarkable performance (Maxwell, 2005). This can be done by the entrepreneur by recruiting the most valuable people who have the greatest potential.

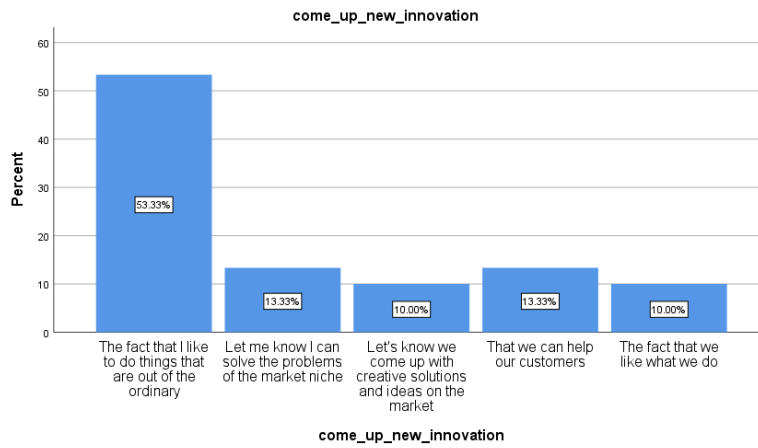
Question no. 6. What makes you come up with new innovations?

**Figure 13. Come up new innovation self-considered future young entrepreneurs**



Source: The authors.

**Figure 14. Come up new innovation self-considered future second-age entrepreneurs**



Source: The authors.

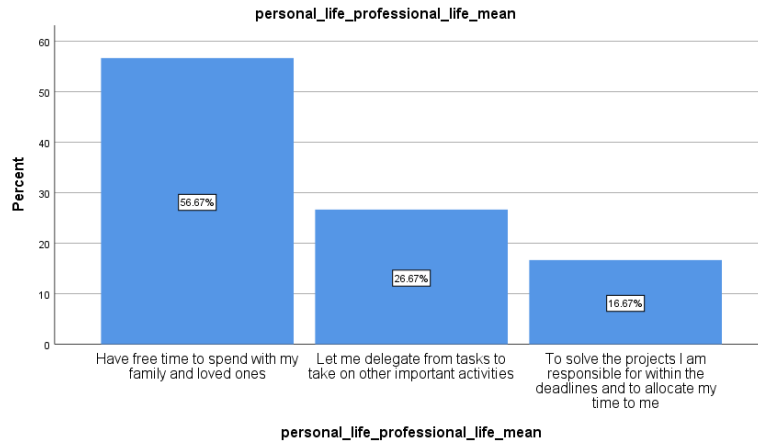
54% of self-considered future young entrepreneurs answered the fact that I like to do things that are out of the ordinary and 10% let me know I can solve the problems of the market niche. The same case is for 54% of self-considered future second-age entrepreneurs I like to do things that are out of the ordinary, 14% let me know I can solve the problems of the market niche and 10% let's know we come up with creative solutions and ideas on the market. Romania needs an innovation driven economy. However, this type of economy is generally specific to countries that have a fairly high standard of living and which is usually associated with high wages that are also generated by innovative businesses. Innovative businesses are primarily competitive precisely because they offer new or even unique products (Barta et al., 2013).

C. Satisfaction with the quality of personal and professional life: balancing personal life and professional life (the number of hours spent in professional and professional life).



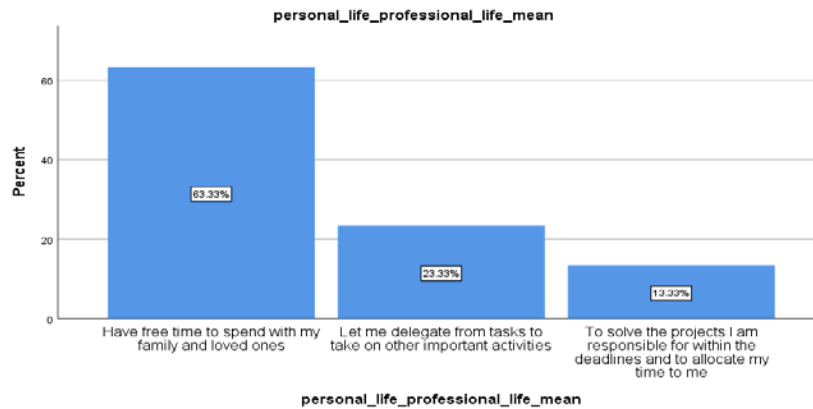
Question no. 7. What does your personal life and professional life mean for you?

Figure 15. Personal life and professional life self-considered future young entrepreneurs



Source: The authors.

Figure 16. Personal life and professional life self-considered future second-age entrepreneurs

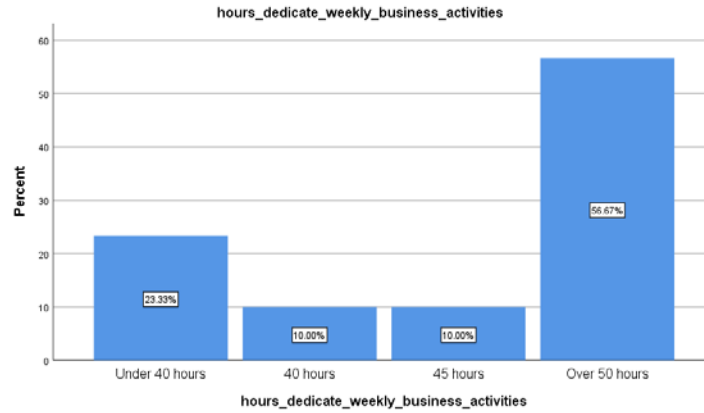


Source: The authors.

57% of self-considered future young entrepreneurs answered have free time to spend with my family and loved ones, followed by 27% of self-considered future young entrepreneurs answered let me delegate from tasks to take on other important activities. While 64% of self-considered future second-age entrepreneurs answered have free time to spend with my family and loved ones, followed by 24% of self-considered future second-age entrepreneurs answered let me delegate from tasks to take on other important activities. Entrepreneurs are no longer in a balance between personal and professional life (Papulová and Mokroš, 2007), and here are a series of phenomena such as anxiety, frustrations, burnout, various problems in personal and professional life (Cacciotti and Hayton, 2015; Gondim and Mutti, 2011).

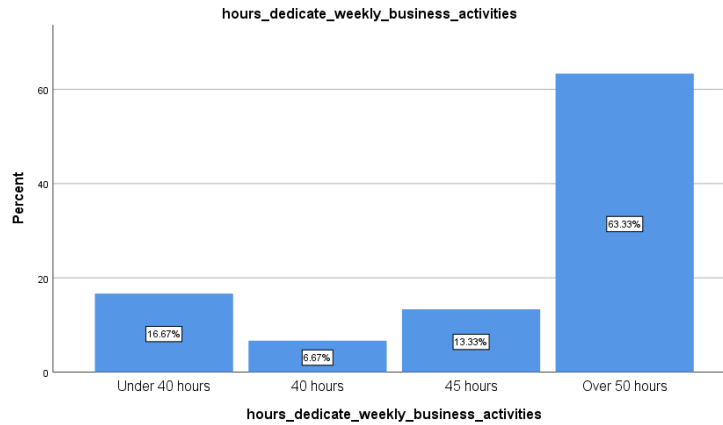
Question no. 8. How many average hours do you dedicate to weekly business activities?

**Figure 17. Hours dedicate to weekly business activities self-considered future young entrepreneurs**



Source: The authors.

**Figure 18. Hours dedicate to weekly business activities self-considered future second-age entrepreneurs**



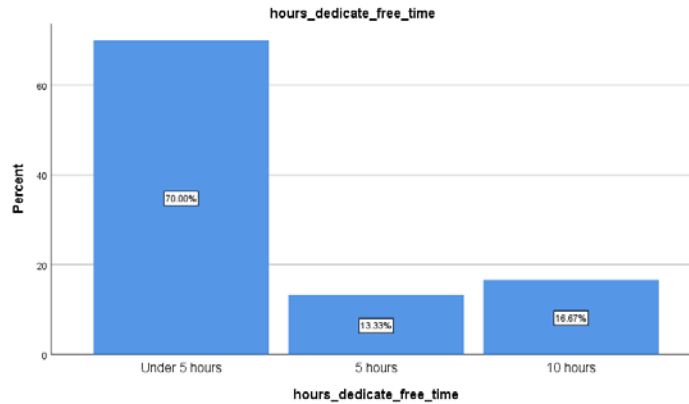
Source: The authors.

57% of self-considered future young entrepreneurs answered over 50 hours dedicate to weekly business activities, followed by 24% of self-considered future young entrepreneurs answered under 40 hours dedicate to weekly business activities.

64% of self-considered future second-age entrepreneurs answered over 50 hours dedicate to weekly business activities, followed by 17% of self-considered future second-age entrepreneurs answered under 40 hours dedicate to weekly business activities. Also, the Romanian entrepreneurs have the gift of dedication as well as of an overwhelming energy when it comes to their business, so they work 7 days in 7, 24 hours for a long time and even years (Ghenea, 2011, p.313-315).

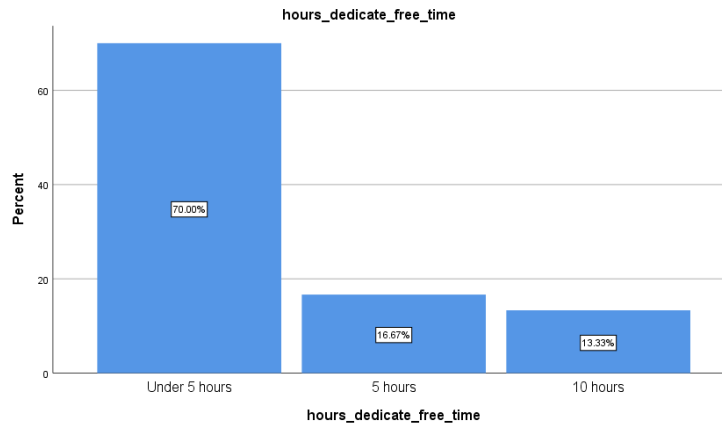
Question no. 9. How many hours on average do you dedicate to free time per week?

**Figure 19. Hours dedicate to free time per week self-considered future young entrepreneurs**



Source: The authors.

**Figure 20. Hours dedicate to free time per week self-considered future young entrepreneurs**



Source: The authors.

In both case, 70% of self-considered future young entrepreneurs and 70% of self-considered future second-age entrepreneurs answered under 5 hours to free time per week self-considered future young entrepreneurs. We found that passion is the one that motivates entrepreneurs to take the first step towards realization, strengthens their will and gives them energy (Maxwell, 2008).

For the third part, we asked the entrepreneurs to complete this table:

For the question (3) What do you think are the opportunities, responsibilities and challenges that Romania can benefit from as an EU member state and economic growth and development ?, the entrepreneurs responded:

**Table 6. The relationship between the opportunities, responsibilities and challenges that Romania can benefit as an EU member state and growth and economic development – self-considered future young entrepreneurs and self-considered future second-age entrepreneurs**

Opportunities	Responsibilities	Challenges
Learning and adapting best practices from the experience of other companies across the EU.	Increase in the number of entrepreneurial programs at national level by attracting EU funds.	The level of taxation.
Financial education by experts in the field.	Reducing the bureaucratic system.	Access to finance.

Developing human capital by offering training and specialization courses.	Providing tax incentives for the entrepreneur to no longer feel overwhelmed.	Taxation.
Providing facilities for qualified human resources.	Stability of the fiscal environment.	Corruption.
Creating business incubators.	Focusing on R & D and innovation.	Globalization.
Financial resources provided through EU support.	Fluidizing access to finance and business information.	Competition.
Providing coaching and mentoring to start-up entrepreneurs from senior entrepreneurs.	Investing in technology to have quality products and services.	The financial crisis.
New sources of investment.	Infrastructure development.	Migration of labor abroad.
Developing business infrastructure.	Tax transparency.	Economic decline.
Developing e-commerce.	Simplifying administrative procedures.	Economic crisis.
Stimulating competition.		Rising prices.
Modernizing business models.		The fiscal crisis.
Foreign direct investment.		
Developing business infrastructure.		
Providing consultancy from various specialists: accounting, taxation, management, human resources, etc.		

Source: The authors.

Thus, one of Romania's responsibilities towards young entrepreneurs and the second-age entrepreneurs at the start-up level is related to the increase in the number of entrepreneurial programs at national level by attracting EU funds, reducing the bureaucratic system, but also by providing facilities tax policy that makes the entrepreneur no longer burdened. One of the challenges facing Romania is also to make technological changes that might be possible by making a joint effort between research and academia and organizations to enhance their research, innovation and to increase its contribution to the part of the development of society (Rosca and Păunescu, 2010). In the case of entrepreneurs, problems are those that create opportunities (Trump and Kiyosaki, 2008). So the European Union can support start-ups through entrepreneurship courses, providing facilities for qualified human resources, business incubators and financial resources. Also essential is the support of local and central government for entrepreneurs by reducing bureaucracy and simplifying legislation, the stability of the tax environment.

After analyzing the data, we found that the entrepreneurs mentioned the idea of corruption. The idea is that entrepreneurship can be positively or negatively affected by corruption. The positive effect occurs when the bribe allows new companies to buy their seats on the waiting list by obtaining government contracts. On the other hand, corruption acts as an entry barrier for new entrants because it imposes additional costs for doing business (Goel and Saunoris, 2018). The challenge in this regard is to adopt anti-bribery legislation in Romania. Especially in Romania, corruption is perceived as a very serious problem (Bałkowski and Voronova, 2017).

We propose that Romania adopt the model in Estonia that managed to carry out an administrative reform that aimed at reducing bureaucracy and corruption. Especially because corruption creates a series of legislative obstacles. If we are referring to Estonia

and Romania, both countries have come out almost simultaneously from communism, but both countries are at the extremes of digitization. An example adopted by Estonia, in this regard, may be that taxes are paid online, which automatically lowers tax evasion and increases the collection rate, and the list can continue.

An aspect that can scare entrepreneurs to start a start-up can be related to the migration of Romanian specialists. However, it should not be seen as a bad thing because mobility indicates that people have the skills and education they need to found jobs in developed economies, which in the future will lead to Romania's development.

In this case, entrepreneurs who can provide coaching and mentoring to start-up entrepreneurs through hubs and business incubators also play a significant role.

We note that the characteristics and qualities required for a successful entrepreneur who wants to open a start-up include both charisma, vision, persuasion, intelligence and creativity, but also responsibility, perseverance and determination in what he proposes to realize. At the same time, the entrepreneur needs to know your business in the smallest detail. In addition, the entrepreneur has decision-making skills, problem solving, positive thinking, must have passion for business, personal ethics, trust and correct attitude towards his own people, entrepreneurial flair (Popescul, 2017).

We also note that if in some cases there are entrepreneurs who do not necessarily seek to open up a start-up business, they still decide to become entrepreneurs as a way to overcome the lack of employment opportunities, indicating that they try to avoid the risks. (Mota, 2019). With the statement that in this case, such entrepreneurs will not go too far with their own businesses. They will fail in their first three years of activity because they lack the knowledge, skills and competencies needed to grow and develop a business. In addition, a person who wants to become an entrepreneur must first be passionate about the field when he opens the business, sees opportunities when others see problems and is willing to take risks,

Also, this research study shows that at present we can no longer speak of IT as exculpable to men, given that women today account for half of the world's population. Which implies equal access to health, economic participation, education, and political decision-making (WEF), Global Gender Gap Report, 2016.

As the European Commission (2014, p.3) also claims, "the EU is facing extremely high international competition in the field of research as well as in technological production. In this respect, efforts are moving towards the transposition of innovative ideas into new successful products and technologies."

Reaching objectives and validating hypotheses:

O1: Analysis of entrepreneurial skills on entrepreneurial behaviour - is attained.

H1: Passion positively influences the decision to open a start-up - it is accepted.

O2: Analysis of Opportunities to Become an Entrepreneur on the Behaviour of Entrepreneurs - is Attained.

H2: Innovation positively influences the decision to open a start-up - it is accepted.

O3: Analysis of the satisfaction with the quality of personal and professional life on the behaviour of entrepreneurs - is achieved.

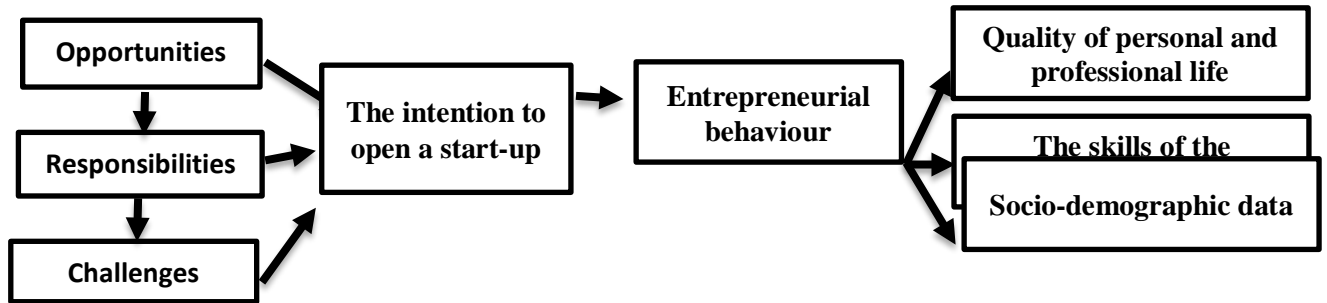
H3: The balance between personal life and professional life positively influences the decision to open a start-up - it is accepted.

Therefore, following the analysis of the specialized literature and the interpretation of the obtained data, we have developed a model that takes into account the behaviour of the

future entrepreneurs who want to open a business, so the intention of the entrepreneurs is manifested in this case.

Therefore, we obtained the following model for the development of a start-up through the European Union, figure 21 as follows:

Figure 21. Model for the development of a start-up through the European Union



Source: The authors.

The success of entrepreneurs is closely related to environmental factors and the willingness of individuals to change (Ratten et al., 2019). At the same time, knowledge about market trends, planning skills and the ability to think strategically (Idem) is needed. At the same time, if entrepreneurs plan to start a start-up business, but in the past they have failed, they should be encouraged not to give back. In life, people sometimes make mistakes, but this does not prevent them from going further and learning new lessons. Thus a failure is a temporary event and not a disease for a long time (Maxwell, 2005).

As in the study conducted by Mota et al. (2019), entrepreneurial motivations are strongly correlated with the entrepreneurial socio-demographic data, such as age, education, and family income. With the statement that in our study we did not take into account the income of the family variable, but rather we went to the most developed cities in Romania, that is why we chose the city from which the entrepreneurs come from.

## Conclusions

Regarding the part of the responsibilities and challenges that Romania faces, they are also numerous in terms of entrepreneurial activity, but they must be minimized and transformed into new business opportunities. And in this case, Romania can adopt both the model of Estonia and other countries that have focused primarily on research, development and innovation, see for example the case of Switzerland. Romania could benefit from the opportunities to learn and adapt best practices from the experience of other companies within the EU. However, entrepreneurs need to be encouraged to do so by exchanging good practice. Creating business premises, whether they be hubs or business incubators, they allow entrepreneurs to come up with innovative ideas. They need space to test and chat with other entrepreneurs in the same field or in different areas to get valuable performance. We recommend that in the future continue this study and analyze businesses with over 3 years of experience in the field to perform a comparative analysis. In this case, we thought it would be useful to analyze the following variables: number of employees, team productivity, team effectiveness and sales volume.

Our study shows that entrepreneurs are looking for new ideas in order to innovate. This is because technology has evolved, and competition is a fierce one in this area of IT. In the field of IT things are happening very fast, so what works today, tomorrow may not be the same, which is a plus of value and an evolution of the way things are happening today. It is just that all this at one point starts to put increasing pressure on IT and IT entrepreneurs in general, which can lead to the burnout phenomenon. Especially that entrepreneurs work 7 days in 7 and 24 in 24 hours, which affects their personal and professional lives.

Data can not be generalized because the sample is not a representative one. We propose that this questionnaire be applied to a considerably larger number of future entrepreneurs, precisely in the idea of coming up with solutions, recommendations and ideas for them. In order to support the future entrepreneurs at the beginning of the road. This study has limitations on work methodology, specificity so future studies may use other research methods or replicate the methodology proposed in this study with another group of decision-makers such as entrepreneurs in the first 3 years of activity or even experienced entrepreneurs. In this way, a broad comparative analysis can be made to attract other ideas, solutions, recommendations, and feedback.

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## **PECULIARITIES OF DISCUSSING TAX DISPUTES IN COURT**

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**Abstract:** *Discussions of tax disputes in courts are characterized by certain peculiarities. These discussions gain special significance because these have implications for the economic stability of the country and the rights of the citizens. After all, unlike the disputes over other laws and regulations introduced by the government that affect an individual only in specific aspects, tax liabilities, being financial in nature, influence all the activities of a person throughout their lives because taxing the income of a person is a substantial and carefully designed mechanism of the state that interferes in a person's activities. In view of the foregoing, this part of the article deals with the peculiarities of discussing tax disputes in court, its existing practice, the experience of other countries, and on that basis, analyses the existing problems of legislative regulation of tax disputes and ensuring their finalization to draw certain conclusions.*

**Keywords:** *Tax law, tax dispute, legislative*

### **Introduction**

While the state has the legal right to impose and collect taxes to mobilise funds to meet its budgeted expenditure, physical and legal entities are bound to the duty of paying the taxes. Adam Smith and other economic thinkers of the middle-ages have described the importance of taxes and noted that, while imposing taxes, states should be guided by the principles of universality, definiteness, selecting the objects of taxation, and justice (Gorbunova, 1996; Financial Law, Moscow, p.17). Historical experience shows that the issues related to taxes are distinguished by complexity and variety in the modern legislative space. Taxes never lose their actuality and are becoming more and more significant. The famous phrase of one of the authors of the Declaration Of Independence of the United States, Benjamin Franklin – “In this world, nothing can be said to be certain, except death and taxes” still holds ([http://en.wikiquote.org/wiki/Benjamin\\_Franklinx](http://en.wikiquote.org/wiki/Benjamin_Franklinx). [24.09.2012]). A well-thought-out and well-administered tax legislation is the most significant source of support for business and economic development. Concessionary tax legislation serves as the most significant factor for foreign investors and development of their projects.

The slogan ‘Pay Your Taxes to Sleep Well’ always justifies itself in practice. There are frequently reported cases of taxpayer and the tax body's disagreements over the amount and the method of computation of tax and gives the tax-payers sleepless nights. What confounds the complexity in the disputes is that the taxpayer is the weak party and, in most cases, unable to defend itself against the tax body, which is a subordinate body of the state. A two-stage system of dispute review is operated by the Ministry of Finance. Revenue service is the first stage at which the tax-payer must initially appeal against the decision of the revenue service itself. If their appeal is not accepted at the first stage, the taxpayer can take the case to the second stage – the dispute resolution board at the Ministry of Finance. The law-courts serve as an alternative mechanism of dispute resolution. Independent of the revenue service and the dispute board at the ministry of finance of Georgia, the taxpayer

can appeal directly to the court. However, experience shows that the taxpayer prefers to resolve the dispute through the revenue service at the initial stage.

Even though the mechanism of discussing revenue service disputes is frequently referred to, the system of dispute review is continuously being reformed through the EU-funded project, which applies to the reform of the system of disputes and its possible changes. Minimising the flexibility of interpretation of the tax norms is the cornerstone of these reforms. Lack of clarity in the norms set out in the tax code and their ambiguous interpretation has been the problem published definitions of the tax code (Kemularia 2014, System of Tax Disputes of Georgia, articles/business and economy).

### **Structure of Bodies Exercising Justice over Tax Disputes in Georgia**

Georgia, and many other states, grant persons the constitutional right to approach a court of law to protect personal rights and freedoms. According to existing legislation, the authority of the court is independent of other branches of state and common courts dispense justice through civil, administrative and criminal law procedure. The tiers in the judicial system are the city (regional) courts, the appellate courts and the Supreme Court. The city (regional) court is the court of the first instance that examines the cases brought before it privately for judgement. The appellate court is the court of the second instance in which a bench of three judges, in a collegiate manner, considers the appeals against the decisions of the regional (city) courts. The Supreme Court of Georgia is the highest court and the final instance as a court of justice with jurisdiction over the whole territory of Georgia. It supervises, through the procedural form, the implementation of justice in common courts of Georgia. The decision of the Supreme Court of Georgia is final and not subject to further appeal. It is essential to mention while discussing the case in common courts that the legislative acts that regulate the functioning of courts and implementation of justice in the country guarantee the independence of the judges. To be more specific, according to the organic law of Georgia, the judge is independent to decide any case, assesses actual circumstances and decide in accordance with only the Constitution of Georgia, universally recognized principles and norms of international law, others laws, and relying on one's internal belief.

### **Discussing Tax Disputes in Common Courts**

Tax disputes belong to the category of administrative cases and they are discussed in common courts according to the rules defined by the administrative procedural legislation of Georgia. Though in terms of the general principle of the administrative procedure, the court will not accept a suit against an administrative body, if the plaintiff did not use the right to submit a one-off administrative suit, parts one and three of Article 296 of the Tax Code allow the taxpayer to sue against the decision made under the tax legislation (administrative act) following the system of Ministry of Finance of Georgia or apply directly to the court at any stage of the tax dispute (Tax Code of Georgia, 2018, Tbilisi). The taxpayer appeals against the actions of the tax body before the city (regional) court at the place of their residence by submitting the suit application. The court procedure differs from the discussion of the tax dispute in the system of the Ministry of finance in that the taxpayer is obliged to pay the state customs duty at the following rates, for filing

the suit application before a city (regional) court – 3 % of the amount in dispute, but not less than 100 laris and not more than 3000 laris in case of a physical entity or 5 000 laris in case of a legal entity; in case of appellate complaint (appellate court), 4 % of the amount in dispute but not less than 150 laris and not more than 5 000 laris in the case of a physical person or 7 000 laris in case of a legal entity; in respect with the cessation appeal (Supreme Court) – 5 % of the amount in dispute but not less than 300 laris and not exceeding 6 000 laris in case of a physical entity, or 8 000 laris in case of the legal entity.

The taxpayer must submit the suit application in a tax dispute to the court within 20 days from the date of the decision of the Ministry of Finance. If the taxpayer chooses to submit the tax dispute directly to a court, the time allowed is 30 days from the administrative action against the taxpayer. Special rules are set by the administrative procedural code of Georgia for discussing tax disputes. To be more specific, (1) The tax legislation of Georgia lays down that the dispute must be decided within two months from the receipt of the suit application at the court of the first instance. If the case involves some special difficulty, this term may be extended but not more than by two months, which may be granted by a reviewing court. (2) The court of appeals judging the dispute on the points of tax legislation must give the decision in a period not exceeding two months from the date of the appeal.

However, as a rule, the discussion over tax disputes in the court last longer than two months because deciding such cases often requires special knowledge (for example, for understanding the accounting system of the taxpayer in the context of compliance with international accounting standards and/or of international financial reporting, and analyzing the taxpayer's cards and other forms of reporting, etc.). This necessitates inviting specialists and seeking additional details related to the dispute from the plaintiff or the defendant. The decision is made by the court based on the discussion of the case may be appealed against in the Supreme Court. The decision of the city (regional) court may be appealed against in the appellate court by a party to the dispute within 14 calendar days after the receipt of the decision. For appealing against the ruling of the appellate court at the Supreme Court, a period of one month since the receipt of the decision is allowed. The Supreme Court is the final instance of justice in Georgia and its decision is not subject to any further appeal.

While reviewing the tax dispute, and the disputes in other categories, the main function of a court is to make a just and legal decision by studying the factual circumstances and examining the definitions in and the interpretation of tax legislation (including, vague and obscure ones). In many cases, the court, as the body of justice, carries out such extension of the regulation commensurate to legislation, which serves as the just means of achieving the logical aim. A statistical analysis of the tax disputes in court and their results reveal that because the number of such disputes in this administrative category that reaches the courts is relatively small. Therefore, courts have fewer opportunities to accumulate experience in deciding the disputes of this specific nature. This lack of experience and practice eventually affects the quality of decisions. In 2017, the chamber of administrative affairs of the Supreme Court discussed around 80 cessation appeals related to the tax disputes. Of these, about 40 % were decided in favour of administrative bodies and 60 % were decided in favour of legal and physical entities. It is worth mentioning that none of the disputes ended through a settlement (Timer.ge, 9 January 2018. <http://www.supremecourt.ge/statistics/>).

Due to the lack of a large enough number of tax disputes in the administrative category there is little possibility of judges developing a special knowledge of tax legislation. This contributes further to the extension of the terms of tax dispute review and the decisions in many cases appear to lack justification. In Georgia, significant importance is attached to the quality and substantiation of the decision given by the court, including in the cases of tax dispute reviews. Because, though the tax is binding only on the parties to the issue, in practice the courts' decisions form precedents to be relied on in deciding future cases. This is so because the courts cannot choose to take a different approach in other similar cases to give decisions that contradict the precedent. Also, as a rule, the judge refers to the previous decisions made by the court on similar or same issues. Therefore, the larger the number of cases the court decides, the larger is the number of precedents to which importance is attached. The importance of the precedents set by the Supreme Court is great for both judicial bodies and administrative bodies because the principles and approaches introduced by these decisions necessitate changes in tax legislation.

In practice, the court is the only body authorised to define and generalise while discussing the case, the norm of the law and/or any normative act, study its logic and interpret these to clear the obscurity and confusion surrounding the norm to define the proper way of applying the legal norms. The court is obliged to discuss the constitutionality of this or that particular norm and if it concludes that, in the context of a specific case, there is sufficient ground to fully or partially regard the norm to be fully or partially incommensurate with the Constitution of Georgia, it has to stop proceeding with the case and hand the issue of the constitutionality of the norm to the Constitutional Court of Georgia for further review. Therefore, in light of the foregoing, it is possible to say that the function of the court in practice is not only to implement justice but also to logically and in a just manner clarify the obscure and confusing norms of legislative and legal normative acts to ensure the balance of rights between the administrative bodies and private persons. According to USAID, tax dispute discussions have positive and negative sides in Georgia (Efficient institutions of tax dispute resolution, 20 February 2012.).

Positive sides:

–Independent court discusses the tax dispute, which significantly increases the quality of paying the tax objectively and without extending the actual term.

Parties to the court process have much more legislative levers to justify their side (for example, getting opinions of experts or specialists, such acts as selling of taxpayers' property, etc., inviting witnesses and carrying out examination.

Negative sides:

–Due to the long discussions of tax disputes in courts, the taxpayer frequently faces financial difficulties. In other cases, the long time needed for review, persons refuse to appeal to the courts, whether or not the person thinks the amount charged is right, pays the tax or tries to sign a tax agreement.

### **Peculiarities of suit applications related with the tax dispute**

The suit, in general, is the procedural means of raising a dispute for protecting rights from violation. All persons who wish to protect their rights legal means can use this procedure. The right to file the suit enables one to apply to a court to protect one's personal interests. This right extends to all eligible physical and legal entities. To put the right into

practice, it is necessary to follow the rule defined by the civil procedural legislation (Lilushvili T., 1999; Civil Cases Record-Keeping in Court, Tbilisi, pp. 25–26). The case is filed at the court of the first instance based on the administrative suit. The case should be in a written form and meet the requirements of the civil procedural code. In case of a tax dispute, the requirement for filing a suit may be as follows considering all administrative acts: tax request request-order issued by the administrative body, order to tax accrual, any orders issued by the revenue service and Ministry of Finance. Abolition or correction of the act of control. It needs to be stated that according to present practices, the act of control is not an administrative act since the tax code defines that it is subject to appeal and list similar decisions made by the revenue service or the Ministry of Finance and annulled by the courts after the process of discussing the dispute. Violation of procedural clauses may also serve as the subject of dispute.

Tax disputes are discussed by the courts of Georgia are over issues of tax control, the rule of administering the customs duties, control of financial-economic activities, questioning the legitimacy of tax acts in the section that imposes profit tax, payment of VAT, filling of the tax return, obligation to file the tax return, VAT credit, defining the time of being registered as the VAT payer, imposing the obligation over the provider of goods for VAT payment and filling in the tax invoice, the tax request, the rule about submitting the tax notification to the individual entrepreneur, basis for raising the tax request while registering presumptive tax, questioning the legitimacy of the tax request, obsolescence of the tax request, tax mortgage, obsolescence of the tax mortgage right, tax law violation, fine for not meeting the terms of submission of the tax return and carrying out activities without being registered as the VAT payer, pre-conditions for weighbill, requesting the extension of the term for submitting property and profit tax declarations, transportation of goods for economic activity without the weighbill, to assert the fact of not registering goods sold during the simplified rules of registering the expenditure, amount of good revealed without the delivery note, and to be recognizing as pseudo-persons. Administrative suit and administrative judicial procedure are discussed in the court of the first instance in terms of the administrative procedural code and the civil procedural code. All aspects and peculiarities of discussing administrative legislative disputes are reflected in the administrative procedural code. First of all, it defines the procedure to be followed by the court to examine the evidence while settling disputes, which introduces the basics of inquisition in administrative law. The administrative procedural code reflects the principle of balancing private and public interests interwoven into the norms of the general administrative code. Eventually, it can be stated that the main stipulations of modern European administrative judicial procedures are, more or less, fully demonstrated in the administrative procedural code of Georgia.

### **Procedure of tax dispute discussion by the tax courts of foreign countries and the tax tribunal**

With the view to analyse the basics that define the efficiency of tax dispute settlement in tax courts and tribunals, it is important to discuss not only the structure of tax courts and the procedures of dispute review in the laws of countries of continental Europe and those of the law of precedents law but also peculiarities of functioning of the tax

tribunal and circumstances defining its efficiency. With this purpose, the following examples from several countries are discussed:

*The United States of America*

The aim of discussing the structure of the tax courts of the USA and the rules that govern their functioning is to study the functioning of the mentioned structures in the countries where the law of the precedent is followed and its essence.

*Denmark*

While studying the system of the tax courts, it is essential to analyse not only the possibility of discussing the tax disputes in the court system but also the efficiency of the tax tribunal and its positive and negative sides.

*Federal Republic of Germany*

Germany is one of the founder countries of the European continental law. Its legislation has been an example for numerous countries. While studying the process of discussion of disputes in specialized courts, a review of the examples of fiscal courts of mentioned countries is extremely important.

**Tax Court System of the United States of America and the rule of dispute discussion**

The tax court of the USA is a public body (the so-called 'Court of Record' – a formulation that indicates that each court process is public and, therefore, the information is publicised), which is established by the congress vide Article I of the US Constitution. More specifically, Section 8 indicates that 'the Congress has the authority to define and collect the fees, tax liabilities, payments, and taxes, which are calculated in accordance with the volume of business and not the revenue received from property or real estate, pay the debts, provide general security and public prosperity'. Besides, all tax liabilities should be uniform in the entire United States. The Congress is authorized to constitute tribunals inferior to the Supreme Court (U.S. Constitution, Rules of Practice & Procedure – United States Tax Court).

Many cases in the tax courts are disputes regarding the federal income tax and fines. In most cases, this happens when the internal revenue service (IRS) carries out control of the taxpayer. After sending a whole range of preliminary written notifications, when a disagreement arises between the taxpayer and the IRS, the latter defines the volume of 'deficit amount' (reduced tax) and publishes a formal notification called 'statutory notice of deficiency' or 'a 90-day letter'. In this context, the term 'deficit' is a legal one and the IRS is not obliged to state the exact amount of the unpaid taxes. After the notification of deficit is issued, the taxpayer has 90 days to appeal against this decision to require a renewed calculation of the 'deficit'. If the taxpayer fails to file the petition in the given timeframe, the IRS is authorised to reflect the mentioned 'deficit' amount in the books of the US Treasury Department. After this, the right of mortgage can be used on the taxpayer (<http://www.ustaxcourt.gov/>).

The taxpayer is authorized to appeal against this action of the tax body about defining the 'damage' of in various bodies. In this respect, it needs to be mentioned that the tax court is the only specialized institution where the legitimacy of imposing the taxes may be challenged by the taxpayer before accrual (payment) of taxes by the internal

revenue service. The tax payer is authorised to appeal against issues regarding the accrued taxes by various legislative means (except bankruptcy) but the tax tribunal is the only institution where the taxpayer has the right to question the legitimacy of tax accrual without full payment of the disputed tax amount. The party, which appeals against the imposition of tax can file a suit in any regional court of the United States or the Court of Federal Appeals/Complaints. However, in case of appeal in either court, it is obligatory to pay the tax before filing the suit (“The rule of full payment” established by the precedent in *Flora vs. the United States*).

Therefore, the tax court is the court forum where the taxpayer can dispute the tax law violations detected by the commissioner of the IRS before paying in full the disputed tax amount. The tax court is authorized to discuss the issue related to the taxation of the taxpayers, including tax disputes and that includes notification regarding the reduction of taxes; warnings sent to the authorised persons; treatment of rehabilitation cases and correcting the issues of cooperation, such as, ‘readjustment and adjustment of partnership items’; ‘tax disputes concerning notices of deficiency’; ‘notices of transferee liability’; ‘review of the failure to abate interest’; ‘administrative costs’; “Worker classification”, ‘relief from joint and several liability on a joint return’, ‘legitimacy of the rewards granted to whistleblowers’; ‘review of certain collection actions’.

The court is also authorised to make decisions of declarative (explanatory) nature (declaratory judgment). Such a decision is made in a civil case and is legally binding but does not specifically oblige the parties to act because it belongs to the form of ‘preventive review’. Mostly, declarative decisions are used in cases when one party has ‘threatened’ another by filing a suit in a court but has not yet carried out the threat. Declaratory decisions are authorized by legislative acts, mostly, in the countries that have a common law jurisdiction. In the USA, the federal authority and majority of states in the 1920s and 30s adopted legislative acts that allowed courts to publish decisions of declarative nature. The taxpayer can request discussion of the case by the court according to ‘the procedure defined for small tax cases’ for the disputed tax amount that does not exceed US\$ 50,000. During this procedure, the court discusses the case to review it in an accelerated manner. However, the court’s decision is not subject to appeal and cannot be used as a precedent. Court processes are carried out by one judge, without a jury and the taxpayer has the right to express his/her interests while discussing the case. The majority of cases are finalised through agreements between the parties without the court process.

### **Principles of governing the functioning of the Danish tax tribunal and the procedure of discussing the dispute in the tax tribunal**

In contrast with countries that have tax courts of justice as an independent part of the justice system, tax and customs issues in Denmark are discussed by the tax tribunal. The concept of the tax tribunal was introduced in 1938 and the tax tribunal is the supreme administrative body that reviews the tax disputes, customs, and property evaluation based on legislation. The tax tribunal is independent of both tax authorities and the Ministry of Finance. Although the tax tribunal is not a court in its classic sense, it has some of the characteristics of the court of law (Rules of Procedure of the National Tax Tribunal, 2005). In Georgia, the discussion of disputes in the tax tribunal and its procedure are mainly regulated by the procedural code of the tax tribunal of Georgia, whereas Danish legislation regulates several issues. Decisions of the national board on property assessment, the tax

authority, and the board for tax appeals can be appealed against in the tax tribunal. Annually, the Danish tax tribunal reviews approximately 4 000 tax and customs disputes and 500 cases on the issues related to property assessment. The tax tribunal consists of seven offices. These discuss the issues within their competence. The first office – taxation of employees, that is, issues related to tax on pensions; issues related to real estate and double taxation. The second office – taxation of corporations and founders/partners, foundations and associations; tax on the income received by capital sale; issues related to the registration and reorganisation of legal entities. The third office – business tax, including, the issues of expenses related to business and manufactured products/services rendered; issues related to accounting; issues related with international transactions subject to international control (transfer pricing). The fourth office – financial instruments; interest rates; goodwill and other intangible rights (assets); depreciation of basic means; property tax. The fifth office – reimbursement of taxes. The sixth office – VAT, customs duty and other taxes. The seventh office – assessing the value and depreciation of property.

Immediately upon receiving the suit/complaint, the tax tribunal starts searching for the information regarding the issue from both the taxpayer and the authorities. As a rule, the case is discussed without an oral hearing. However, in case the taxpayer requests, an oral discussion of the case is arranged. The average duration of the discussion of the suit/complaint in the tribunal is 6–12 months. According to the limit of the tax tribunal, the tribunal makes a decision in writing or by voting as a result of discussing the case. Not less than three members of the tribunal should take part in voting. In the event of a member of the tribunal having a different opinion, it should be adduced to the decision. The decision of the tax tribunal can be appealed against in a court in case valid grounds exist. It can be stated based on the above that the system of discussing the tax disputes in Denmark is mainly based on administrative procedures and it is the tax tribunal that discusses the large majority of tax disputes. The existence of certain legal institutions outside of the justice system in the form of the tax tribunal serves as the instrument of handing only exceptional cases (disputes of special importance) by the state to the bodies of tax and customs dispute review and justice, which operates quite effectively in Denmark. As in the German Federal fiscal court, the tax tribunal of Denmark also discusses the cases with the assistance of the officers and the judges in the narrowest line of specialization. this, substantially reduces the probability of an error and/or incorrect interpretation of the law while making a decision (<http://www.uk.landsskatteretten.dk/92/>).

### **Structure of the fiscal court of the Federal Republic of Germany and the rule of its organization**

The federal court of Germany is one of the supreme bodies of justice in Germany among the five bodies established by the Constitution of the German Federal Republic and serves as the final instance (besides the criminal law cases related to the mentioned issues) of discussing tax and customs cases. The main function of the German fiscal court is to ensure the legality of the application of the tax law norms and their execution by interpreting the norms of justice. The function of the fiscal court of Germany is not the only interpretation of tax legislation and definition of the terms undefined by the legislation but also developing the legislation by determining its logical meaning and introducing the united precedent practice (Basic Law for the Federal Republic of Germany).



Since taxpayers, while discussing disputes, frequently question the constitutionality of several norms of tax legislation, examining the issue of the constitutionality of such questioned norms of tax legislation has been established as one of the main functions of the federal fiscal court in Germany. If such a contradiction with the Constitution is detected, the court is obliged to stop discussing the matter and request the federal constitutional court to decide the issue of the constitutionality of the norm (Tax Court Regulations).

Justice is carried out in Germany by the federal constitutional court, federal courts, and the courts of lands. The following five high instance courts are functioning in Germany, the federal court (for civil and criminal cases), federal administrative court, federal fiscal court, federal labor court, and federal social court (The Fiscal Code of Germany). Unlike the other bodies of justice, fiscal justice is characterized by a two-instance structure. The courts of the first instance are “lands” fiscal courts. The appellate court serves as the federal fiscal court, which is the court of final instance on the issues of tax and customs (<http://www.bundesfinanzhof.de/>). Administrative acts that the tax bodies enforce are mainly appealed against in fiscal courts. Court decisions regarding them will be taken into consideration by the respective administrative bodies (tax and customs bodies). Submission of the suit by a taxpayer to the fiscal court is possible only after the taxpayer has used the right to appeal to the administrative body. An appeal against the decision of the fiscal court can be filed in the federal fiscal court.

Currently, 18 fiscal courts with about 600 judges are operating in the Federal Republic of Germany. The cases in the fiscal courts are reviewed by senates consisting of three judges and two honorary judges. The honorary judges participate only in the oral discussions and do not take part in the decision-making. The cases, which are not related to special legislative difficulties and do not have fundamental character may be reviewed by a single judge (<http://www.bundesfinanzhof.de/>). Currently, approximately, 70 000 cases are pending to be discussed in German fiscal courts. Annually, 50 000 – 60 000 new cases on average are submitted to the courts and decisions given in about the same number of cases. About 4%–5 % of decisions made by fiscal courts are appealed against in the federal fiscal court.

### **The procedure of case review in the federal fiscal court**

On the basis of suits (appeals) the federal fiscal court discusses the issue of compliance of fiscal court decisions with federal legislation whereas in special cases, it reviews the issue of compliance with the legislation of “Lands”. The federal fiscal court of Germany, as well as the supreme court of Georgia, reviews the decision of the first instance court within the scope of legislative circumstances and does not study new factual circumstances related with the dispute. In case the federal fiscal court considers that the first instance court failed to respectively study the actual circumstances of the issue to be discussed, it returns the case to the fiscal court for a repeated review. The federal fiscal court discusses the cases by an oral hearing. However, due to the overload of cases, in case the parties agree, cases are discussed even without an oral hearing. The average duration of case discussion in the fiscal court is 11 months (<http://www.bundesfinanzhof.de/>).

The fiscal court of Germany is the most significant and undoubtedly efficient institution in the issues of tax and customs. The existence of the fiscal court enables the

federal republic of Germany to not only specialise in justice in respect of tax and customs legislation but also establishes senates within this court, which are specialized by even narrower specialization. As for the senates, they discuss tax customs disputes. Besides, each one does it within its own area of competence – one senate discusses only customs issues, two of them – VAT, one part – only the issues related to income tax, etc. Such division of activities to be discussed ensures narrow specialization of judges and, as a result, a substantial enhancement of quality of dispute discussion in court. The German system of justice takes into account one basic interest of the taxpayer in relation to tax and customs disputes and sets up only a two-stage system of discussing the case in court. Overall, the specialized body of justice, judges having specialized and in-depth knowledge and practice around the issue to be discussed, only two instances of court review, serve as the guarantee of exercising efficient and fast justice for both the taxpayer and the state. This, in its turn, supports their activities and creates the mechanism for just execution of tax legislation.

### **Comparative analysis of discussing the tax dispute in courts**

As stated earlier, the tax dispute is discussed in court with special care. The rules that countries have for regulating the discussions of disputes in their judicial systems are based on the importance they place on the tax disputes. In several countries including, Georgia, tax disputes are discussed by common courts through administrative judicial procedures. In such cases, the judge is allocated tax cases for review together with numerous cases of administrative category. Since administrative law consists of numerous laws and rules, the judge cannot possess in-depth knowledge of all the details and peculiarities of administrative law. Besides, analysis of the number of administrative cases and the volume of tax disputes in them (4%–6 % in city courts and 7%–17 % in appellate courts) illustrates that the want of enough opportunity for the judges to accumulate sufficient practical experience in deciding tax disputes. It is due to this very fact that several countries established special courts to discuss tax and customs disputes specifically. By this means, the judges gain the knowledge of a specific field and the efficiency of discussion and settlement of tax dispute increases substantially and the probability of an error in judgement decreases significantly. It facilitates the introduction of proper court practices that bring clarity to ambiguous or unclear norms in legislation and lead to a unified approach to the resolution of disputes. Based on the foregoing, it is concluded that the existence of specialised tax law tribunals and courts will significantly improve the efficiency of the delivery of justice in this area of law and establish a unified approach to the issues addressed by tax legislation in the country.

### **Importance and Structure of Introducing Tax Court**

Statistical information on the discussions of administrative (including tax) disputes in common courts of Georgia clearly illustrates that due to the small number of tax disputes the court handle, there is little possibility of enhancing the theoretical or practical knowledge in this field of law. This situation affects the quality of discussion of tax disputes and increases the probability of mistakes being made by the court while deciding a dispute (in actually deciding the issue and verifying the decision).

In case tax courts are established in Georgia, the degree of trust of taxpayers in the institution of court in Georgia will rise significantly develop. The length of discussion on cases will decrease, which will benefit both taxpayers and the state (tax bodies), the institution will be created which will establish in the country proper court practice, the decisions will be logically and legally sound, which may decrease the number of appeals against such decisions. Besides, independence will rise and the trust of the public in the courts will increase. Taking into consideration the structure of the courts in Georgia and statistical data of their activities, it is possible to suggest the following reforms concerning specialisation in tax dispute review:

- Tax disputes should be separated from the chamber of administrative affairs in appellate courts and the tax affairs chamber should be established for discussing and deciding the disputes in the category of tax and customs.
- This will lead to the development of specialised knowledge of the relevant laws and of discussing the cases of the tax category in the chamber of tax affairs with a specialized board within the system of general courts. In such a case, tax disputes will be discussed by the specialized board and a two-instance structure (appellate court and supreme court) for discussing the tax dispute will be created without establishing an independent tax court.
- The establishment of the proposed structure will improve the quality of discussion of tax disputes and (though, possibly, not as much as in the case of independent tax court as in other countries). It will lead to the establishment of court practices in the sphere of tax law. raise the qualification of judges in the specific area of tax law by accumulation experience. This, along with the establishment of court practices will accelerate the discussion, decision, and dispute review. Without Constitutional changes and independent of the state legislative authorities, it is impossible to establish the institution as a legal entity of public law for discussing tax disputes in the manner of the law courts.

With the view of organizing the process of dispute review, it should be defined at the legislative level that tax disputes are discussed in the system of the ministry of finance and LEPL “Bureau of Discussing Tax Disputes”. It is advisable to establish at the Bureau of Tax Dispute Review several chambers whose competence will be defined according to the specific issues in the tax disputes (for example, the first collegium – customs disputes, second collegium – indirect taxes, third collegiums – direct taxes, etc.) whereas dispute review and discussion should be carried out in a collegiate manner – with three arbiters. Taking into consideration the importance of the object of the dispute and the sum of money in dispute, in case the taxpayer demands, it should be possible for the arbiter to individually discuss the dispute for an accelerated dispute resolution, and at the same time clarify that the decisions made in such cases will not be subject to appeal.

Besides, together with the establishment of the review institution, much importance should be given to the systematic publication of decisions on tax disputes without identifying the taxpayers involved. This will give the taxpayers access to the practice of execution of the norms of tax legislation, which will reduce the cases of errors made because of the incorrect understanding of the law or a specific norm by the taxpayer. The suggested reforms will make it possible to establish an independent body for discussing tax disputes. Decisions made by this body will be revised/controlled by the

Supreme Court and this will ensure a most detailed and competent review of tax disputes leading to the establishment of the united practice in this sphere.

## **Conclusion**

By the introduction of the institution of tax courts/tribunals in Georgia, the condition of tax bodies and taxpayers will significantly improve in Georgia:

- Tax courts/tribunals should be established.
- Disputes should be discussed by the judges possessing special knowledge and experience and the taken decision will in most cases be comprehensively justified. this will convince the disputing parties that the decisions are just and legitimate and in several cases, this will save the expense of time and money for the parties on needless appeals in the higher instance.
- The tax court/tribunal judges should meet the following requirements. They should not be less than 30 in number, should have the valid qualification to hold the position of a judge and possess special/specific knowledge of tax and customs law.
- Tax disputes should be discussed in the two-instance structure of the tax court/tribunal.
- A 3-month limit should be set for discussing each tax dispute in each instance of the tax court or tribunal to ensure timely resolution of the issues, which is equally important for both taxpayer and the tax authority.

Court practice on tax issues should be introduced and generalized to define inaccuracies in tax legislation and eliminate unregulated issues. This will reduce the instances of imposition of taxes based on an incorrect interpretation of the law by the tax authority and incorrect understanding of the law by taxpayers.

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## TOURISM DATA IN CROATIA ASSESSED BY BENFORD'S LAW

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**Abstract:** *Tourism data is crucial for effective tourism management since it enables national and local authorities to shape public policies in tourism and also enables the tourism industry to make appropriate business decisions. In 2016 new tourism data information system, called eVisitor, was introduced in Croatia, and this new system significantly eased collection and data processing. The aim of this paper is to assess the quality of statistical data on tourist traffic and to determine whether the technical improvement of the data collection system, which eased reporting on tourist traffic to information providers, contributed to the quality of collected data. This is done by applying Benford's distribution of first digits, i.e. Benford's law, to the collected data. Benford's law is based on the thesis that the first digits in numbers are not uniformly distributed and gives an expected pattern of numbers in the tabular data. Data that is not manipulated, accidentally or intentionally, should follow Benford's distribution of first digits, and deviations from Benford's distribution indicate that the data is compromised in some way. The conducted analysis has shown that the introduction of a new user-friendly data system did not affect the quality of collected data, but that the origin of the tourists was more important: data for domestic tourists have shown a statistically significant deviation from the expected Benford's distribution, so it can be concluded that their quality is lower than the data for foreign tourists.*

**Keywords:** *tourism, tourism data, tourism statistics, Benford's Law, Croatia*

### Introduction

Tourism is an “important economic, social and cultural factor in modern societies” (Stipetić, 1998: 121) - tourism in many countries foster the economy, and beside the fact it significantly contributes to GDP and employment, it also contributes to general social development (Volo, 2004). Tourism is especially important for countries like Croatia, which base a significant part of their incomes on tourism - according to data published by the World Travel and Tourism Council in 2019, travel and tourism directly contributed to Croatia's GDP by 25% and its share in total employment in 2019 was 25.1% (WTTC, 2020). These data indicate that tourism is one of the key economic branches in Croatia and to adequately manage tourism, it is necessary to have accurate and complete data to identify new development trends, new market opportunities, demand characteristics, and similar issues (Baldiraga & Mamula, 2012). All those and wider data and indicators should comprise statistics, i.e. tourism statistics.

Generally speaking, statistics can be defined as “a branch of applied mathematics concerned with the collection and interpretation of quantitative data and the use of systematization methods” (Baldiraga & Mamula, 2012: 56). Tourism statistics is a specific subtype of statistics and its basic aim is to “accurately quantify tourism flows” (De Cantis & Ferrante, 2013). Tourism statistics can have different meanings, depending on who uses it as a source of information: 1) it enables national and local authorities to monitor and quantify the economic, socio-cultural, and environmental effects of tourism, 2) it enables

planners to plan and make decisions related to tourism development, such as the adoption of tourism development strategies and policies, monitoring of tourism development and monitoring of tourism sustainability; 3) it provides decision-makers from the tourism industry with data necessary to implement market analysis, strategic planning, investments, and promotion design, 4) it provides international statistical agencies and researchers with internationally comparable data, thus enabling the creation of new knowledge (Wöber, 2000; Volo & Giambalvo, 2008; Aroca, Brida, & Volo, 2013; De Cantis, Parroco, Ferrante, & Vaccina, 2015; Krajnović, Jeličić, & Šćiran-Rizner, 2020).

The system of tourism statistics encompasses basic tourism statistics, i.e. statistics of tourist consumption and tourist offer, but also production factors used in tourism and other related activities (Ivandić & Marušić, 2009). The study of statistical measurement in tourism began in the 1930s (Wöber, 2000) and the systematic collection of data on tourism in most European countries began after World War II. The first systematic collection of travel data was published in 1949 by the British Travel Association (Volo, 2020). In Croatia, data on tourism have been systematically collected since 1954, and from those early beginnings, the system of data on tourism and travel has been trying to harmonize with modern needs and trends.

The main source of official statistical data in Croatia, including data on tourism or data related to tourism is the Croatian Bureau of Statistics. The Croatian Bureau of Statistics publishes data about tourism on a monthly and annual basis and is the most comprehensive and reliable source of statistical data in Croatia. Until 2016, the basic way to collect data on tourist traffic in commercial accommodation (hotels, apartments, summer houses, camping sites, etc.) was to fill in the Monthly Report on Tourists and Tourist Nights (so called TU-11 form). Reporting was carried out at the level of the accommodation units, and in this form, each accommodation unit provided data on the number of tourist arrivals and overnight stays, the mode of tourist arrival, and for foreign tourists it was also stated the country of their origin. Reports for private rooms, suites and houses directly rented by citizens/households were filled out by tourist boards. These reports were usually made on the basis of reception records in guest books and check-ins and checkouts in tourist boards (Kelebuh & Javor, 1998). This form was filled out on a monthly basis, in hard copy or in the excel spreadsheet form, and was submitted to the Croatian Bureau of Statistics. Several authors (Vlahović, 1998; Ivandić & Marušić, 2009; Baldiraga & Mamula, 2012) pointed out that this system should be informatically modernized, and that users should be able to enter data more easily, and in this way, more accurate data could be collected. The issue of a user-friendly ICT system for the collection of tourist data is not a specifically Croatian problem - similar problems were pointed out in Italy (Volo & Giambalvo, 2008) and in Chile (Aroca et al., 2013).

This outdated and inappropriate way of data collection was replaced in 2016 by a new information system called eVisitor. The eVisitor system is based on an Internet interface into which accommodation providers enter data about tourists. eVisitor has several purposes and only one of them is purely statistical: this system allows check-in and check-out of guests by accommodation providers via the Internet, registration of foreign tourists to the Ministry of Interior, and it is also used to calculate and control the collection of sojourn tax. The system can also be used for data processing and analysis and reporting for statistical purposes - via eVisitor it is possible to monitor tourists' movements almost in real-time, according to one or more criteria such as type of accommodation, location,

country or place of residence, gender, age of tourists, duration of stay and similar (Krajnović et al., 2020). The data entered into this system are also used by the Croatian Bureau of Statistics for the preparation of reports and analyses. This method of data collection is much more user friendly than the previously used data collection via the Monthly Report on Tourists and Tourist Nights (TU-11 form), and data collection has been significantly simplified and facilitated, so it can be expected that data collected via eVisitor should be more accurate and complete than previously collected data.

The aim of this paper is to assess the quality of statistical data on tourist traffic and to determine whether the technical improvement of the data collection system, which eased reporting on tourist traffic to information providers, contributed to the quality of collected data. In this paper, by applying Benford's distribution of first digits, i.e. Benford's law, which will be explained in detail in section 1, to the collected data, it will be determined whether there are differences in the quality of data collected through eVisitor and data previously collected through Monthly Report on Tourists and Tourist Nights. Data that is not manipulated, accidentally or intentionally, should follow Benford's distribution of first digits, and deviations from Benford's distribution indicate that the data is compromised in some way.

### **Benford's law**

In this paper, tourism traffic data will be screened using Benford's law to identify potential data manipulations, which may be intentional or accidental. Benford's law is based on the thesis that the first digits in numbers are not uniformly distributed as might be expected, and gives expected pattern of numbers in the tabular data (Hill, 1995). Existence of a certain regularity in the appearance of the first digits in numbers was for the first time noticed by the mathematician and astronomer Simon Newcomb: Newcomb noticed that the first few pages of logarithmic tables were more worn than later pages, and he assumed that people viewed numbers starting with the first digit 1, 2, or 3 more than numbers starting with digits 7, 8, or 9. Based on that observation, he concluded that in the data sets there exist more lower numbers than higher and that, consequently, the first digits in the numbers will be more often lower numbers than higher. Newcomb published his observations in 1881 in the article "Note of the frequency of the use of different digits in natural numbers" (Newcomb, 1881), however, at that time his discovery went unnoticed (Geyer & Pepple Williamson, 2004).

Unaware of Newcomb and his discovery, nearly 60 years later American physicist Frank Benford also noticed that the first few pages of logarithmic tables were more worn than later, and like Newcomb, he assumed that people more viewed the logarithms of lower numbers than higher. In his famous article "The Law of Anomalous Numbers" (Benford, 1938), Benford tested the assumption that lower digits are more likely to occur in numbers than higher, and he analysed digits in 20 very different groups of numerical data, such as death rates, atomic weights, American League baseball results in 1936 championship, etc. His analysis of the appearance of the digits in numbers showed that in each of these completely different lists of numbers, smaller digits appear more often as the first digit than larger ones, and that there is a certain pattern which exists in that appearance. Based on this analysis, Benford concluded that numbers in nature follow logarithmic distribution rather than uniform, as might be assumed, and that the appearance of the first digit in a



number depends on the distance between that number and its follower divided by the entire length of the scale, which is characteristic of the logarithmic base 10. From that, it results that the number 1 will appear as the first digit on average in 30.6% of the numbers, or 0.306 as the proportion, which roughly corresponds to the logarithm of the number 2, and that the number 2 will appear in the proportion of 0.185 which is approximately logarithm of 3/2. This pattern goes all the way to number 9, which will appear in a ratio of 0.047, which roughly corresponds to a logarithm of 10/9 (Hickman & Rice, 2010).

Based on these observations, Benford developed a formula for the expected frequencies of the digits in the number lists, and these frequencies became known as the Benford’s distribution, or Benford’s law, as follows (Nigrini, 2011: 87):

$$P(D_1 = d_1) = \log(1 + 1/d_1) \quad d_1 \in \{1, 2, \dots, 9\} \tag{1}$$

where  $D_1$  representing the first digit,  $P$  indicates the probability of occurrence in data sets and  $\log$  refers to the log to the base 10. The expected frequencies of occurrence of the first digits are shown in Table 1.

**Table 1: Expected frequencies of first digits**

First digit	1	2	3	4	5	6	7	8	9
Frequency	0.301	0.176	0.125	0.097	0.079	0.067	0.058	0.051	0.046

Source: Benford, 1938: 556.

The fact that we can reliably predict, and explain which digits will first appear in numbers has led to the application of Benford’s law in various fields. Benford’s law is widely applied in the field of accounting and auditing, where it was used to analyse the occurrence of digits in financial statements (Amiram, Bozanic, & Rouen, 2015; Asslani & Naco, 2014; Clippe & Ausloos, 2012; Nigrini & Miller, 2009; Omerzu & Kolar, 2019; Shi, Ausloos, & Zhu, 2017; Shrestha, 2016) and for the analysis of stock exchange trading (Corazza, Ellero, & Zorzi, 2010; Jayasree, Pavana Jyothi, & Ramya, 2018). On the basis of Benford’s law analyses of various statistical data were also performed: crime statistics (Hickman & Rice, 2010), GDP statistics (Holz, 2014), air quality data (Stoerk, 2015), aerobiological data (Docampo, del Mar Trigo, Aira, Cabezudo, & Flores-Moya, 2009), occupational hygiene data (de Vocht & Kromhout, 2013), research results published in the American Journal of Sociology (Diekmann, 2007) and to compare deficit data and social security data (Rauch, Götttsche, Brähler, & Kronfeld, 2014). In Croatia, so far Benford’s law has been applied only in the field of accounting and auditing for the analysis of financial statements (Cunjak Mataković, 2019; Dumičić & Cunjak Mataković, 2019; Kopal, Nemeth, & Leinweber, 2019; Papić, Vudrić, & Jerin, 2017; Slijepčević & Blašković, 2014).

To use Benford’s law for data analysis, data must satisfy several conditions. The records should represent the sizes of facts or events, datasets should have at least 1000 records, and there should be no default range of data, i.e. built-in maximum and minimum

values for the data (Nigrini, 2011). Likewise, the mean should be greater than the median, which means that smaller values predominate in the data set, and skewness should be positive. Additionally, numbers assigned in some way (like zip codes, invoice numbers, etc.) or those created under the influence of human thoughts, such as prices set at a psychological threshold of 0.99 or 1.99, cannot be used in the analysis (Durtschi, Hillison, & Pacini, 2004).

### **Tourism data – features and challenges**

As mentioned earlier, statistics plays a significant role in tourism management, since it makes easier for stakeholders to plan and make decisions essential for tourism management. Significant steps were taken since the 1970s to increase countries' capacities to collect tourism activities data and to store, process, and report data, collected at the national level, in a coherent way (Frechtling & Hara, 2016) since different countries developed different data collection systems, based on different methodological settings, which made mutual comparisons difficult or even impossible. Many documents have been developed within various international organizations, aimed at overcoming differences in national tourism data collection systems and enabling international comparisons: in 1973 the European Travel Commission published a “European Program for Tourism Statistics”, in 1989 the World Tourism Organization published “Guidelines for the Collection and Presentation of Domestic Tourism Statistics” and “Recommendations on Tourism Statistics” in 1994, and OECD published “Manual on Tourism Economic Accounts” in 1996 (Lickorish, 1997). At the level of the European Union, in 1995 the “Directive on the collection of statistical information in the field of tourism” was adopted. A particularly important document is Regulation 692/2011, since it requires European Union member states to collect and submit to the European central authorities information on: a) the capacity and occupancy of tourist accommodation establishments; b) tourism nights spent in non-rented accommodation; c) tourism demand (domestic and outbound tourism); d) characteristics of same-day visits. Although at the level of international bodies various definitions and methodologies are established, data sources and the collection process are still issues that are implemented at the level of national authorities (Lickorish, 1997).

Data for tourism statistics are mainly collected in three ways: 1) counting passengers or conducting interviews at state borders; 2) surveys of households and destinations about tourism activities; 3) recording of tourist arrivals and overnight stays in establishments that provide accommodation to tourists (Volo, 2004; Volo & Giambalvo, 2008). The first two methods are used for demand side analysis and the third is used for the supply side. In this paper we will make a more detailed analysis of the data collected for the supply side through accommodation statistics. Supply side information is collected by national statistical authorities: they collect data on the number of accommodation establishments, and for each accommodation establishment is recorded the number of rooms, beds, tourist arrivals and overnight stays, and similar.

Data collection for the supply side has certain limitations: first, it is impossible to determine which guests are tourists and which come for some other purposes, such as business, which is often the case in urban destinations, or as seasonal workers, students, and similar. Another problem is that the visitor can stay in several different establishments during their trip, and each stay will be recorded separately, which will lead to an unrealistic

increase in the number of visitors (so-called “double counting effect”) (De Cantis et al., 2015: 3).

Also, for the supply side information, a special problem is tourist activities that are not recorded or are not accurately recorded in official statistics, so there emerges the issue of hidden tourism activities, which is in the literature called “underground tourism” (De Cantis et al., 2015) or “concealed tourism” (Parroco & Vaccina, 2004). The term “underground tourism” refers to official establishments registered for tourism activities, which present only partial information about their activities, i.e. not completely accurate information on the number of tourist arrivals and overnight stays, and thus reduce the accuracy and reliability of official statistics (De Cantis et al., 2015). This “misreported consumption of tourism products” (Volo, 2004) can lead to overestimated demand forecasts for certain products, and at the end supply will exceed demand. Likewise, tourism that is deliberately hidden from public authorities reduces tax revenues, thus preventing local governments to properly manage the local community but also to care about maintenance of environmental resources (Parroco & Vaccina, 2004).

The size and significance of tourism hidden in this way depend to a significant extent on “socio-economic behaviour and on the territorial order of interested areas” (Parroco & Vaccina, 2004). By a literature review it can be concluded that there exist two main reasons for inaccurate or incomplete reporting of tourist traffic: one of them is negligence, and the other is tax evasion (Vlahović, 1998; Javor & Kalčić, 2003; Volo, 2004; Volo & Giambalvo, 2008; De Cantis et al., 2015; Krajnović et al., 2020), or the possibility of obtaining tax reliefs (Guizzardi & Bernini, 2012).

The estimated differences between the actual situation and the one recorded in the official statistics are significant. For Italy, underreporting in accommodation statistics was estimated to at least 16% in the period between 2007 and 2009 (Guizzardi & Bernini, 2012). It is estimated that in some tourist districts in Sicily, according to 2001 data, hidden tourism accounted for up to 1/5 (Parroco & Vaccina, 2004). Fontana and Pistone (2010) on data for the period from 2000 to 2007 found that in the province of Piedmont in Italy the actual number of overnight stays was 30% higher than the officially recorded number. De Cantis et al. (2015) using data for 2010 estimated that in Sicily “the ratio between unobserved and observed nights is almost equal to 4” (De Cantis et al., 2015: 11), however, it should be taken into account that under the rules of the statistical system in Italy unobserved overnight stays also included overnight stays in non-commercial accommodation. Milićević and Galić (2018) estimated that in Bosnia and Herzegovina the level of the informal economy in tourism in 2016 was between 40 and 60% of GDP. Çakmak and Çenesiz (2020) analysing data for the period from 1975 to 2017 found that in Thailand, informal GDP in tourism amounts to about 50% of formal GDP in tourism. Research on unreported tourism in Croatia is quite rare. Stučka (2002) estimated that unregistered overnight stays in 1998 amounted to 33 to 39% of the total registered overnight stays, between 39 and 53% in 1999 and between 12 and 22% in 2000. Javor and Kalčić (2003) state that “20 – 50 per cent of private rental accommodation is statistically unrecorded” (Javor & Kalčić, 2003: 101).

Considering the large importance of tourism for overall economic activities, but also rather large volume of hidden tourism in the above-mentioned countries, various methods have been developed to assess unreported tourism activists. There are three basic approaches for assessment (Parroco & Vaccina, 2004; De Cantis et al., 2015):

- 1) comparison of different statistical sources on tourism - data collected for the demand side is compared with supply side data, and it is also possible to compare different statistical sources (e.g. data on tourism and data on traffic);
- 2) use of indirect measures, where indicators about the presence of tourists are analysed - indicators used in such research are electricity and water consumption, amount of waste produced, newspapers sold and similar;
- 3) ad hoc surveys on different samples - it is possible to conduct surveys on residents, where they are questioned about their travel plans, and the costs they have made or plan to make in tourism activities. Tourists can also be surveyed, and surveys are conducted at state borders or in tourist destinations. The most accurate data will be obtained for costs incurred in the previous 24 hours from the time of the survey (Frechtling, 2006).

Except for its positive sides, each of these three methodological approaches for assessment of unreported tourism also has negative aspects. The negative sides of the comparison of different statistical sources are the lack of uniformity of different statistical sources, low details in specific territorial units, and the lack of information for specific variables. When using indirect indicators, it is difficult to separate tourist components from the entire population which is being observed, and it is also difficult to estimate the translation coefficient of an individual indicator in the number of tourists. Ad hoc surveys are complex, expensive, and difficult to replicate, thus making historical analysis impossible (De Cantis et al., 2015). In order to avoid the negative sides of these three approaches, this paper will use Benford's law to assess the quality of the submitted statistical data on tourist arrivals and overnight stays in Croatia. Benford's law allows a simple and effective assessment of large data sets since "it has been shown that manipulated, unrelated, or created numbers usually do not follow Benford's law, which can be ascribed to most people's misconceptions of randomness and distributions of real data" (de Vocht & Kromhout, 2013: 297). It has also been found that in cases where data has been accidentally altered without the fraud intention, for example when errors have occurred during data processing or copying, because of these unintentional errors the data will deviate from Benford's distribution (ibid.).

According to our knowledge, so far Benford's law was not applied to tourism statistics. Benford's law has been very rarely applied to tourism-related research, with the exception of Jawabreh, Bader, Saleh and Alrabei (2018) and Chemin and Mbiekop (2015). Jawabreh et al. (2018) did the research of fraud in companies from the hospitality sector in Jordan and tested their financial statements by Benford's law. Chemin and Mbiekop (2015) did research on child sex tourism in India and used Benford's law to test the quality of criminal data.

## **Data and methodology**

### **Tourism data**

In this analysis there was used data on tourist arrivals and overnight stays in 30 destinations in Croatia, collected on monthly basis, and since the first year included in this analysis is 2013, in the analysis there were included destinations that had the most tourist

visits and overnight stays in 2013<sup>1</sup>. Considering that tourism in Croatia is very seasonal, with most tourist activities in the period from June to September, only those destinations that had tourist arrivals and overnight stays in all 12 months of the year were included in the analysis, in order to avoid lack of data for winter months. For the period from 2013 to 2015, it was used data collected by the Croatian Bureau of Statistics, and published in the First Releases, which are issued on a monthly basis. Data for the preparation of these monthly releases was collected through the Monthly Report on Tourists and Tourist Nights (TU-11 form), which is explained in more detail in the introduction. The analysis for the period from 2016 to 2018 includes the same 30 destinations, and the data were collected from the eVisitor system.

A separate analysis was done for domestic and foreign tourists, in order to determine whether the origin of tourists affects the recording of data.

## Methodology

In order to analyse the quality of the submitted statistical data on the tourist arrivals and overnight stays, the data will be analysed by using Benford's law. Three tests were used to analyse the conformity of tourism activity data with Benford's first-digit distribution: The Chi-square test, the Kolmogorov-Smirnov test, and the Mean Absolute Deviation.

The chi-square test is based exclusively on the analysis of absolute frequencies, and it will be used to determine how much the actual frequency conforms to the expected frequency, i.e. to the Benford's distribution. The chi-square test for analysing the first digits was calculated as follows, as shown in equation 2 (Nigrini, 2011: 112):

$$\text{Chi - square} = \sum_{i=1}^K \frac{(AC-EC)^2}{EC} \quad (2)$$

Where AC and EC represent the Actual Count and Expected Count, and K represents the number of bins. The number of degrees of freedom equals  $K - 1$ , which means that for the first digit the test is evaluated by using 8 degrees of freedom. At the significance level of 0.05, with 8 degrees of freedom, the critical value is 15.51.

The Kolmogorov-Smirnov test was also used to test compliance with the expected Benford's distribution. This test is based on the cumulative density function, i.e. the density functions of the two distributions are compared. To determine whether a result is statistically significant can be done by the following formula:

$$\text{Kolmogorov - Smirnov} = \frac{1.36}{\sqrt{N}} \quad (3)$$

where 1.36 is constant for a significance level of 0.05 and N is the number of records (Nigrini, 2011: 113). The Kolmogorov-Smirnov test takes the largest deviation from Benford's distribution, which is determined by the cumulative difference that exists between the empirical distribution of digits 1 to 9 and the theoretical distribution, i.e. the

---

<sup>1</sup> The destinations included in the analysis are Crikvenica, Krk, Mali Lošinj, Opatija, Rijeka, Lovran, Punat, Senj, Plitvička jezera, Biograd na Moru, Zadar, Starigrad, Šibenik, Vodice, Hvar, Makarska, Split, Supetar, Podstrana, Okrug, Novigrad, Poreč, Pula, Rovinj, Umag, Fažana, Dubrovnik, Korčula, Orebić and Zagreb.

Benford’s distribution (Amiram et al., 2015). This test was used to determine compliance with the Benford’s distribution, compared to a critical value, which equals 0.041 for a significance level of 0.05.

The third used test is Mean Absolute Deviation test. This test does not take into account the sample size, and is calculated by using the formula:

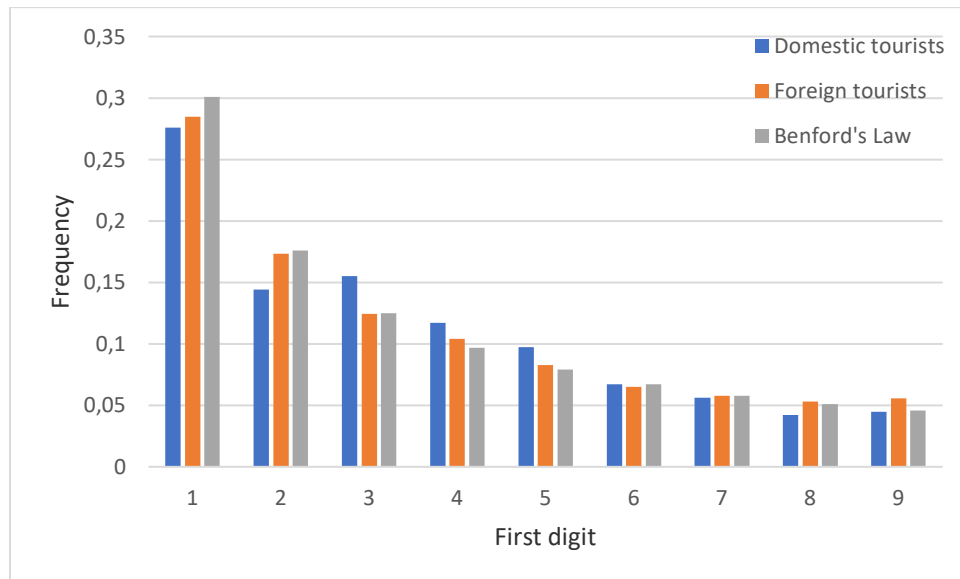
$$\text{Mean Absolute Deviation} = \frac{\sum_{i=1}^K |AP - EP|}{K} \quad (4)$$

where EP denotes the expected proportion, AP the actual proportion and K represents the number of bins, which equals 9 for the first digit (Nigrini, 2011: 114). The Mean Absolute Deviation test is calculated as the sum of the absolute difference between the empirical frequency and each digit, from 1 to 9, and the theoretical frequency which is based on Benford’s law, divided by the number of leading digits used (Amiram et al., 2015). The Mean Absolute Deviation test has no analytically derived critical value, but Nigrini (2012) defined empirically based criteria for analysing deviations from the expected Benford’s distribution. He proposed four ranks: “close conformity” (0.000-0.006), “acceptable conformity” (0.006-0.012), “marginally acceptable conformity” (0.012-0.015) and “nonconformity” (above 0.015).

**Results**

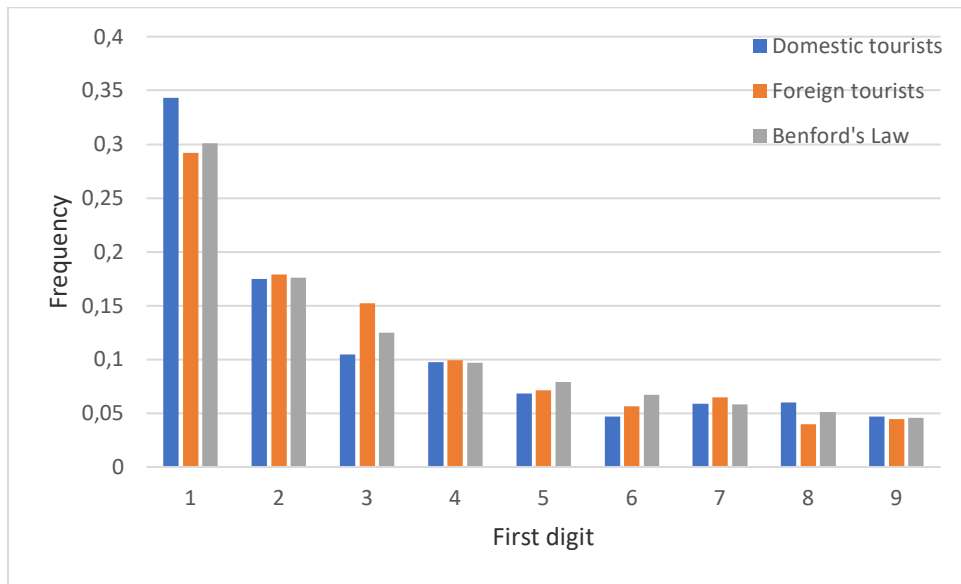
As stated above, for data that is not accidentally or intentionally manipulated, it is expected that the first digits in the numbers will follow Benford’s distribution. The distribution of the first digits in the data for the period from 2013 to 2015 is shown in Figure 1.

**Figure 1. Expected and actual distribution of first digits, 2013-2015 tourist arrivals data**



*Source: Croatian Bureau of Statistics*

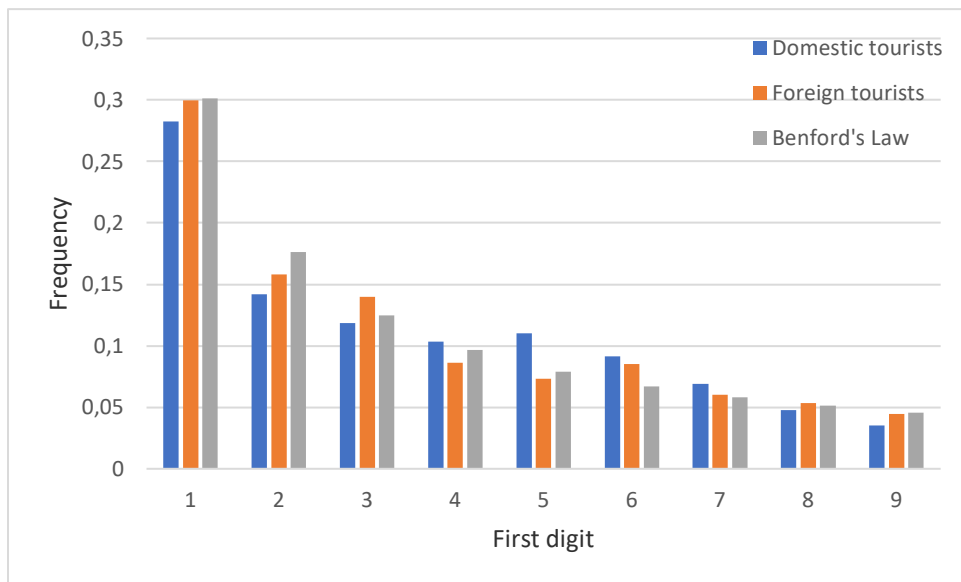
**Figure 2. Expected and actual distribution of first digits, 2013-2015 tourist overnight stays data**



Source: Croatian Bureau of Statistics

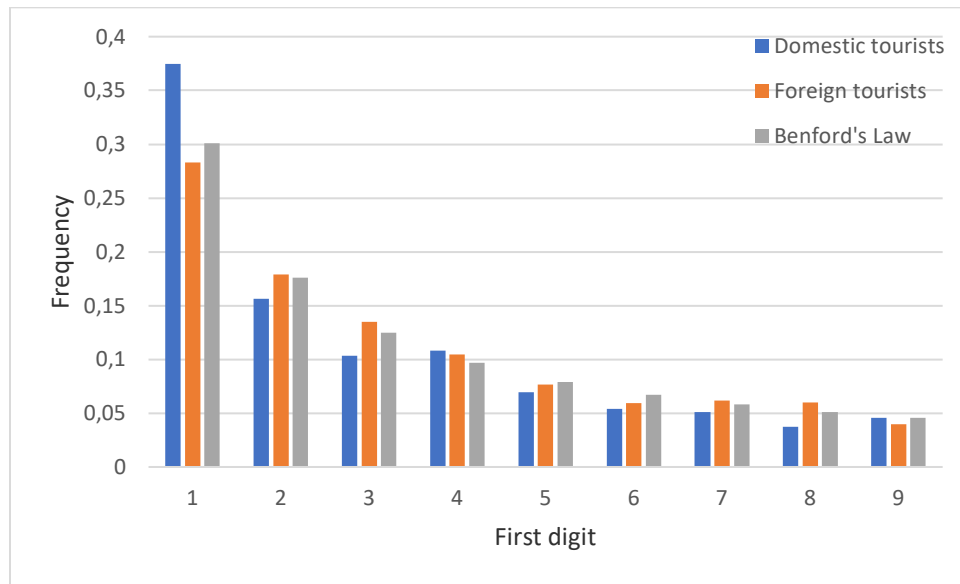
As can be seen from Figure 1, for tourist arrivals data the largest deviations from the expected Benford’s distribution were found for the digit 1, both for domestic and foreign tourists, and for domestic tourists’ larger deviations for digits 2 and 3 was also found. In the data for tourist overnight stays deviation from the expected distribution is found for digit 1 for domestic tourists, and for digit 3 deviations both for domestic and foreign tourists were found, except that the number of domestic tourists is lower than the expected Benford’s distribution and the number of foreign tourists is higher.

**Figure 3. Expected and actual distribution of first digits, 2016-2018 tourist arrivals data**



Source: Croatian Bureau of Statistics

**Figure 4. Expected and actual distribution of first digits, 2016-2018 tourist overnight stays data**



Source: Croatian Bureau of Statistics

For the period from 2016 to 2018, the distribution of the first digits is shown in Figures 3 and 4. Regarding tourist arrivals, for domestic tourists digits 2, 5 and 6 deviate the most from the Benford’s distribution, and for foreign tourists the most deviate digits are 2, 3 and 6. For tourist overnight stays the largest deviation is evident for the digit 1 in the data for domestic tourists, and also the digits 2 and 3. In the data for foreign tourists, the digits 1 and 3 deviate the most.

Looking at these data, it can be concluded that in both observed periods a larger deviation of digits was found in the data for domestic tourists than for the foreign, and the largest deviation was found in digit 1 in the data for tourist overnight stays in both observed periods.

Three tests were used to analyse deviations from the Benford’s distribution: The Chi-square test, the Kolmogorov – Smirnov test, and the Mean Absolute Deviation.

The results of the Chi-square test for the period from 2013 to 2015 are shown in Table 2. The obtained results are statistically significant for a significance level of 0.05, and with 8 degrees of freedom the critical value equals 15.51. In tourist arrivals results, for domestic tourists the chi-square value is 26.99, and for foreign tourists is 4.13, so it can be concluded that the data for domestic tourists have shown statistically significant deviation from the Benford’s distribution. The results are similar for overnight stays – for domestic tourists the chi-square value is also higher than the critical value (equals 19.55) and for foreign tourists are lower (equals 12.93), so here it leads to conclusion that the data for domestic tourists have shown statistically significant deviation from the expected distribution.

**Table 2. Chi-square test for 2013 – 2015 data**

Digit	Tourist arrivals		Tourist overnight stays	
	Domestic tourists	Foreign tourists	Domestic tourists	Foreign tourists
1	26.99	4.13	19.55	12.93
2	12.93	26.99	4.13	19.55
3	19.55	12.93	26.99	4.13
4	4.13	19.55	12.93	26.99
5	12.93	4.13	19.55	12.93
6	19.55	12.93	4.13	19.55
7	4.13	19.55	12.93	4.13
8	12.93	4.13	19.55	12.93
9	19.55	12.93	4.13	19.55



	Chi-square	Chi-square	Chi-square	Chi-square
<b>1</b>	2.23	0.94	6.26	0.28
<b>2</b>	6.23	0.04	0.01	0.05
<b>3</b>	7.88	0.00	3.52	6.38
<b>4</b>	4.42	0.54	0.00	0.06
<b>5</b>	4.43	0.16	1.62	0.82
<b>6</b>	0.00	0.07	6.53	1.73
<b>7</b>	0.06	0.00	0.01	0.90
<b>8</b>	1.71	0.06	1.57	2.67
<b>9</b>	0.02	2.31	0.02	0.04
<b>Total</b>	<b>26.99</b>	<b>4.13</b>	<b>19.55</b>	<b>12.93</b>

Table 3 shows results of the chi-square test for the period from 2016 to 2018. The obtained results are similar to those for the period from 2013 to 2015: the chi-square value for domestic tourists in both observed categories (tourist arrivals; overnight stays) is higher than the critical value (15.51) and therefore it could be concluded that the difference between them and the expected Benford’s distribution is statistically significant. Data for foreign tourists conforms to the expected distribution since the chi-square value is lower than the critical value.

**Table 3. Chi-square test for 2016 – 2018 data**

Digit	Tourist arrivals		Tourist overnight stays	
	Domestic tourists	Foreign tourists	Domestic tourists	Foreign tourists
	Chi-square	Chi-square	Chi-square	Chi-square
<b>1</b>	1.20	0.01	19.48	1.12
<b>2</b>	7.16	1.97	2.40	0.04
<b>3</b>	0.36	1.88	4.05	0.91
<b>4</b>	0.49	1.32	1.34	0.66
<b>5</b>	12.92	0.51	1.20	0.07
<b>6</b>	9.59	5.32	2.71	0.95
<b>7</b>	2.25	0.09	0.86	0.30
<b>8</b>	0.27	0.13	4.09	1.72
<b>9</b>	2.49	0.04	0.00	0.83
<b>Total</b>	<b>36.73</b>	<b>11.27</b>	<b>36.13</b>	<b>6.63</b>

The Kolmogorov-Smirnov test was also used to test the conformity with the expected Benford’s distribution. As can be seen from Table 4, empirical values for domestic tourists, both for tourist arrivals and for overnight stays, are higher than the critical value which equals 0.041. In the data for the period from 2013 to 2015 for tourist arrivals the empirical value is 0.057 and for overnight stays is 0.042. In the period from

2016 to 2018, the empirical values are also higher than the critical value and are 0.059 (tourist arrivals) and 0.074 (overnight stays). All results of the Kolmogorov-Smirnov test for foreign tourists in both observed periods are lower than the critical value, so it can be concluded that only the data for domestic tourists have shown statistically significant deviation from the expected Benford's distribution.

**Table 4. Kolmogorov–Smirnov Z test**

		Empirical value	
		2013 - 2015	2016 - 2018
Tourist arrivals	Domestic tourists	0.057	0.059
	Foreign tourists	0.019	0.020
Tourist overnight stays	Domestic tourists	0.042	0.074
	Foreign tourists	0.023	0.017

The third conducted test was the Mean Absolute Deviation test. The values obtained by the MAD test are shown in Table 5. According to empirically based criteria for compliance to expected Benford's distribution, defined by Nigrini (2012), the obtained results can be classified into the following ranks: as only data for foreign tourist arrivals in the period from 2013 to 2015 (MAD = 0.00489) can be classified as “close conformity”, while in the category “acceptable conformity” all other data for foreign tourists can be classified as well as for tourist overnight stays for domestic tourists in the period from 2013 to 2015. All other data for domestic tourists should be classified as “nonconformity” since their MAD test result is higher than 0.015.

**Table 5. Mean Absolute Deviation test**

		MAD	
		2013 - 2015	2016 - 2018
Tourist arrivals	Domestic tourists	0.01531	0.01628
	Foreign tourists	0.00489	0.00821
Tourist overnight stays	Domestic tourists	0.01164	0.01896
	Foreign tourists	0.00876	0.00747

The results of the MAD test have shown, as the previous two tests, that the data for foreign tourists conforms more with the expected Benford's distribution than the data for domestic tourists, and similar results were obtained in both observed periods.

## Discussion

Tourism is a complex social phenomenon, and its management is a demanding task, among others, because of its dynamic nature. Accurate and complete data on tourism activities is one of the necessary prerequisites for successful tourism management. Except for the accuracy and completeness of the information, the time dimension is also extremely important in tourism: data should be available in a timely manner, to enable that strategic and business decisions are based on them. To meet all these requirements, in 2016 a new information system in tourism called eVisitor was introduced in Croatia. This system has significantly reduced the administrative workload in the tourist's registration process and

also allowed all interested users to monitor tourist traffic in almost real-time by various parameters. The quality of the system can be seen from the fact that it received an award at the International Tourism Trade Fair in Madrid in 2018, and it was also assessed by experts, who analysed its characteristics and functionality, with a 4+ grade, out of 5 possible points (Krajnović et al., 2020).

User-friendliness is very important in such data collection systems - for example, in Italy introduction of a new web-based service for tourism data has led to significant improvements in the collection process, with a large reduction of missing values (Fontana & Pistone, 2010). In the already mentioned experts' evaluation of eVisitor, the functions of the system "Collection and processing of data on accommodation providers and their accommodation facilities", "Registration and deregistration of tourists" and "Calculation and control of sojourn tax" received the highest possible grades, i.e. 5 out of 5 points. Having all that in mind, it can be concluded that there are no obstacles for the usage of this system by accommodation providers since the system is easy to use, free of charge and can be installed on a mobile phone, and therefore does not require the users to own a computer.

With the launch of this system in Croatia, for the first time a comprehensive database was available on tourists and their stay, and the collection and processing of data were significantly improved. In this way, in addition to the already mentioned timeliness, the comprehensiveness of the data was achieved. However, for the system to be fully functional and bearing in mind the information it contains possibly shapes public policies and makes business decisions, the data must be accurate and complete. This was also one of the aims of this paper, to determine whether the data collected by the new system, which is technically more advanced and easier to use, is more reliable than the previously collected data. Several authors pointed out that the quality of previously collected data was questionable: "our already traditional negligence/disrepair in data collection and processing is a kind of "destruction" factor for the system" (Vlahović, 1998: 195), therefore the data were "mostly incomplete" and "random, due to the existence of the grey economy" (Krajnović et al., 2020: 128). This aim was achieved by analysing data on the basis of Benford's Law, a method that "enables easy screening of large data sets to identify potential problems with the data, manipulated or other, for further, more in-depth investigation" (de Vocht & Kromhout, 2013: 297).

One of the basic thesis of Benford's law is that digits in numbers do not appear randomly, but that there is a regularity in the appearance of these digits and it was the basis of our analysis to determine whether tourist data recorded by accommodation providers is in line with Benford's distribution of the first digits. The conformity of digits occurrence with Benford's distribution would indicate the accuracy of the data, and a deviation from Benford's distribution may indicate that the data is inaccurate, i.e. that data was accidentally or intentionally manipulated. In order to achieve this, the data for the period from 2013 to 2015, which were collected by the Croatian Bureau of Statistics through the Monthly Report on Tourists and Tourist Nights (TU-11 form), was analysed separately, and due to the relative complexity of data collection, their accuracy can be doubted. The second data group contains data for the period from 2016 to 2018, which was collected through the eVisitor system, which allowed users to easily and quickly enter data, so it can be assumed that because of simplicity and user-friendliness this data is more reliable than those collected in the previous period. Both analysed periods included larger tourist destinations in the analysis which are visited by a higher number of tourists and therefore

have a developed infrastructure but also experience and tradition of doing business with tourists. Therefore, it can be presumed their business maturity and that the collected data is mainly accurate and complete. Data for domestic and foreign tourists were analysed separately, to determine whether the origin of tourists had an impact on the quality of the collected data.

Statistical analysis made by using three tests (Chi-square test, Kolmogorov-Smirnov test, and Mean Absolute Deviation test) showed very similar results in both observed periods, and therefore it can be concluded that the characteristics of the data collection system did not affect the quality of collected data, but that the origin of the tourists was more important. Data on foreign tourists in both observed periods conform to Benford's distribution and therefore it can be assumed that their accuracy is not questionable. Data for domestic tourists in all three statistical tests in both observed periods showed a deviation from the expected Benford's distribution, so it can be concluded that their quality is lower than the data for foreign tourists.

When analysing this data it should be taken into account that Benford's law is "not a lie detector" (Omerzu & Kolar, 2019: 56), but only an indicator of increased risk of fraud or error, since deviations from Benford's law indicate that digits in a certain set of numbers are manipulated in some way, but by Benford's law it cannot be determined whether data manipulations are accidental or intentional. Unintentional errors may occur for technical reasons during the physical collection and data processing - for example during data transfer (if not all data is transferred or if numbers are cutoff on two decimals) or errors such as manual typos during copying of data or accidental misplacement of digits when copying data from one medium to another (de Vocht & Kromhout, 2013). Unintentional manipulation can also occur due to negligence in data collection and delivery – reporting on tourist traffic represents a waste of time for accommodation providers, especially for smaller ones, so most of them will not be motivated to report tourist traffic (if by doing they will not get some benefits or if it is certain that nonreporting of tourists will not be sanctioned). The most common reason for intentional data manipulation, i.e. for avoiding reporting on the actual number of tourists is to avoid paying sojourn taxes and even more often to avoid paying taxes, which is a domain of the informal economy. Although the informal economy is quite widespread in Croatia, tax evasion on tourist overnights stays is not a phenomenon specific only for Croatia but is evident in other Mediterranean countries such as Italy (Volo, 2004; Volo & Giambalvo, 2008; Guizzardi & Bernini, 2012; De Cantis et al., 2015) and Bosnia and Herzegovina (Milićević & Galić, 2018).

There are two potential explanations why in both observed periods the data for domestic tourists have shown a statistically significant deviation from the expected Benford's distribution, unlike the data for foreign tourists. Domestic tourists, especially the middle-aged and elderly, still prefer to pay the accommodation cost in cash. When the accommodation cost is paid in cash, it is easier to "hide the tourist": since there is no trace of payment, there is also no trace of his stay in the accommodation facility, so his stay will not be recorded anywhere and the accommodation provider will avoid paying tax and sojourn tax. Paying invoice in cash, which results in tax evasion, is quite common in Croatia: according to research conducted by Škrinjarić, Recher and Budak (2017) it was estimated that in 2014, the unofficial economy from household consumption was 0.69 percent of GDP. Another possible explanation is the legal obligation for all accommodation service providers to report the stay of foreign tourists to the Ministry of the Interior: foreign

tourists must be reported to the Ministry of Interior within one day of their arrival and check-out also within one day after their departure. To avoid possible problems with the police, accommodation providers more regularly record the arrivals of foreign tourists, and for domestic tourists, who are not subject to this legal obligation, take a different approach and their stay is only partially recorded. Knowledge of the language and customs of the country probably also contributed to avoiding the registration of domestic more often than foreign tourists.

In this paper was not conducted analysis according to the type of accommodation provider, since such data is not publicly available for the period from 2013 to 2015. Therefore, it is not possible to determine how accurately the tourist's data is kept in a particular accommodation type. Since larger hotels are systems with prescribed procedures and business policies, it can be assumed that they have accurately reported the number of tourists. In smaller hotels, especially family-owned ones, it is possible that the number of tourists was decreased to avoid paying taxes and the same could be in campsites, especially smaller ones. Private accommodation establishments pay a flat income tax, so the amount of their tax burden does not depend on the number of tourists who stayed in their establishment (Vranar, 2015). Administering tourists data for the accommodation provider is still a cost of time, which is especially important in the summer at the peak of the season when there are a lot of tourists and a lot of work around them, so to save time they do not record domestic tourists on an up-to-date basis.

## **Conclusions**

The professional and general public in Croatia welcomed the introduction of the eVisitor information system because it was assumed that it would modernize, simplify, and improve business in tourism. It was also assumed that this system would bring order to the accommodation renting system, since it has been obvious for a longer period of time that a number of accommodation providers do not operate in accordance with the law and business ethics, by accommodating tourists in facilities that are not registered to perform accommodation services or that the actual number of tourist overnights stays was not recorded. Regarding the introduction of order in the system, eVisitor showed results already in the first year of its implementation: one of the indirect effects of the eVisitor introduction was an increase in the number of registered accommodation providers. Namely, in 2016, the first year in which the eVisitor system was implemented, the number of registered accommodation providers increased by 7000, i.e. from 67000 to 74000 establishments. The introduction of eVisitor also facilitated the supervision of accommodation providers, and in the first 6 months of 2016, the State Inspectorate filed minor charges against 40 illegal accommodation providers. Illegal accommodation providers were discovered by the State Inspectorate by comparing the records of registered accommodation providers from eVisitor with the ads on booking.com and Airbnb web pages (Dobrota, 2016), so it can be assumed that a certain number of unregistered accommodation providers decided to legalize their activities due to the transparency provided by eVisitor.

Unfortunately, neither the introduction of the new information system nor the existing legal framework influenced the accommodation service providers to register domestic tourists more accurately, which was also shown in this paper. The tourism

authorities in Croatia, primarily the Ministry of Tourism and the Tourist Boards, should make additional efforts to achieve more accurate recording of tourist arrivals and overnight stays, and these efforts should go in two directions: one is educational, to point out to accommodation service providers the consequences of incorrect tourism traffic recording. The second is repressive: increased controls and the expansion of the powers of supervisory bodies could force accommodation providers to report real data and to perform their tax obligations accordingly. The effects of inaccurate reporting are not exclusively fiscal but are much broader: overuse of resources leads to a decline in the tourist experience and lower prices in nonregistered accommodation establishments lead to unfair competition (De Cantis et al., 2015: 16). At the national but also at the local community level, incomplete tourism statistics disables appropriate decision making and policymaking and therefore hinders the overall tourism development, whereas the development and progress of tourism should be a priority for all stakeholders in tourism, both public as well as those who base their business on tourism.

This paper has two limitations. It was not analysed non-commercial accommodation, since detailed data for non-commercial accommodation for the period before 2016 is not publicly available, but only total data at the county level are available. It could be expected that the situation in non-commercial accommodation is even worse than in commercial accommodation since due to its very nature it is more difficult and complex to keep proper records of the number of tourists, as it is difficult to distinguish “real” tourists from relatives and friends of accommodation owners. Another limitation is that it was not possible to make analysis according to the type of accommodation provider (hotels, camping sites, private accommodation establishments, etc.), since for the period from 2013 to 2015 publicly available is only total data, without distinguishing the particular type of accommodation provider. If these data were publicly available, then it would be possible to determine which types of accommodation providers record data on tourism traffic more accurately.

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## **AN ANALYSIS OF THE FISCAL ADMINISTRATIVE- TERRITORIAL DECENTRALIZATION REFORM IMPACT IN ALBANIA**

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**Abstract:** *In the age of economic globalization, the need for independence in important economic decisions individually and collectively is evident. Decentralization and fiscal decentralization are trends for political and economic reform in recent decades around the world. Albania began the process of transition from a centralized economy to a free economy in the early 1990s. Numerous reforms followed this process in almost all sectors. This process is accompanied by transforming existing economic mechanisms and infrastructure to better function the free-markets model, but above all, with the need to develop and create new legal, institutional, economic, and social instruments and spaces to increase the allocation and efficiency of public and private resources. The latest reform in terms of decentralization is the Territorial Administrative reform of 2014. We try to answer the research question through this study: What has been the impact of decentralization reforms on the local government's public services' performance? The research methodology used is a descriptive analysis of data obtained from the Ministry of Finance and Economic and local municipalities on the reforms' impact. Data analysis shows that some improvements and progress has been made in advancing decentralization reform, but there are still many challenges ahead, such as the lack of a clear legal and regulatory framework. Adding to that concern is local governments' financial autonomy, which remains a challenge for the future.*

**Keywords:** *fiscal decentralization, local government unit, Territorial Administrative Reform, public expenses*

**JEL Classification:** *H50, H71, H72*

### **Introduction**

Decentralization can be defined as the transfer of responsibilities for planning, leadership, fundraising, and their allocation from national governments and their agencies to lower government levels, closer to the population's needs (The World Bank Group). Throughout the second half of the last century, and in the new century, reforms have been oriented towards the democratization of world societies, having as a guide primarily human

rights and the need for these rights to be implemented worldwide as guarantors of well-being and equality. At the beginning of this century, the "Developed Economies" or some of the most developed countries agreed on a package of reforms and measures called the "Millennium Development Goals," with the main focus on reducing world poverty by 2015. Although indirectly decentralization is at the center of these reforms because it was evident that if governments want to meet the poor's needs, they need to get as close as possible to both individually and collectively economic decision-making with this population. In the last two decades, several countries in the world have implemented fiscal and political decentralization reforms. Different authors show the effect of decentralization in their studies. Garman et al. (2001) analyzed decentralization in developing countries. More than 80% of the seventy-five countries surveyed have experienced some decentralization by the beginning of 2000. The situation is similar in industrialized countries. In our days, these countries have progressed with decentralization reforms. In many of them, it has also been possible to study the impact of these reforms. Indeed the impact has not been symmetrical in terms of the diversity of economic cultures themselves. There are several forms and degrees of decentralization globally, which have begun to receive full and incomplete benefits from decentralization reform after a decade.

Albania is considered a country in transition. The years of transition were accompanied by the rapid rise of local and government financial systems in Eastern and Central European countries. Nevertheless, fiscal decentralization reforms were also undertaken in some developed countries—the reforms aimed to reduce governance inefficiency and ineffectiveness, macroeconomic instability, and low economic growth. Transitional nations have implemented economic systems reforms through the 1990s, focusing on free trade, improving the business environment, and the "business climate." The main focus is on developing the private sector, as previously in these countries, this sector is virtually non-existent. Numerous reforms in this sector accompany the first years of implementing a free-market economy. However, an essential factor in fostering further economic development in these countries is the public sector. During the transitional years, efforts are made to redefine the public sector's role and exceed their outcomes. An essential element of these improvements is the introduction of decentralized policies for government activities. A common characteristic of almost all transitional economies originated from a highly centralized public finance system, with local governments having the primary role of administrative units with slight fiscal responsibility and independence. Although these countries initially had comparable economic systems and political functions, they chose very different paths and approached decentralization.

In terms of implementation and progress of reforms, countries in transition are divided into three categories (European Bank for Reconstruction and Development. Transition Report. 2006):

- Progressive reformers - fast and efficient progress (Czech Republic, Poland, Hungary, Estonia, Lithuania, and Latvia).
- The intermediate reformers have completed a good part of the reforms but slower than the first group. (Albania, Bulgaria, Romania, Ukraine, Moldova, Kazakhstan, and the Kyrgyz Republic).
- Moderate reformers are countries such as Armenia, Azerbaijan, Belarus, Georgia, Tajikistan, Turkmenistan, Uzbekistan, which have been unsuccessful in launching

fiscal organizations, controlling fiscal disproportions, and redefining the role of the state.

The article aims to provide an overview of fiscal decentralization theories, analyze Albania's progress and current fiscal decentralization situation over the years, and assess whether the administrative-territorial reform impacts and further improves the fiscal decentralization process. Some of the research questions in the paper are:

- What are the progress over the years and the current situation of fiscal decentralization in Albania?
- Will the administrative-territorial reform affect the further improvement of the fiscal decentralization process?
- What is the effect of the Covid 19 pandemic on local revenue collections?

### **Decentralization process in Albania**

For about half a century, Albania had a very centralized government. In 1992 the country's first democratic elections are held and took the first steps towards political decentralization. Despite the importance of this initial political movement towards increasing democratic representation, local administrative and fiscal autonomy remained very weak. However, the decentralization process received a second impetus from the late 1990s. The reforms of 1992 set the stage for creating local democratic authorities; however, the nineties' decentralization process received a second impetus. In the period 1990-2000, the most critical decisions regarding providing services to the 3.0 million inhabitants are mainly offered by the central government, which has a significant incidence throughout the state toward its own deconcentrated institutions in all 36 regions supervised by 12 prefectures. During 1998-2000, the country formally ratified the European Charter of Local Self-Government, embodied its core principles in the new Constitution, and adopted legal reforms for local self-government. These years mark the second crucial moment, creating the framework for full administrative and fiscal decentralization. These documents identify as one of the main objectives of decentralization reforms in Albania, the need for Local Government Units to deliver on their functions once performed under the central government's umbrella.

According to Albania's laws as a unitary country, the formal adoption of local self-government principles consolidated the political decision for a centralized governance structure. New organic laws "On the organization and functioning of local government" (Law no. 8652 dated 31.07.2000) and "On the administrative-territorial division of local government units in the Republic of Albania" (Law no. 8653 dated 31.07.2000) marked the end of the previous District Councils, thus reducing the direct political influence of the state on the activities of local government. It was clear that this created a stable legal framework that would enable decentralized administrative and fiscal structures, including self-governing counties, municipalities, and communes. The formal approval of the principles of local self-government consolidated the political decision for a decentralized governance structure. Adopting the local government's organization and functioning laws reduces the state's direct political influence on local government activities. It creates a stable legal framework that would enable reorganized administrative and fiscal systems to function and autonomous counties, towns, and communes.

Since 2000, critical institutional amendments and regulations are made:

- the adoption of the National Decentralization Strategy for Local Decentralization and Autonomy;
- allocation of a few notable vital roles to local authorities (including some second-hand services passed to counties);
- creating a mechanism-based of a formula on how to allocate grants unconditionally (which partially replaces conditional, targeted transfers); and
- adopting an essential fiscal reform package in 2002 (including domestic small business tax, a more basic income tax, property tax, and variations to the tax and fee system) that extend local governments' fiscal autonomy. At the same time, the legislature is adopted regarding local borrowing and local budgeting systems.

So we can say that there is a complete legal framework, which makes the legal, fiscal decentralization, and government budgetary relations within a clear framework. In 2014, the Albanian government initiated the Territorial Administrative Reform (RAT), one of its main reforms, and creates the premises for reforming local government and deepening decentralization in the country. The reform generates a new territorial map, reducing the number of first-tier local government units by six times, from 373 municipalities and communes to just 61 municipalities and 12 counties (2nd tier of local self-government). The concept of rural communes was abolished. The new reform was implemented approaching the E.U. legislation. The main criterion that guided the Administrative-Territorial Reform is the concept of "functional areas," which must generate income, create space for commercial development, and a dense economic, institutional, social and cultural interaction between residents. Public Financial Management Strategy 2014-2020 and the Cross-cutting Strategy for Decentralization and Local Government 2015-2020 are the primary public finance reform documents at the local level.

The average population of 1st tier local governments in SEE is over 19,000 and, compared to the E.U. 28 average of 5,100, seems to be very favorable (other things being equal) for decentralization efforts. At the district level, the population ranges from the lowest level of 61,423 in Gjirokastra district to the highest level of 895,160 inhabitants of Tirana county. To continue decentralization effectiveness are designed and adopted into law the following legislations: (i) 'Intersectoral Strategy for Decentralization and Local Government 2015-2020' and an action strategy for its application; (ii) Law nr. 139/2015 'On Local Self-Government,' which, in addition to standard functions exclusively transfers to local municipalities several new functions; (iii) Law nr. 68/2017 'On Local Government Finance,' which was followed by the law nr. 106/2017 'On Some Amendments and Additions' to the Law nr. 9632, date 30.10.2006, 'On the Local Tax System.' The Small Business Tax is finally eliminated between 2014 and 2015. The central government applied the new tax reform in 2016. The new reform abolished the simplified income tax expense for small businesses with annual revenue up to 5 million ALL (€40,000). There was an estimation that the companies' number benefitting from the new reform fiscal variations (whose profit tax will be zero) would be at around 85,300. Dropping these businesses' fiscal burdens will enlarge their funds and consequently improve the country's economic growth. The government has recently granted tax exemptions to particular companies' categories without necessarily compensating local governments for this revenue loss.

Even though the past year has been done considerable progress in creating efficient institutions that will enable a fairer implementation of decentralization policies, Albania is

still far from finalizing the political, administrative, and fiscal decentralization overall picture. More decentralization could agreeably bring to an increase in service delivery quality, governance, and responsibility. In terms of the basic legal framework, all necessary for this process's successful continuation is sanctioned by defining the game's rules or better intergovernmental fiscal relations. For example, the share of local expenditures in total government expenditures, a standard unit of decentralization, is, on average, 25 % of the total in transition countries, with variations from 15 % in Albania and Macedonia to over 50 % in Russia and Kazakhstan (Wetzel and Dunn 2001).

### **Literature review**

Increasing fiscal decentralization is an essential tool for better democratic and autonomous representation in policymaking actions while increasing government institutions' responsibilities and transparency. In other Balkan countries, the tendency for preeminent autonomy to govern locally is determined by the necessity for national consistency and the eccentric force's appearance due to ethnic and regional problems or internal conflicts. Decentralization is the process where some of the central government powers are transferred to local institutions. Decentralization comes in two primary forms: democratic decentralization (also called political decentralization or devolution), which involves transfers of power to elected local authorities, and deconcentration (also known as administrative decentralization), which involves transfers of power to regional offices of central government agencies, such as to appointed district officers or local offices of line ministries (Ribot 2004). Different countries implemented different decentralization types, with various characteristics, political consequences, and circumstances to be effective and productive. If local governments and private organizations effectively succeed in decentralized functions, this will bring sufficient revenues (locally realized or transferred from central government) and authority to make spending decisions.

The theoretical and empirical literature based on the relationship between decentralization and government efficiency is divided into two broad groups:

- Classical theory. The classical theory of fiscal decentralization refers to three main elements: economic efficiency, macroeconomic stability, and income distribution (Musgrave 1959, Oates 1972). Among some of the most important models is the Tiebout (1956) model, which emphasizes the lack of a political solution and that competition through local governments influences competitive taxes and public goods. The providing of taxes, public goods, and services by the local government units will affect citizens' mobility and preferences for their place of residence local, and the public services will be offered at an efficient level. Musgrave 1959 emphasizes that central governments are responsible for macroeconomic stability and revenue distribution, while local governments should focus on public good distribution efficiency in their jurisdictions. Oates (1972), thru the decentralization theorem, saw the government as a benevolent agent, and the theorem depends on the essential assumptions where governments must act in such a way as to make the best use of social welfare and in the event of centralization, there be an even delivery of public goods this does te lead to increased citizen welfare. Brennan and Buchanan (1980) made an essential contribution to the public election perspective of fiscal federalism. In the "Strong Restriction Hypothesis" proposed by Brennan and Buchanan (1980), budgetary decentralization promotes economic growth. This hypothesis ascertains

the fact that governments behave as revenue maximizers to the detriment of taxpayers. According to this theory, central administrations do not capitalize on social welfare and act as monopolists to controller the economy's possessions. However, decentralization is not an automatic remedy. Prud'homme (1995) estimates that fiscal decentralization can turn into both adverse and dangerous effects as excessive decentralization makes it impossible for governments to ensure macroeconomic stability and revenue distribution, especially in times of crisis when financial resources are insufficient. Different authors have pursued the deviation of funds in decentralized situations (Reinikka and Svensson 2004), although other studies have advised the local elite's capture fears (Bardhan and Mookherjee 2000).

- Second generation theory. The classical theory evolved along with fiscal federalism's theory into the second-generation theory (Oates, 2005). In this second-generation literature, the fiscal decentralization impact represents the political actions and the opportunity of unequal information through political representatives. Unlike in classical theories, governments are supposed to maximize their unbiased functions, which does not mean maximizing social welfare (Porcelli, 2009). Porcelli (2009) states that fiscal decentralization is defined as the decentralization of expenditures when local governments take responsibility for implementing expenditure funds. Essentially, the community (citizens) are the managers, while officials are the representatives, and the existence of asymmetric information is the primary motivation why government performs ineffectively. Kinka (2017) estimates that macroeconomic stability could be weaker if the local government can borrow in the market and does not have the necessary resources to repay it. The consequences are an increase in the country's debt and the destabilization of the economy. Nevertheless, the negative impact of decentralization on macroeconomic stabilization can be reduced if there are constraints on local government structures in borrowing in private capital markets. International Monetary Fund and a few authors (e.g., Tanzi 1995, Prud'homme 1995) have advised regarding decentralized administrations' macro risks, but other authors (McLure 1995, Sewell 1996) have underestimated these affirmations, even with no empirical justification. The government can serve as a regulator and increase efficiency in redistributing revenues through their transition from rich to more impoverished regions. The efficiency of decentralization increases when the central government distributes wealth by preventing inequality in its territories. Essential elements in revenue redistribution are the calculation process and policy solution. Another vital component is the existence and implementation of the legal and institutional framework in transition countries.

There is a branch of the growing second-generation literature, the theory of "public choice," recognized as market preserving federalism, emphasizes government executives' stimuli to not deviate from reasonable conduct. They highlight the decentralization role used to dominate an intrusive, extensive public sector and support critical private markets (Weingast 1995, McKinnon 1997). Kardar (2006) show that fiscal decentralization effectiveness depends on a) appropriate spending assignments - with the division of roles between government various levels depending upon their comparative advantage; b) applicable tax or revenue projects; and c) the efficient design of a system of allocations and its proper implementation. In this way, decentralization leads to minimal vertical imbalances and shortens the distance between the recipients and suppliers of public goods and services.

Fiscal decentralization related to economic growth is a topic that is interesting for many economists. The motivation for fiscal decentralization to strengthen economic productivity may affect its dynamic setting (Oates 1993). Davoodi and Zou (1998) studied economic growth and fiscal decentralization connections, viewed as the subnational portion of total government expenditure, and claim that fiscal decentralization is related to slower economic successes. Different researchers acknowledge that fiscal decentralization directly affects economic growth (Feld et al. 2004 for Switzerland, Liu and Lin 2000, Qiao et al. 2008 for China, Gemmill et al. 2013 for OECD countries). Many studies from the 1990s show that fiscal decentralization has a positive effect only up to some optimal level, and these levels are different from country to country. Thiessen (2003) shows a positive relationship when fiscal decentralization increases from bottom levels, but it fluctuates and turns negative after peaking. Brueckner, 2006 stated that theoretically, a considerable fiscal autonomy is related to a higher output per unit of labor and higher growth rates. Some other authors assume a vice versa relation: economic development increases demand decentralization. Martinez (2001) shows that economic growth causes decentralization, but it seems that decentralization problems in developing countries are related to local governments' low-efficiency issues. Davoodi and Zou (1998), Wooler and Philips (1998) have found that there are adverse effects from fiscal decentralization on economic growth in developing countries, but meanwhile, these effects are positive in developed countries. The results negative or positive in most cross-country studies depended on the particular decentralization measure estimation method.

Albania is a country that has a relatively new democracy and aspires to become a member of the E.U., therefore strengthening local governance and democracy is an essential element to study. Muharremi (2020) states that significant financial autonomy or unconditional transfers in higher amounts to local government levels will increase the effectiveness in allocating and using funds and bring economic growth for the whole country. Kapidani (2015) shows that Albania's new reform has effectively provided proper planning for local economic development and decreased difficulties between administrative restrictions and the effect of adjacent local government units' services. Guga (2018), based on the analysis of three indicators for the fiscal decentralization effect in Albania, acknowledged that the territorial and administrative reform had not made the projected outcomes. Toska and Bejko (2018) found a lack of real vertical decentralization, high financial dependence on the central government, and a high inequality between municipalities. Their research showed that districts did not capitalize effectively on the informational advantages based on the top-down approach.

### **Data analysis**

In this paper, we have used the data for the first tier local government units (municipalities), the Government Financial Information System (the Treasury System) at the Ministry of Finance and Economics, which have been processed then published [www.financatvendore.al](http://www.financatvendore.al). The data are cumulative, and they are expressed in the domestic currency (ALL, Albanian Lek) and only refer to the 61 municipalities. The sources of financing the budget of the Municipalities in the analyzed years come from two sources:

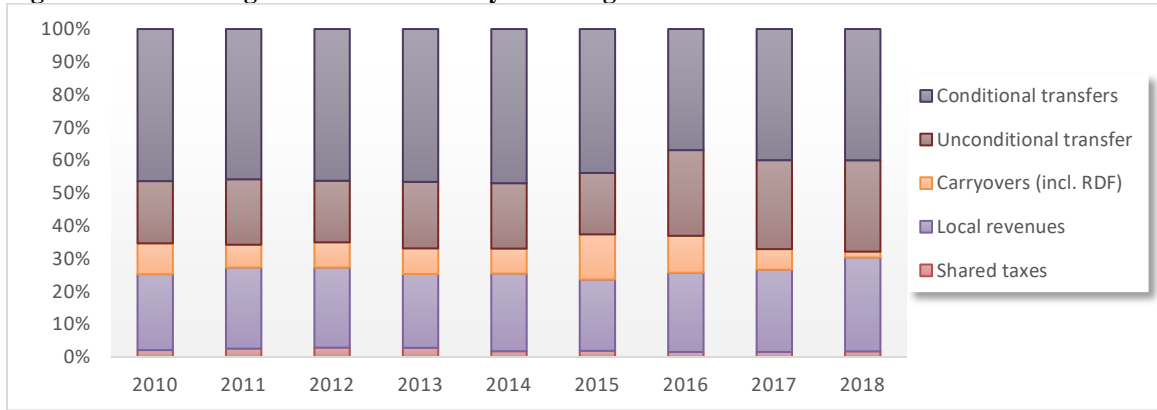
- From its own source, including revenue from local taxes, fees, loans, and other sources, donations and inherited revenues; and shared taxes according to the provisions of Law No. 68/2017 "On local self-government finances";
- From central sources, unconditional and specific transfers for new functions, and carryovers from the previous year, including Regional Development Fund (RDF), and conditional transfers from line ministries for delegated functions.

In the last five years, the Albanian government has continued to operate several vital projects that have been conceived and implemented in cooperation with local government bodies and strategic international partners in continuation of the administrative-territorial division and fiscal decentralization as USAID. Chronologically, in September 2015, the application of a new formula for the allocation of unconditional transfer to local self-government units began. In April 2017, the Law on Local Self-Government Finance was adopted, a vital law for the successful progress of reforms as its implementation is expected to bring improvements in financial management at the local level and an increase in autonomy and fiscal discipline. In 2017 and 2018, regarding the taxation of real estate, the legal framework was improved, implementing a taxation system that is in line with the market value of properties, and a fiscal cadastre was created that operates as a unified local fiscal register. All these reforms and changes regarding the legal framework led to concrete results. Local government bodies have made numerous efforts to improve fiscal administration, and as a result, the available revenues directly controlled by the local government have increased steadily from year to year.

Figure 1 shows data regarding total local income from financing sources from 2010-2018. The administrative-territorial reform consolidated small local government units into more effective and broad organizations to improve access and increase public service quality. 2015 is the first year of a fully implemented territorial reform and gave the local level the right to new functions. In 2016 we had an increase of 25% compared to a year ago. The upward trend of local budgets has continued in 2017 and 2018 but at lower rates. The increase has been 7% in annual terms. The increase in local government revenues is mainly due to the increase in the unconditional transfer size - the primary funding source for the vast majority of local self-government units. Revenue from unconditional and specific transfers is a vital source for financing functions and exercising competencies by municipalities. Government data show that for 2019, the unconditional transfer is 42% higher than in 2015, as a result of legal changes related to Local Self-Government Finances law, which decided to link the size of the unconditional transfer with a variable macroeconomic (not less than 1% of Gross Domestic Product) in line with good international practice. The reform of the unconditional transfer and the beginning of the reform of the real estate tax has laid the foundations for a better system of intergovernmental finances, based on the principle of sufficiency and financial predictability, reducing the continuous downward volatility that has accompanied the unconditional transfer amounts in years.



**Figure 1. Total local government income by financing sources**



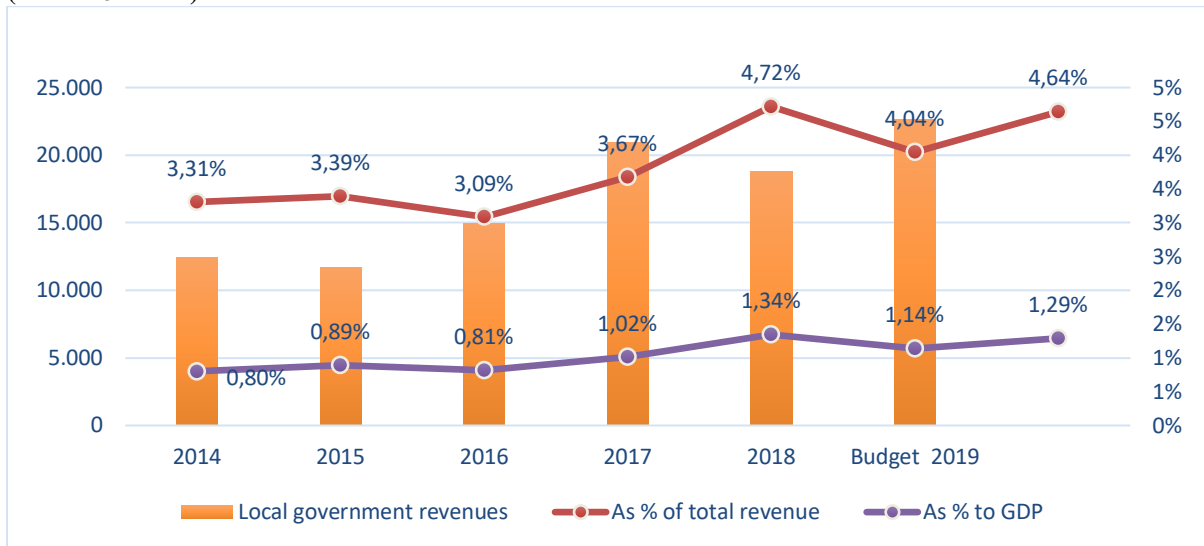
Source: <http://financatvendore.al/data/revenues>

Figure 2 shows that revenues collected from the local self-government units during 2015-2018 have an upward trend, reflecting the increase in weight these shares have on revenue as a percent of total resources of the state budget and revenue income overall GDP. There are revenue improvements for municipalities, especially after 2015, directly linked to increased local tax proceeds. Local taxes include:

Income from local taxes and fees such as infrastructure impact tax from new constructions, building taxes, hotel accommodation tax, land taxes, administrative fees, parking fees, and regional asset management income.

Revenues from local tariffs include yearly fees for waste collection and disposal services, Local fees for occupying public spaces, cleaning and hygiene fee, and local green tax.

**Figure 2. The specific weight of Local Government Revenue to Central Government Revenue and GDP (in Million ALL)**



Source: Directorate of Local Finance, Ministry of Finance and Economy

During 2018, all local self-government units have managed to collect fiscal revenues from local taxes and fees for 24.2 billion ALL, 3.9 billion ALL, or almost 19% higher than in 2017. In 2018, Local government fiscal revenues were 11.1 billion ALL

more or 85% higher than in 2015. The upward trend is a significant indicator of the effects of implementing the territorial administrative reform. It conveys the improvements in fiscal management processes at the local level. Although part of the increase in revenue may also be due to the increased number of fees that the taxpayer is required to pay, the central part of the rise comes from expanding the taxable base or increasing the number of taxpayers and more effective administrative procedures. Fees from building permits are an essential source of funding for municipalities. This fee's income is directly related to the demand for land development and new construction and tends to be very volatile from year to year. In 2018, approved applications and building permits were high, reaching ALL 6.9 billion (€ 56 million). Proceeds from this fee should go towards financing the public infrastructure needed to serve and integrate new development zones with the rest of the territory.

Table 1 shows data related to income from the local government units based on sources. The small business tax is a local tax that has been reformed more times than any other tax type on local government units. The tax reform implementation of 2016 reduced small business tax revenues by 71% compared to 2015, and in 2017 it was reduced by 51% compared to 2015. In 2018, revenues from this tax amounted to ALL 301 million (€247 million), with a slight increase of only 2% compared to the previous year. This income source's share for the local self-government units is currently insufficient and is considered a separate tax. The central government, after collecting its share, fully shares it with municipalities.

**Table 1. Local government units income based on sources**

		2013	2014	2015	2016	2017	2018	2019
	Income from Local Government	10,825	12,447	11,700	14,951	18,447	16,964	22,661
	The pace of change in local revenue		15%	-6%	28%	23%	-8%	34%
1	Property Tax (Buildings)	2,454	3,682	3,921	4,678	4,879	4,484	6,915
	The pace of change in property tax		50%	6%	19%	4%	-8%	54%
2	Small Business Tax	1,975	1,709	2,033	598	296	301	640
	The pace of small business tax change		-13%	19%	-71%	-51%	2%	112%
3	Local tax	6,396	7,056	5,746	9,675	13,273	12,178	15,106
	The pace of local task change		10%	-19%	68%	37%	-8%	24%

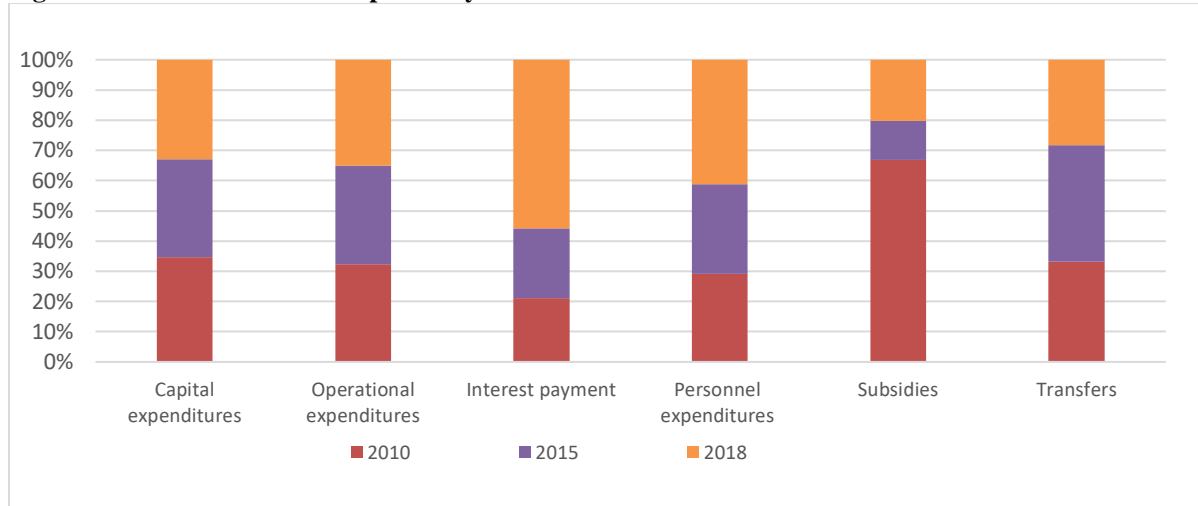
*Source: Directorate of Local Finance, Ministry of Finance and Economy*

It should be borne in mind that while the revenues that municipalities themselves collect from local taxes, fees, and assets have increased in these at the national level compared to the year, there are undoubtedly significant differences in individual municipalities' performance. The increase in revenue collection for some about two-thirds of the total municipalities has resulted from improvements in the collection and fiscal administration of real estate taxes and service fees and increased demand for new construction. 33% of municipalities have had difficulties in collecting local tax revenues. These results are due because there has been volatility in revenues collected from the Infrastructure impact tax on new construction, which is directly dependent on the issuance of permits and the demand for new construction.

Territorial and administrative reform was accompanied by an increase in new functions in the service of residents. However, with some minor changes such as fire departments or academic staff's appointment, other functions were previously offered by

municipalities and communes under law no. 8652 of 2000. Some of the new operations performed by municipalities after the reform are: i) social services; ii) rural road administration; iii) forest and pasture management; iv) management of the secondary and tertiary sewerage system for irrigation and drainage; v) fire rescue centers and vi) education for kindergarten educators and support staff for the pre-university system. There is still uncertainty about the dividing line of responsibilities between local and central government regarding some of these new functions.

**Figure 3. Local Government Expenses by economic classification**



Source: Directorate of Local Finance, Ministry of Finance and Economy

Expenditures of local government units in Albania, including investment funding from the Regional Development Fund, have been rising. Figure no. 3 shows the structure of domestic expenditures by economic nature. In 2018 capital investments amount to about 14.2 billion ALL (€116 million) or 29% of total internal expenses. The local government is continuously placing an increasing emphasis on investments to improve the municipalities' infrastructure. Operating expenses that are very important for local governments in providing daily services to its residents show a slight increase in 2018 compared to the previous year. Operating expenses account for about 29% of local government expenditure for 2018.

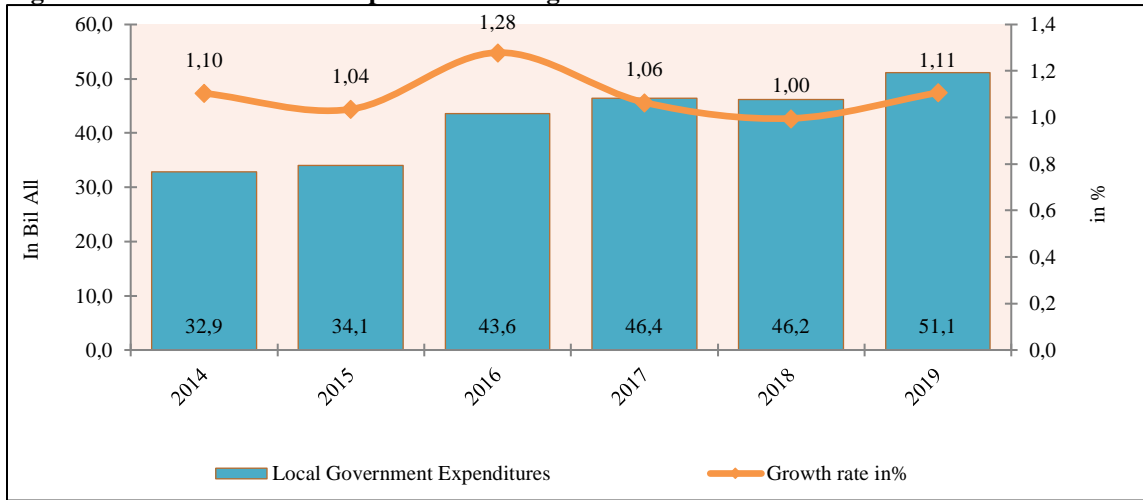
Municipal operating expenditure includes:

- Maintenance costs in public services (such as cleaning, maintenance of green areas, lighting, local road repairs, and constructions)
- Local public transportation
- Pre-university education and training as well as vocational education (dormitories),
- Administration salaries and payroll,
- Social Services (housing, social care, and solidarity)
- Culture, Art and Tourism,
- Sports Activities.

In almost all municipalities, road infrastructure programs have been established to construct, reconstruct, and maintain main roads, road segments, junctions, and residential

blocks' rehabilitation. All these aim to improve the community's conditions by improving the signage, the public lighting, and recreational environments.

**Figure 4. Local Government expenditures and growth rate.**



Source: Directorate of Local Finance, Ministry of Finance and Economy

Figure 4 shows that there is an upward trend since 2014 in terms of local government expenditures. Expenditures on wages, goods, and services have increased almost every year. The graph shows an increase to 51.1 Billion ALL in 2019 compared to 32.9 billion ALL in 2014. At the end of the first half of 2019, expenditures from 61 municipalities were 43.1 billion ALL, about 8.5% more than in the same period a year ago. Excluding expenses incurred with funds inherited from the previous year, the local expenditures were about 41.8 billion, about 22.2% more than the same period a year ago. During the years in analysis, the Albanian government had made many efforts to improve tax revenue to sustain public expenditure. Nevertheless, as the data shows, the tax-raising abilities were low due to the tax collection system and the large informal economy. In 2018 these expenditures reached about 20.6 billion ALL (€69 million) or 1.5 billion ALL (€12.3 million) more than in 2017. These higher levels of spending are inconsistent with the administrative and territorial reform objectives fulfilling the mission to mobilize and effectively use public financial resources, reducing administrative costs. Usually, the general public services require more than half of the local budget, and infrastructure and transportation need around 30%. About 5% of local government expenditure is for sports activities and operational expenses for institutions administrations (day centers, students dormitories, nursing homes, and orphanages).

Some activities, such as construction, rehabilitation, and maintenance of local roads, sidewalk parks, and local public squares, lighting systems are financed through local government spending itself, and in some cases, through conditional grants received in the competitive grant scheme. Irrigation and cleaning of drainage canals are financed by funds transfers from the Ministry of agriculture. Irrigation and drainage are among the main factors of sustainable growth of agricultural production in the country, but due to the continuous lack of investment, this sector is still in critical condition and after many investments made in previous years. Report on compliance of performance monitoring at the municipal level October 2019, has identified that in some cases municipalities

performance reporting lacks the format of classification of expenditures according to economic activities, and lacks financial information for investment projects: only 46% of Implementation Monitoring Reports of the Budget include the required financial information related to the realized or ongoing investment projects (Albanian Ministry of Finance and Economy Performance monitoring compliance report at the municipal level, October 2019). Lack of proper communication in this format limits the Local Self-Government Unit and community stakeholders' ability to identify where budget funds are being spent.

The local elections held in June 2019 and the natural disaster that affected 11 municipalities at the end of the year had great relevance for municipalities. The two earthquakes have contributed to a general slowdown of the overall economy and in the own-source revenues growth rate. Own source revenues, especially in the Durrës area, were directly affected by these events in some of its items such as hotel accommodation tax, taxes on immovable property, and local fees (for occupation and public spaces, service fees). Developments in 2019 for the considered municipalities did not have significantly impacted their own-source revenues in 2019 compared with 2018. At the end of 2019, the own-source revenues in nominal terms (local taxes and fees, asset activities, and others) were ALL 25.6 billion, which is a 5.5% increase in annual terms more than the previous year. However, the own-source revenue growth rate was moderate in 2019, compared to the growth rates over the last three years. Referring to the local finance report for the first half of 2020, the category of revenues from its local sources (such as taxes, fees) is an essential element for good and independent municipalities' governance, representing 26.7% of the total incomes. Compared to other categories, and even they have a lower weight, their local sources' revenues are highly sensitive to the local economy's shocks.

The year 2020 is associated with the overlap of the previous year's earthquakes' negative consequences and the COVID-19 pandemic onset. Municipalities faced a challenging and unprecedented situation, where the damage left by the earthquakes in many municipalities was compounded by the immediate effects of the health crisis caused by COVID-19. One of the measures taken to cope with the health crisis was the lockdown, which undoubtedly brought numerous adverse effects on the economy. In total, the financial resources available to municipalities marked an annual decline during the period under review. This decline was primarily determined by the adverse developments in the performance of revenues from their local resources, especially revenues from local taxes and fees. High vulnerability from earthquake shocks was, particularly in 11 municipalities. The earthquakes and COVID-19 pandemic presented reductions on revenues collected from Municipalities related to infrastructure impact tax, local tax, property tax, and cleaning fees. The decrease in revenues from their local sources by 23.8% was determined by the decline in local taxes and fees collections. Revenues in both of these categories turn out to have shortened by about 23.7% and 24.6%, respectively, in annual terms. It is estimated that the curbing of economic activity during the quarantine period (March-May 2020) and the difficulties businesses face, or rising unemployment influence businesses' deterioration and individuals' financial condition. The most affected sector by the COVID-19 pandemic was the tourism sector. At the level local, revenues from local taxes on hotel service activity marked a level of about 37.2 million ALL (the share of local tax revenues is about 0.5%), down by about 44.4% in annual terms. Contrary, the revenues from other local sources (such as asset management, fines, interest on arrears) marked a yearly

increase of about 7% and contributed positively to the performance of revenue from its own local sources. Conditional and unconditional intergovernmental transfers had a positive performance during the analyzed period. In declining financial resources, municipalities reduced expenditures in annual terms, mainly those for investments.

As the closest government units to the community, the municipalities were the first to meet the neediest's needs. The increase in unemployment from many businesses' closure makes the municipalities face difficulties and lack of funds to cope with this unprecedented situation. Municipalities faced difficulty in adapting processes to ensure the continuity of service delivery to citizens. The World Bank has projected that Albania and several other Balkan countries will face an economic downturn in 2021. So the dire situation and consequences of the pandemic that businesses and individuals face will have undesirable impacts on the local economy and trend. The revenue collection from the municipalities will continue in the coming years. This necessitates an immediate intervention to increase financial management care for municipalities to make them able to have the needed financial resources to continue offering local public services to their citizens in the upcoming future.

## **Discussion**

Total local government financial resources recorded a value of 41.7 billion ALL at the end of the first half of 2020, down by about 3.1% compared to the same period in 2019. Specifically, revenues from own domestic sources marked a level of about 11.1 billion ALL, down by about 23.8% compared to the level recorded in the same period a year earlier). The narrowing of revenues to own local resources has occurred at about 72% of municipalities (or 44/61 municipalities) and fluctuates from -2% to -63.7%. There was an increase of funds transferred from the Ministry for Social Welfare of around 21.3% from the previous period. They were mainly conditional transfers for economic assistance and disability payments. There is a substantial increase in funds channeled at the local level through the Ministry of Finance and Economic, which transferred about 1.3 billion ALL, compared to about 308 million ALL in the same period a year ago. Whereas the Ministry of Education, Sports and Youth allocated at the local level about 690 million ALL in the first half of 2020 or about 768 million less than the same period last year. In the period March-July, schools were closed throughout the territory of Albania. Indicators of local fiscal autonomy increased in 2019 compared to previous years and in annual terms. The improvement of indicators such as the ratio of local revenues to total financial resources and the ratio of available resources to unlimited resources have been influenced by the expansion of incomes from own local resources and unconditional and sectoral transfers. Revenues from local sources in 2019 were 31.4% of the total financial resources of municipalities. There was a slight increase of 2.2% compared to the previous year or 5% above the long-term average. This increase was moderate compared to last year's. The municipality with the most considerable impact on the total categories of this income is Tirana's municipality. Revenues from local sources (local taxes and fees, asset activities, and others) were 25.6 billion, or an increase of 5.5% from a year ago. Growth factors are the increase in the level of local taxes and fees in some municipalities and improvements regarding the process of their collection after a part of them was collected using water supply as a tax agent. The data show that the indicators of revenues for local government

from its own local resources, available and total to GDP, after a performance with minimal fluctuations during the years 2010-2015, in the next three years until the end of 2018, had an upward trend. The ratio of revenues from its own sources to nominal GDP has increased from 0.9% in 2015 to 1.5% at the end of 2019. The increase happened mainly from the increase in the infrastructure impact tax rates of new constructions, mostly collected by the Municipality of Tirana. For 2018, local self-government units at the national level have collected their fiscal revenues (tax and non-tax) of 21.8 billion ALL, or almost 19 percent higher than the value of revenues collected during 2017. In 2015, the local government's fiscal revenues were 11.1 billion ALL.

These developments illustrate that the decentralization process, mainly in 2016, has had a substantial effect, causing local self-government units to collect more revenue. Seen in this light, the local government's increase in tax collection efficiency ensures a higher level of financial independence, indicating that a new financial management period has already begun for the local self-government units. Also, referring to these revenues' total, the upward trends are evident, where almost all the constituent items of local revenues are increasing, except for the small business tax. This significant increase in total local revenues refers mainly to the local self-government units' local taxes collected. All these positive developments create preconditions for improving the quality of local services.

All functions were transferred closer to the municipalities

- Within the first 2-3 years, there are significant improvements (excluding social service centers)
- Lack of minimum service standard in most services
- The irrigation and drainage system became operational after more than a decade
- Increase the coverage of the territory up to 30% with the fire protection and rescue service
- Increase of forest and pasture fund by 31%
- Improvement of rural public transport (interurban) due to the increase of 29% of transport lines and 67% of vehicles (only for the rural carrier)
- Increase the efficiency in the use of Municipalities budget.

The law "On the bill and the turnover monitoring system," or the law on Fiscalization, entered into force on January 1, 2020, and on September 1, 2020, has started implementation. According to legal provisions, a transitional period was left before implementing the new law to help businesses be informed and prepared on the obligations they must meet. Fiscalization and implementation of the new law have its primary goal to affect the increase of income and the excellent administration and reduce the informal economy.

## **Conclusions and recommendations**

Martinez 2011, states the uncertainty to answer the many questions on the impact of fiscal decentralization, even with the additional research. However, decentralized systems' overall effect is positive and optimistic, mainly when they are well administrated. Different reports and data demonstrated that the framework of a new territorial organization adopted in 2014 had given progress to decentralization. European Union reports state that "substantial efforts are needed to increase local government units' administrative capacity." From February 2014 is implemented a new civil service law. The

2016 E.U. report has positively evaluated the recent reforms' implementation, considering them a critical priority for its integration. Among the most important measures is the adoption and rigorous implementation of the law on local self-government finances and building tax reform to establish unique structures and create a fiscal cadaster. Analyzing the revenues for the past few years, the decentralization process since 2016 and onwards has had a significant effect in allowing local self-government units to collect more money. Comparing this to neighboring countries, local governments in Albania collect less per capita income from local taxes and tariffs than their counterparts. Increasing the efficiency of local government tax collection makes it possible to ensure a higher financial independence level, indicating that a new financial management period has already begun. All constituent items of local income are increasing except for the small business tax. This significant increase in general revenue mainly refers to the gain resulting from local taxes collected by the municipalities. All these positive developments also create the preconditions for improving the quality of local services such as improving rural public transport, improving the irrigation and drainage system, and increasing forests and pastures.

Local government units have had insufficient funding for years. This lack of financing and territorial-administrative fragmentation make it challenging to provide services in line with their residents' needs and expectations. Recent legal changes transfer many of the spending competencies and functions to local units, but the financial resources for their support are still limited. Some services, such as education, health, and social protection, are almost entirely covered through public spending and local government contributions. The provincial government expenditure budget's primary account is around 50% for general public services and about 30% for road infrastructure and transport services. Although recent years show progress and success in improving the regulatory framework, expanding the tax base requires further steps to consolidate local government finances. It is vital that reforms are implemented and that improvements are made to the performance, will, or choices that local government units make regarding the administration of local taxes and tariffs and the public assets they own. There are many differences and inequalities in municipalities' financial capacity, which condition the provision of (quality) local public services and bring a lack of resources in dealing with the consequences of natural disasters (such as the earthquakes of September and November 2019, the pandemic of COVID-19). One of the positive effects of the reform is reducing the administrative and operative expenditures to a considerable level.

The new reform abolished many municipalities and communes, which brings to a decrease in salary payments for positions such as mayors or vice mayors of districts, executives of municipal councils, and commune councils. On the other side, it will be a more centered organization for some other administrative functions such as lawyers, supervisors, engineers, and tax collectors on the newly created entities, which means higher operative expenditures. Overall, new entities' new processes and procedures will increase administration productivity, well-trained staff, and better citizens' services. Reducing administration roles and positions in these new large units will lead to cost savings and monetary revenue to invest in other areas. There are a few complaints from some abolished communes regarding the lack and impossibility to receive services such as economic aid, inspection, and rehabilitation of the territory from big municipalities due to the considerable distance from them.



To increase the local government performance, we recommend:

- Increase the information exchange with the central tax administration units and other central government agencies, the National Business Registration Center, Agency for Legalization of Urban Construction Zones, Agency for Property Restitution and Compensation, National Civil Registry
- Improvement in public expenditure budgeting at the local level to increase the effectiveness and economical use of available public funds
- Increase and improve local taxpayers' information systems regarding their obligations, the payment deadlines, particularly the implementation and maintenance of tax collection information system and local tariffs and digitalization of public administration.
- Improve the skills of the staff that deals with the administration of local funds and taxes on an ongoing basis, management skills as well as institutional and technical capacities, to administer funds properly
- Expand the taxable base, increasing the number of taxpayers, and reduction of evasion elements and informal system

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## **ASSESSING THE PROCESS OF HUMAN POTENTIAL DEVELOPMENT IN HIGHER EDUCATION WITHIN THE CONTEXT OF ACHIEVING SUSTAINABILITY**

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**Abstract:** *This research paper reports on a theoretical and practical research into the process of assessing human potential in higher education institutions. The paper aims to assess the potential of higher education institutions in the Republic of Moldova, i.e. “Alec Russo” State University of Bălți(USARB), the Academy of Economic Studies of Moldova (ASEM), the State University of Moldova(USM), the Technical University of Moldova (UTM) and also “Alexandru Ioan Cuza” University, Romania (UAIC). In order to develop this research, we employed the following methods: induction, deduction, abduction, analysis, synthesis, quantitative research, scientific abstraction. Within this context, a quantitative research was performed using investigation, the research tool being the survey. In conclusion we can say that one of the important factors that contribute to the emergence of sustainable innovation-driven university development is the innovation culture and the establishment of innovative cultural values within universities.*

**Keywords:** *human potential, human potential assessment, higher education, university, sustainability, innovation, innovation potential.*

### **Introduction**

As society develops and competitive pressures rise, there is an increasing need for companies and institutions address multiple pressures such as strategic changes, innovation changes, dynamic economic conditions, which creates major challenges for both the private sector and for higher education institutions. In the context of change, companies, on the one hand, but also higher education institutions, on the other, are required to identify competitive advantages that would help them cope with challenges and pave the way towards sustainability. Higher education institutions are agents of change, as institutions wherean academic climate predominates along with a system of values helping to create and establishcompetencies and abilities aimed atensuring graduates’ competitiveness. Thus, in order to draw students and to increase the level of competitiveness, higher education institutions are required to identify those assets that would differentiate them and increase their sustainability. A basic pillar of creating competitive advantage in higher education institutions is the latter’s human potential, which encompasses the drive for knowledge, the capacity to analyse situations and to make decisions in critical situations.

One basic component of human potential is intellectual capital, which, in higher education institutions, is the main component of human potential that helps such institutions to be more competitive and to securely build their path towards sustainability.

On the other hand, intellectual capital is an element of vital importance for the sustainability of any society. Intellectual capital may be defined as the energy source of an organisation, which, through conscious and rational use, can be transformed into a valuable asset, providing a relative advantage that can deliver benefits in the future, in an innovation-driven economy (Davidova, Barkalov, 2019). There are various classifications of intellectual assets, one of which divides intellectual capital into three general categories: relational, human and structural capital. Human capital denotes the knowledge, competencies and skills that workers “take home with them in the evening.” Examples include the capacity to innovate, creativity, skills, professional experience, teamwork capacity, flexibility, tolerance, motivation, satisfaction, ability to learn, structural training and education (Suslenco, 2015).

Relational capital designates the resources derived from the external relations of a business with its customers, suppliers and research and development partners. It covers part of the human and structural capital involved in the company’s relations with external partners. One could list as examples the company image, customer loyalty and satisfaction, connections with suppliers, market weight and the ability to negotiate with financial institutions.

### **Research methodology**

In order to develop this research, we employed the following methods: induction, deduction, abduction, analysis, synthesis, quantitative research, scientific abstraction. Within this context, a quantitative research was performed using investigation, the research tool being the survey. Thus, within this framework, we identified the research purpose, objectives and hypotheses in addition to the most important results that were achieved. Respondents within the research included students and members of academia from the Republic of Moldova and Romania, providing a cross-border approach. The sampling unit consisted of 5 universities: the State University of Moldova, the Technical University of Moldova, “Alec Russo” State University of Bălți, the Academy of Economic Studies of Moldova, and “Alexandru Ioan Cuza” University of Iasi. The unit of analysis consisted of students and faculty members of the higher education bodies named above. The sampling method used was the quota sampling method. We applied the quota sampling method since we aimed for 15% of all university students and faculty members to be surveyed. We used this method as it was the most optimal in this particular case and allowed the generalisation of the results obtained for each respondent in the respective higher education body.

### **The extent of the research into the subject matter**

In order to identify the influence of human potential on university sustainability, a quantitative research was conducted within the Research Project for young researchers “Development of the Model of sustainable innovation-driven development of universities based on research of the innovative culture of young specialists”, organised in 2016-2017, at the Laboratory of scientific-methodical research in economics, within the Department of

Economics, Faculty of Hard Science, Economic and Environmental Sciences, “Alecu Russo” State University in Bălți. The research method used was the survey-based investigation. The research in the project focused on the influence of human potential on sustainability in higher education institutions by capitalising on the innovative culture of young specialists. We must emphasise that we conducted an exploratory research, as we examined the views of research subjects on sustainable innovation-based university development. The purpose of the research was to study innovation activity within the educational institutions proposed for the analysis, highlighting the possibilities for development, modelling and improvement of such activity. In order to obtain valid results from the research, in addition to the purpose of the research, it is necessary to define certain specific objectives, which will emphasise the attributes necessary for the research.

The general objective of the research was to study the factors influencing innovation activity and innovation culture within higher education institutions. In addition to the general objective, the specific objectives that would help to achieve the planned results must also be elucidated.

The specific objectives of the research, which would contribute to achieving the research purpose, were:

- researching the development level of the innovation activity of universities;
- identifying the factors that influence the innovation activity of a higher education institution;
- identifying the problems faced by the university in innovation-driven development;
- researching the factors that can contribute to the sustainable innovation-driven development of universities;
- identifying the values of innovation culture that will contribute to the sustainable innovation-driven development of universities;
- identifying the need to plan the innovation activity within a higher education institution;
- examining the role of young specialists' creativity in ensuring innovation-driven university development.

In line with the objectives set forth, we also developed the hypotheses regarding the research into the role of the innovation culture in ensuring the sustainable innovation-driven development of universities.

The general hypothesis underlying the research is:

H0: The innovation culture of young specialists exerts a positive influence on the sustainable innovation-driven development of higher education institutions.

The specific hypotheses of the research are:

H1: The level of innovation development of the university is positive and the ratings recorded exceed 70%;

H2: The most important factor influencing the innovation activity of a higher education institution, showing a positive and upward dynamics, is “The system for motivating and fostering creativity and innovation potential in the university”;

H3: One of the most important problems facing the university in its innovation-driven development is “Low (moral and material) motivation for innovation activity of students and faculty members”;

H4: The most important factor that contributes to the sustainable innovation-driven development of universities is “Development of the Strategy for sustainable innovation-driven development of the university”;

H5: One of the most important values in innovation culture is “Supporting innovation activities among faculty members and students”;

H6: Over 90% of the research subjects consider that it is necessary to plan the innovation activity of their respective higher education institution;

H7: The creativity of young specialists exerts a positive influence on training and on ensuring innovation-driven development of the university.

Using these hypotheses, the research variables will be tested and through their validation the links between the aspects proposed for the research will be confirmed or refuted. Subsequently, to demonstrate and ensure the logic of the research, we aim to demonstrate the link between the objectives of the research, the questions in the survey and the research hypotheses. Hence, each research objective will be examined using questions from the survey. It is worth noting too that each objective corresponds to a hypothesis that will eventually be validated or not. Together with the research team, we decided to conduct a quantitative research, which would help collect the necessary data to confirm the research hypotheses, in order to achieve the purpose and the objectives of the research. We opted for the investigation as the method of research. The method would help us to collect and analyse the data needed for the research. It is worth highlighting the following advantages of this type of research (Doncean, Doncean 2012):

- it allows on-the-spot collection of research data;
- it offers the possibility to guarantee the confidentiality of research subjects’ data;
- it ensures the possibility of abstraction in order to analyse only the necessary phenomena;
- it gives respondents the possibility to receive explanations in case of misunderstandings;
- it offers the possibility to model the discussion so as to obtain the necessary information;
- it ensures the possibility to monitor the data collection process;
- it provides the possibility to measure the phenomena proposed for research. In Table 1 we show the links between the purpose, objectives and hypotheses of the research.

**Table 1. Analysis of the connections between objectives, questions, hypotheses**

Objectives	Questions	Hypotheses
To research level of development of innovation activity of universities.	Questions 2-4	The level of innovation development of the university is positive and the ratings recorded exceed 70%.
To identify the factors that influence the innovation activity of a higher education institution.	Question 5	The most important factor influencing the innovation activity of a higher education institution, showing a positive and upward dynamics, is “The system for motivating and fostering creativity and innovation potential in the university”.
To identify the problems faced by the university in innovation-driven development.	Question 6	One of the most important problems facing the university in its innovation-driven development is “Low (moral and material) motivation for innovation activity of students and faculty members”.
To research the factors that can contribute to the sustainable innovation-driven development of universities.	Question 7	The most important factor that contributes to the sustainable innovation-driven development of universities is “Development of the Strategy for sustainable innovation-driven development of the university”.

To identify the values of innovation culture that will contribute to the sustainable innovation-driven development of universities.	Question 8	One of the most important values in innovation culture is “Supporting innovation activities among faculty members and students”.
To identify the need to plan the innovation activity within a higher education institution.	Question 9	Over 90% of the research subjects consider that it is necessary to plan the innovation activity of their respective higher education institution.
To examine the role of young specialists’ creativity in ensuring the innovation-driven university development.	Question 10	The creativity of young specialists exerts a positive influence on training and on ensuring innovation-driven development of the university.

Source: Developed by the authors

Based on this method, the research data would be collected and the phenomena would be examined. The survey was to be used as research tool. Surveys are particularly used as a tool used in quantitative analysis. The survey would therefore allow us to obtain quantifiable and accurate results on the phenomena proposed for research. The results proposed for research were, to a large extent, objective and precise. The focus of the research was on 4 higher education institutions in the country and abroad, as follows:

- “Alec Russo” State University of Bălți;
- State University of Moldova;
- Academy of Economic Studies of Moldova;
- “Alexandru Ioan Cuza” University of Iași.

The research was publicised, surveys were distributed and the necessary data were collected within the above higher education institutions. These higher education institutions were selected owing to the fact that they represent important university centres, with a special history and demonstrated reciprocity in order to the research. The higher education institution in Romania, “Alexandru Ioan Cuza” University of Iași, was selected thanks to the partnerships of the Laboratory of scientific-methodical research in economics within the “Alec Russo” State University of Bălți with members of this university. The university responded positively and showed reciprocity in order to promote the research within its ranks. The research subjects included students and faculty members of the higher education institutions selected for analysis, who were surveyed so as to verify the hypotheses and achieve research objectives. Thus, during the research, 15% of the students from economics departments and 15% of the faculty members of the universities were surveyed in order to verify the research hypotheses. The surveys were personally handed out by the researchers in the project to each student or staff of the researched university and the key points of the questions in the surveys were explained. This approach would be respected in order to ensure research ethics and for each respondent to understand the questions proposed for research. Specifically, each survey respondent had to answer 10 questions in the research survey. Thus, in order to conduct an in-depth research on the innovation culture of young specialists and its influence on the sustainable innovation-driven development of university, we used a survey containing 10 questions ordered from simple to complex. Only questions that contributed to the achievement of the research objectives or to the validation of a research hypothesis were used in the survey. The questions in the survey were

formulated concisely, clearly and objectively so as to obtain the information necessary for the research. The data obtained from the respondents would remain confidential and may not influence the respondent.

The survey was designed in such a way that each question would contribute to the achievement of an objective or to the validation of a hypothesis subject to research. From the outset, the survey is designed to include simple questions, respondents being asked to provide personal data such as their role or staff category (either: faculty member, member of the management staff of the institution, or: student, masters student, doctoral student). The first question in the survey “Personal data” for staff of higher education institutions included the following: staff category, academic title and seniority. For students, the academic year, the course of study and the form of study were included. The data are needed to quantify the research subjects and to observe certain elements of the research. Next, starting with the second question, “Please rate the level of innovation activity of the university where you work / study (in%)”, respondents had to assess the level of innovation activity of the higher education institution where they work or study. This would help us to perceive how students and their own staff assess the university’s innovation activity. The third question, “Rate the level of your own innovation activity (in%)”, was designed to assess the student’s or faculty member’s own innovative activity. This question would contribute to assessing the commitment of each member in the modelling and developing the innovation activity. The fourth question, “Rate the dynamics of the innovation activity of the university where you work / study”, was formulated in order for the research subjects to rate the dynamics of the university innovation activity. Thus, this question would help us to validate the research hypothesis and draw suggestive conclusions. The fifth question “Describe the dynamics of the main factors that influence the innovation activity in the university where you work / study”, was formulated in order to highlight the main factors that influence the university innovation activity and their dynamics. These researched elements would help us to form the “The Sustainable Innovation-Driven University Development Model” which is planned within the project.

Questions five to eight were more complex and contributed to the discovery and development of the research variables. The sixth question “Highlight the main issues the university is facing in the field of innovation (several may be listed)”, was included in the research to determine the most important problems facing a higher education institution being examined, aiming to generate possible solutions for higher education institutions. The seventh question “Indicate the factors which, in your opinion, can ensure the sustainable innovation-driven development of universities”, was included in the survey so as to analyse those factors that influence the sustainable innovation-driven development of the university. Based on the analysis and processing of the collected data, these factors would be used in building the model of sustainable innovation-driven development of the university. The eighth question, “Rank the importance of the innovation culture values of young specialists (from 1 to 6) that can lead to the sustainable innovation-driven development of universities”, was included in the survey to allow an analysis of the values that would validate the research hypothesis. The ninth question “Do you believe that the innovation activity within the university should be planned?”, was formulated in order to identify whether it is necessary or not to plan the innovation activity of universities and, possibly, to apply the necessary measures in each case. The tenth question “Do you believe that the creativity of young specialists contributes to the innovation-driven development of



the university?”, was formulated in order to determine whether the creativity of young specialists positively influences the innovation-driven development of the university, thus validating one of the research hypotheses. Thus, as one may see, the survey was organised in such a way as to contribute to the achievement of the research objectives and to allow us to verify the research hypotheses.

Within the research we dealt with both dependent and independent variables (Suslenco, 2020, p.499). The dependent variable is the sustainable innovative-driven development of the university. The independent variable is the innovative culture of the university. Similarly, the research includes qualitative and quantitative variables. Qualitative variables include: innovative culture, factors related to the innovative activity, the values of innovative culture, factors of innovative-driven development of the university, the links between the researched variables. The quantitative variables in the research are: seniority, academic title and dynamics, the level of innovation activity of the university and its members, the factors that influence the innovation activity of the university. All these variables were used to conduct the research and to achieve the research objectives.

As regards the promotion of the research within the universities selected for analysis, it was necessary to determine the appropriate sampling method. Thus 15% of the faculty members of the researched universities and 15% of the students of the economics specialties within the educational bodies participated in the research.

The sampling unit consisted of the State University of Moldova, the Technical University of Moldova, “Alecă Russo” State University of Bălți, the Academy of Economic Studies of Moldova, the University “Alexandru Ioan Cuza” of Iași, while the analysis unit was comprised of students and staff of these higher education institutions. The quota sampling method was employed. We applied the quota sampling method as we needed 15% of all university students and academic staff to be surveyed. We used this method, because it was the most optimal in this case and allows the generalisation of the results obtained for each respondent of a higher education institution.

The sampling formula is the following:

- Students of economics specialties\*15% + faculty members\*15%
- 380 respondents from the 5 higher education institutions in the country and abroad participated in the study. The planned research was undertaken from January to March 2017. The necessary data were collected on the university campuses of the institutions part of the research, by the research team which contacted the respondents directly and handed out the surveys to be filled in person. The research team also provided additional information or clarifications.

The time allocated for collecting the necessary data lasted from the start of the distribution of surveys among students and faculty members of the universities taking part in the research up to the recording of answers and the grouping of data resulting from the research. For these activities 3 months were reserved during which all the researchers were involved in research activities in various higher education institutions in the country and abroad.

The surveys prepared by the research team were handed out to the respondents in physical format and all the elements not understood by the respondents were explained further. To complete the survey, 15 minutes were reserved for each staff member or student. Every day, the research team distributed 10 surveys, depending on whether

respondents were present on the university campuses. The data collected during the research were subsequently analysed meticulously and in great detail to highlight the research variables, the modelling of variables by the respondents, to observe certain deviations and some common elements observed and listed by the respondents.

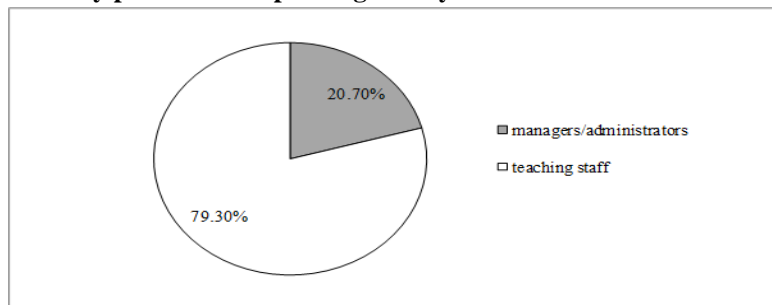
Finally, the research data were interpreted and entered in the database created for this research, and relevant conclusions and suggestions were drawn for the institutions participating in the research. The data collected during the research were analysed, personally processed, using the database created for this purpose in September-October 2016. In order to process the data, the excel software was used, as it can record and analyse statistical data very easily and accurately. The key benefit offered by this software is the provision of maximum flexibility in data recording, analysis and subsequent processing.

## Results and discussions

In order to examine the innovative culture of students and faculty members in universities, the sociological survey was promoted and 380 respondents participated (of which: USM - 48, USARB - 280, ASEM - 52, UAIC - 124 respondents). The distribution of faculty members participating in the research by type of staff within a university, by their academic title and seniority is presented below:

- 193 faculty members participated in the research, i. e. 50.8% of the total number of respondents, of which 40 respondents (20.7% of the total number of respondents in the category of faculty members) were managers/administrators (deans, heads of chairs and departments, laboratory directors) and 153 teaching staff (79.3% of the total number of faculty respondents). The summary data are shown in Figure 1.

**Figure 1. Distribution by position of responding faculty members**



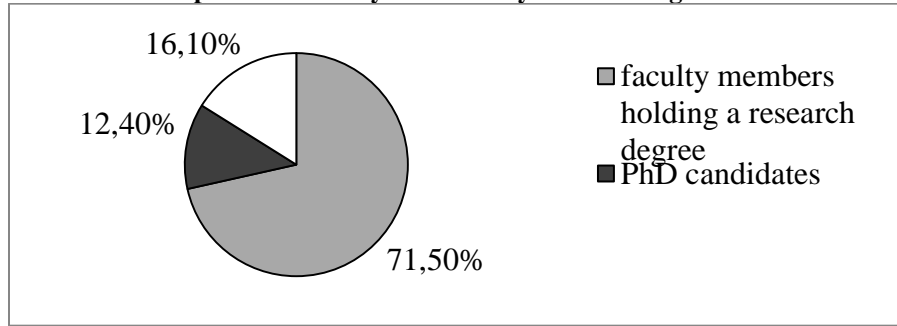
*Source: Developed by the authors by processing the collected data*

Out of the total number of respondents, faculty members at participating universities included:

- 138 (71.5%) faculty members holding a research degree,
- 24 (12.4%) PhD candidates,
- 31 (16.1%) faculty members holding a research degree.

The distribution of respondents by research degree is shown in Figure 2.

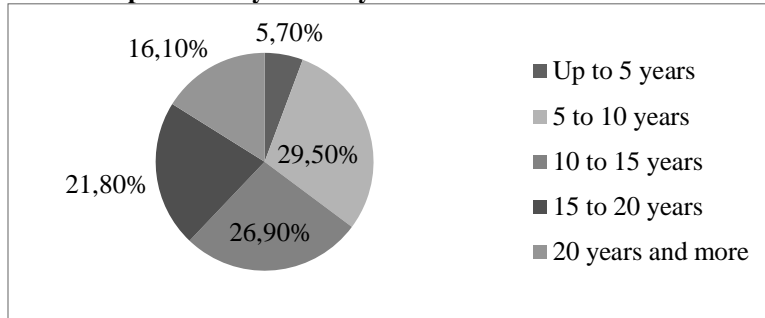
**Figure 2 Distribution of respondents-faculty members by research degree**



Source: Developed by the authors by processing the collected data

Based on the data in Figure 2, presented below, we note that of the total number of faculty members, 29.5% are teaching staff with 10 to 15 years of seniority at work, 26.9% are teaching staff with 15-20 years of seniority, 21.8% are teaching staff with more than 20 years of seniority. The summary data are presented in Figure 3

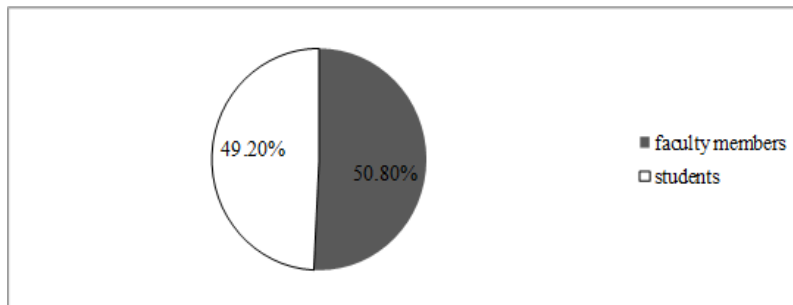
**Figure 3 Distribution of respondents by seniority**



Source: Developed by the authors by processing the collected data

The sociological survey also included 187 undergraduate and masters students (49.2% of the total number of respondents) of which 165 (88.2% of the total number of undergraduate/master students) were students enrolled in a full-time course of study and 22 of students (11.8% of the total number of undergraduates / masters students) represent students in part-time studies. In figure 4, we showed the share of students and teachers in the total number of respondents.

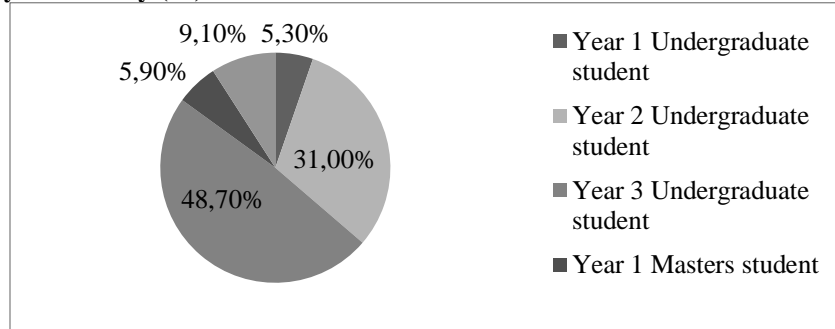
**Figure 4 Share of students and faculty members in the total number of respondents**



Source: Developed by the authors by processing the collected data

In Figure 5, we present the distribution of undergraduates and master students according to their typology and year of study.

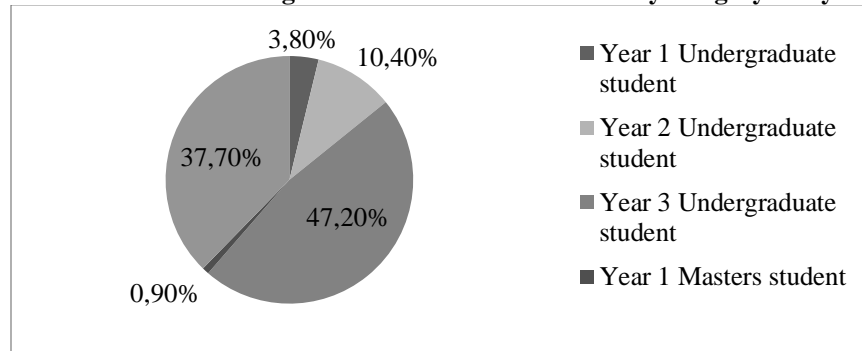
**Figure 5 Distribution of undergraduate student and master students in Moldovan universities by category and year of study (%)**



Source: Developed by the authors by processing the collected data

The sociological survey included for their more undergraduate/masters students and teaching staff from UAIC University of Iasi, for a total of 124 respondents, of which 18 (14.5%) were faculty members and 106 (85.5%) undergraduate/masters students, distributed as shown in Figure 6.

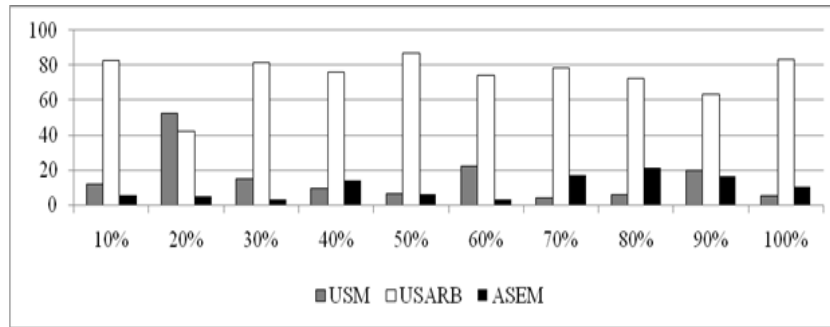
**Figure 6 Distribution of UAIC undergraduate and masters students by category and year of study (%)**



Source: Developed by the authors by processing the collected data

Following the research of the innovation activity of undergraduate and masters students and of teaching staff in the universities selected for analysis, the following interesting phenomena were detected. Most of the respondents from Moldovan universities (25.5% of the total number of respondents), both students and faculty members, rate at 80% on average the level of innovation activity in the universities where they study or work. However, USM students rated the level of innovation activity at 90%. The dynamics of the respondents' answers is different depending on the university and the rating level. The summary data are presented in Figure 7.

**Figure 7 Dynamics of respondents' opinions on the level of innovation activity of Moldovan universities (in%)**



Source: Developed by the authors by processing the collected data

At the same time, the level of respondents' innovation activity differs substantially from the level of summative indicators and is varied. Thus, most of the respondents from Moldovan universities, i.e. 15.5% estimated their own level of innovation activity at 100%. However, when analysing the mean square deviation of the respondents, we obtained the following data.

**Table 2. Level of innovation activity of universities**

Level of innovation activity of universities, % (xi)	(number of respondents) fi	xifi	(dispersion) (xi - x̄)	xi - x̄  fi	(xi - x̄) <sup>2</sup>	xi - x̄  2fi
10	17	170	- 56.6	962.2	3203.56	54460.52
20	19	380	- 46.6	885.4	2171.56	41259.64
30	27	810	- 36.6	988.2	1339.56	36168.12
40	21	840	- 26.6	558.6	707.56	14858.76
50	30	1500	- 16.6	498.0	275.56	8266.8
60	27	1620	- 6.6	178.2	43.56	1176.12
70	46	3220	3.4	156.4	11.56	531.76
80	97	7760	13.4	1299.8	179.56	17417.32
90	60	5400	23.4	1404	547.56	32853.6
100	36	3600	33.4	1202.4	1115.56	40160.16
Total	380	25300	x	8133.2	x	247152.8

Source: Developed by the authors

$$\bar{x} = \frac{\sum_{i=1}^{10} x_i f_i}{\sum_{i=1}^5 f_i} = \frac{25300}{380} = 66,6$$

Mean respondents' answers lead to: (%)

$$\bar{d}_p = \frac{\sum_{i=1}^{10} |x_i - \bar{x}| * f_i}{\sum_{i=1}^5 f_i} = \frac{8133,2}{380} = 21,40$$

Mean linear deviation:

Consequently, the level of innovation activity in universities deviates on average by 21.4% compared to the mean. To determine the coefficient of variation, we determine the dispersion and the mean square deviation (Doncean, Doncean, 2012).

$$\sigma^2_p = \frac{\sum_{i=1}^{10} (x_i - \bar{x})^2 * f_i}{\sum_{i=1}^5 f_i} = \frac{247152,8}{380} = 650,40$$

Dispersion:

$$\sigma_p = \sqrt{\frac{\sum_{i=1}^{10} (x_i - \bar{x})^2 * f_i}{\sum_{i=1}^{10} f_i}} = \sqrt{\sigma^2} = \sqrt{650,4} = 25,5\%$$

Mean square deviation:

$$v_\sigma = \frac{\sigma}{x} * 100 = \frac{25,5}{66,6} * 100 = 38,3\%$$

Coefficients of variation: - the variation is relatively high, indicating a nonhomogeneous collective, while the mean is broadly representative.

Hence, we can argue that the level of variation of answers is high, which makes it difficult to assess the development of the studied phenomenon. At the same time, 14.5% of respondents rated the level of their own innovative activity at 70%, 13.9% rated it at 60%, 13.7% - at 50%, as shown schematically in Table 3.

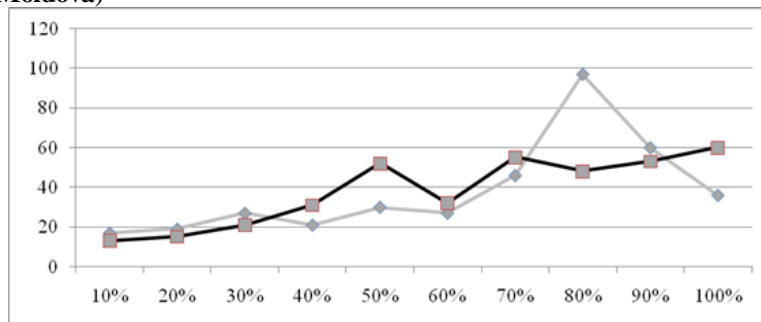
**Table no.3 Level of innovation activity of teaching staff and undergraduate / mastersstudents at Moldovan universities**

Level of individual innovative activity in%	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
Number of respondents	13	15	21	31	52	32	55	48	53	60
Ratio of answers %	3.4	3.9	5.5	8.2	13.7	8.4	14.5	12.6	13.9	15.8

Source: Developed by the authors

When analysing the level of overall innovation activity of Moldovan universities and undergraduate / masters students, one can notice that these indicators differ substantially. The summary data are shown in Figure 8.

**Figure 8 Correlation between the level of innovation activity of undergraduate / masters students and academic staff (Moldova)**

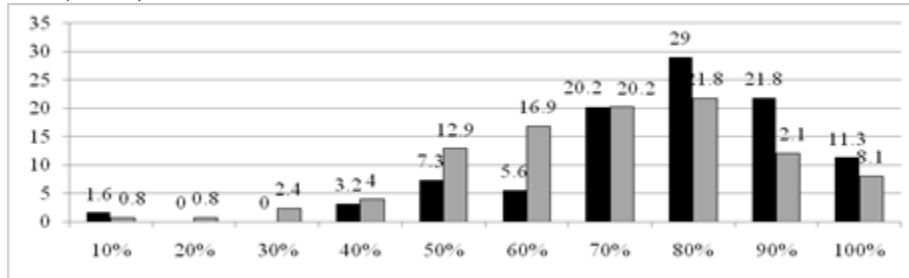


Source: Developed by the authors by processing the collected data

However, it must be highlighted that when rating the dynamics of innovation activity, the majority of respondents (49.7%) reported an increase in the level of innovation activity in universities and an oscillating trend in terms of changes in this indicator (34.2%). In spite of this, 7.4% of research respondents noted a decrease in innovation activity in universities, while 8.7% of respondents noted a stable situation with no changes in this

area. As regards answers received from the respondents at “Alexandru Ioan Cuza” University of Iași, we noted that most of them rated the level of individual innovation activity at 80%, yet there was a large deviation of students’ and faculty members’ assessment of their own innovative activity. The data are summarised in Figure 9.

**Figure 9. Correlation between the level of innovation activity of undergraduate/masters students and academic staff (UAIC)**

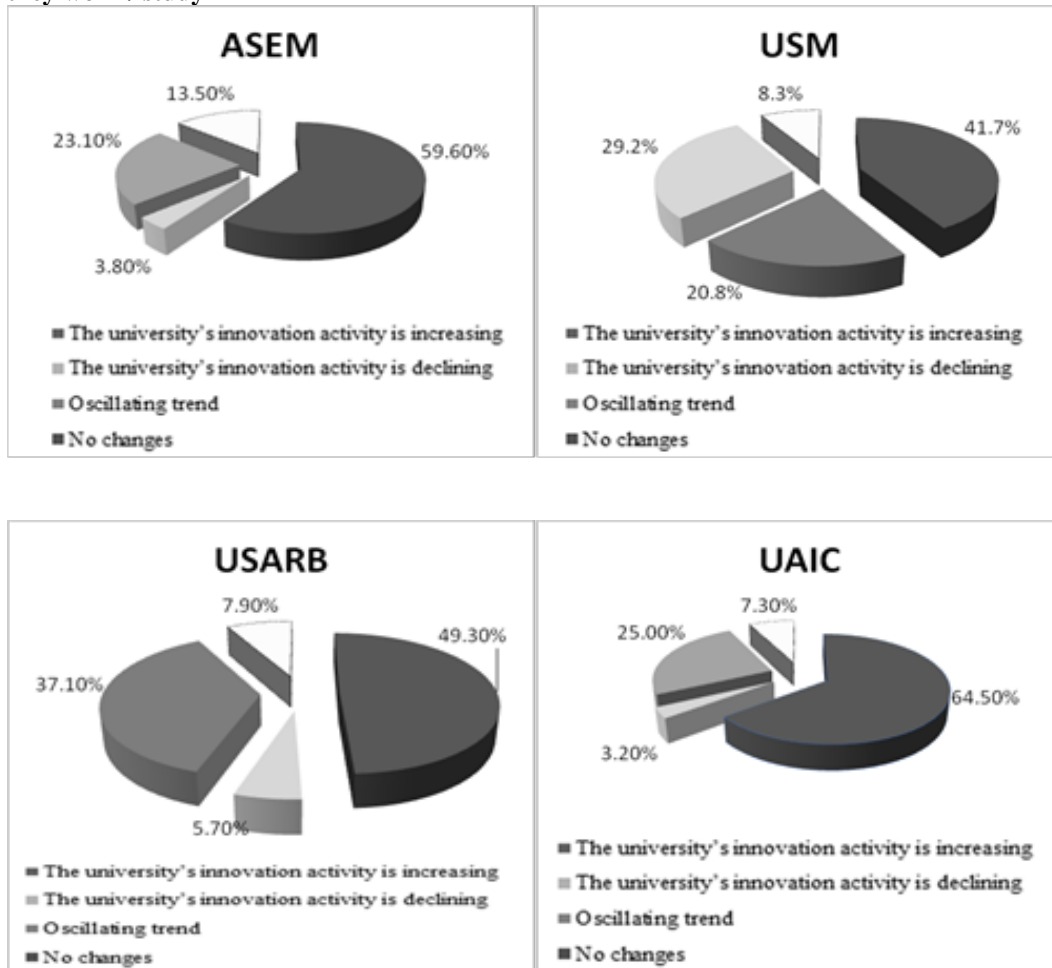


Source: Developed by the authors by processing the collected data

It is worth noting the particular impact of individual innovation dynamics over the previous 3-5 years on the assessment of individual innovation. The increasing level of innovation activity of universities and faculty members contributes to sustainable innovation-driven development, which encompasses the emergence of innovation culture, a favourable environment, fostering the creativity of students and teaching staff, and finally, the emergence of innovation and technology transfer (Alshuwaikhat, Abubakar, 2008). When rating the dynamics of innovation activity, the vast majority of respondents at Moldovan universities (49.7%) reported an increase in innovation activity in their universities and an oscillating trend in terms of changes in this indicator (34.2%). However, 7.4% of respondents noted a decrease in innovation activity in universities, while 8.7% reported an unchanged situation in this area. UAIC university respondents reported an increase in the university’s innovation activity (64.5%), an oscillating trend (25.0%), with no changes (7.3%), while a decrease was observed by 3.2% of research respondents.

If we analyse the survey results by university individually, we must point out that most of the respondents, both from universities in Moldova and Romania, reported a similar trend in the change in the innovation activity of universities. The data are presented in Figure 10.

**Figure 10 Respondents' assessment of the dynamics of the innovation activity of the universities where they work / study**



Source: Developed by the authors by processing the collected data

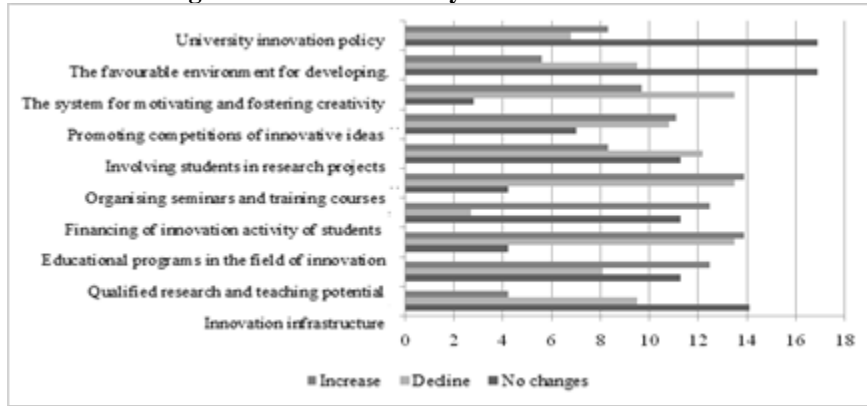
As regards the factors that influence the dynamics of the innovation activity of universities, we must note that the basic factors contributing to the increase of innovation activity, in the opinion of the respondents from universities in Moldova, are:

1. University innovation policy –as mentioned by 210 respondents or 55.3%;
2. Qualified research and teaching potential (academic staff holding research and teaching degrees) - 203 respondents or 53.4% respondents;
3. The favourable environment for the development of creativity and innovation potential within the university (educational, scientific, professional) - 187 respondents or 49.2%;
4. Innovation infrastructure (research laboratories, creative centres, innovation incubators) - 182 respondents or 47.9%.

In terms of the influence of these factors within each university, it should be noted that both within Moldovan universities and UAIC University, the following factors have a positive contribution: innovation infrastructure, innovation potential, innovation policy. The findings are summarised in Figures 11, 12, 13 and 14.



**Figure 11 Factors influencing the innovation activity of USM**



Source: Developed by the authors by processing the collected data

**Figure 12 Factors influencing the innovation activity of USARB**



Source: Developed by the authors by processing the collected data

**Figure 13 Factors influencing the innovation activity of ASEM**



Source: Developed by the authors by processing the collected data

**Figure 14 Factors influencing the innovation activity of UAIC**



Source: Developed by the authors by processing the collected data

Analysing the problems faced by universities in the process of innovation activity, we must note that while respondents from Moldovan universities reported the issue of insufficient funding of innovation of faculty members or students, UAIC respondents mentioned that one challenge lies in the low number of centres aimed at developing students' creativity and innovation potential. The data are centralised in Table 4.

**Table no. 4. Problems faced by universities when engaging in innovation activity (%)**

Problems	USM	USARB	ASEM	UAIC
The lack of strategic vision of the innovation-driven development of the university	21.1 (2)	14.1	14.3(3)	4.9
Unfavourable environment for the development of creativity and innovation potential within the university	14.7	8.5	14.3(3)	9.8
Low number of creative centres (clubs) for students	2.1	15.0	5.7	32.3(1)
Reduced motivation (moral and material) of innovation activity of students and teaching staff	24.2 (1)	16.8 (2)	20.0(2)	13.0
Low quality of the technological equipment used	17.9 (3)	15.2 (3)	2.9	18.9(2)
The reduced state financing of innovation activity	6.3	23.3 (1)	31.4(1)	13.7(3)
The lack of innovation culture within the university	13.7	7.1	11.4	7.4

Source: Developed by the authors by processing the collected data

Considering the data presented in Table 4, we must point out that 23.3% of USARB respondents and 31.4% of ASEM respondents reported as a basic problem the insufficient financing of innovation activity of universities by the state. This issue was also raised by UAIC respondents (13.7%), yet it ranked third. Conversely, USM respondents consider this issue insignificant, as only 6.3% of USM respondents mentioned the issue. This would indicate that USM University has sufficient funding from the state or that the university receives additional funding from other sources. Furthermore, respondents from Moldovan universities highlighted the key issue of insufficient motivation of the innovative activity of teaching staff and students. This problem ranks first at USM, as reported by 24.2% of the research respondents and second at both ASEM and USARB, as noted by 20.0% and 16.8% of the respondents, respectively. However, the respondents both of Moldovan universities, except for ASEM, and of UAIC University, point out the issue of insufficient use of technologies, which ranks third among the challenges mentioned by respondents. Additionally, ASEM respondents emphasised the lack of strategic vision of the university

in the area of innovation and innovation activity (14.3%) and the lack of the required environment to foster creativity and the innovation potential of students (14.3%). Concerning the UAIC respondents, they estimated that a basic issue was the lack of centres for the development of students' creativity, which was noticed by 32.3% of the respondents. Also, a small proportion of respondents appreciated as a basic problem the lack of a strategic university roadmap for innovation activity.

The result of the research lists the factors that may contribute to the sustainable innovation-driven development of universities. The summary of the data is presented in Table 5.

**Table 5. Importance of factors that can contribute to the sustainable innovation-driven development of universities (%)**

Factors	USM	USARB	ASEM	UAIC
Devising the strategy for innovation-driven development of the university	23.0 (1)	17.1 (2)	26.1(1)	13.2
Adapting innovation culture and establishing university-wide innovation values	16.0 (3)	8.0	8.7	15.2 (2)
Designing curricula oriented towards fostering creativity and developing students' innovation potential	10.0	16.6	20.3(2)	12.7
Incorporating research and innovation practice in educational curricula	8.0	13.2	1.4	13.5
Setting up student innovation clubs	20.0 (2)	16.8 (3)	20.3(2)	22.0 (1)
Providing research labs with the required scientific and technical equipment	13.0	19.7 (1)	8.7	14.6 (3)
Including in research activity plans several indicators that would assess the university's innovation activity	10.0	8.6	14.5 (3)	8.8

*Source: Developed by the authors by processing the collected data*

As we can see from Table 5, although there are problems, respondents from Moldovan universities consider that the most important element and a basic factor is "devising the strategy for innovation-driven development of the university" (Strategia Cercetare-Dezvoltare a Republicii Moldova, 2020). This factor ranks first among responses at USM (23.0%) and ASEM (26.1%), while it is in second place at USARB (17.1%). Respondents of both the universities of Moldova and the UAIC University argue that in order to ensure the sustainable innovation-driven development of universities, the development of innovation centres for students must be ensured. However, this factor, within the UAIC University, ranks first, while it lies in the 2nd and 3rd place within the universities of Moldova. In 2nd place, the respondents of ASEM University ranked the need to develop curricula oriented towards fostering creativity and the development of students' innovative potential (20.3%). Within ASEM university, respondents consider it important to incorporate in the curricula indicators that may be used to assess the level of innovation-driven development of the university (14.5%). One of the important factors contributing to the emergence of sustainable innovation-driven university development is the innovation culture and establishment of innovative cultural values within universities. Respondents from UAIC (15.2%) and USM (16.0%) in particular pointed out this factor. The importance of the values was rated by the respondents as shown in Table 6.

**Table 6. Importance of innovative culture values (%)**

	USM	USARB	ASEM	UAIC
The university's innovation mission and its image as a creativity centre	16.7 (2)	13.3	6.4	12.7
The prevalence of the educational-innovative climate within the university	11.8	12.9	15.4 (2)	9.1
The importance of the research-development-innovation process within the university	12.7	13.5 (3)	12.8 (3)	14.2 (3)
Support for innovation activities of academic staff and students	19.6 (1)	17.7 (1)	12.8 (3)	21.8 (1)
Young specialists being treated as a considerable innovation potential for the sustainable development of the university	13.7 (3)	16.3 (2)	20.5 (1)	16.8 (2)
Promoting innovative ideas in order to file patents and register innovative products with AGEPI (State agency on intellectual property)	9.8	9.2	15.4 (2)	10.6
The management style in innovation activity is participative, involving researchers, teaching staff and students in decision-making	6.9	6.3	9.0	6.8
Supporting self-development and team spirit	8.8	10.8	7.7	8.0

Source: Developed by the authors by processing the collected data

As we can observe from Table 6, values of the innovation culture rank as follows according to respondents in universities:

1. Support for innovation activities of academic staff and students(1stplace - USM, USARB, UAIC, 3rdplace - ASEM);
2. Young specialists being treated as a considerable innovation potential for the sustainable development of the university (1st place - ASEM, 2ndplace - USARB, UAIC, 3rdplace - USM);
3. The importance of the research-development-innovation process within the university(USARB, ASEM, UAIC).

## Conclusions

The research highlighted that the innovation activity of universities must be planned and be reflected in universities' strategies, a fact noted by 314 respondents or 82.6%, of all respondents of universities in Moldova and 106 respondents or 76.8% of all respondents at the UAIC. Also, a large proportion of respondents, i.e. 76.8% of the respondents of Moldovan universities and 80.6% of the UAIC University, confirmed that the creativity of students ensures the sustainable and innovative-driven development of the university.

One of the important factors that contribute to the emergence of sustainable innovation-driven university development is the innovation culture and the establishment of innovative cultural values within universities. UAIC (15.2%) and USM (16.0%) respondents emphasised this factor. We would like to point out that the purpose and objectives of the research have been successfully achieved.

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***LAW***





## **THE LEGALITY OF THE 2020 REGIONAL ELECTION ON STATE CONDITIONS IN A HEALTH EMERGENCY**

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**Abstract:** *The legal basis for organizing regional elections (Pilkada) during this pandemic is Law no. 6 of 2020 which is the amendment of Law no. 10 of 2016. The amendments contained in Article 122, Article 201 and Article 202 are only about postponing the implementation of the 2020 Pilkada simultaneously, but there is no regulating the implementation of the Pilkada during the pandemic period. The 2020 simultaneous regional elections will be held on December 9 2020, this means that all stages of the elections are still in a pandemic period because the President has not revoked the health emergency stipulation based on Presidential Decree No. 11 of 2020. Meanwhile, derivative regulations such as PKPU No.5 of 2020 does regulate several restrictions in response to the implementation of the regional elections during the pandemic. Thus the simultaneous regional elections 2020 which were held during the pandemic which did not have the basis for the Law on the Pilkada during the pandemic, clearly have the potential to cause the implementation of the regional elections to be invalid because there is no legal basis.*

**Keywords:** *regional election, pandemic, regulation.*

### **Introduction**

The implementation of the 2020 regional elections has experienced a delay from the original schedule set by the KPU. Officially the postponement of the 2020 regional elections is outlined in Government Regulation in Lieu of Law (Perppu) Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents, and the mayor, which was later enacted as Law no. 6 of 2020 concerning Stipulation of Government Regulation in Lieu of Law (Perppu) Number 2 of 2020 concerning the Third Amendment to Law Number 1 of 2015 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2014 concerning Election of Governors, Regents and Mayors. The postponement of the 2020 simultaneous regional elections is because our nation is being hit by a pandemic and our country has declared a health emergency based on Presidential Decree No.11 of 2020 concerning the Determination of Public Health Emergencies for Corona Virus Disease 2019 (COVID-19), published on March 31, 2020.

The provisions for the simultaneous postponement of the 2020 regional elections are contained in the Amendment to Article 120 and the addition of Articles 122A and 201A, in full as follows:

- Amendment to Article 120 paragraph (1) which reads as, "In the event that in part of the Electoral area, the entire Electoral area, the majority of the region, or the entire area, riots, security disturbances, natural disasters, non-natural disasters, or other disturbances occur which result in part of the Election or simultaneous Election implementation stages not being implemented, a further Election shall be carried out or Continuous selection continued".

"The continued election or continuous selection as referred to in paragraph (1) starts from the stage of holding the Election or the simultaneous Election which has stopped.,".

Between Article 122 and Article 123 is inserted 1 (one) article, for Article 122A which in Article 122A paragraph (1) reads,

"The continued simultaneous election as referred to in Article 120 is carried out after the determination of the postponement of the simultaneous Election stage with the General Election Commissions (KPU) Decree is issued".

According to Article 122 A paragraph (2), the determination of the postponement of the simultaneous Election implementation stages as well as the continued simultaneous Election as referred to in paragraph (1) shall be carried out with the mutual consent of the KPU, the Government and the House of Representatives. " Further provisions regarding the procedure and time for the implementation of further simultaneous Elections are regulated in KPU Regulations (Article 122 A paragraph (3).

Furthermore, between Article 201 and Article 202 is inserted 1 (one) article, for Article 201A paragraph (1) which reads:

- Simultaneous voting as referred to in Article 201 paragraph (6) is postponed due to a non-natural disaster as referred to in Article 120 paragraph (1).

(2) The postponed simultaneous voting as referred to in paragraph (1) shall be held in December 2020. (Provisions for Article 122 paragraph (2).

In the event that simultaneous voting as referred to in paragraph (2) cannot be implemented, according to Article 122 paragraph (2), simultaneous voting is postponed and rescheduled immediately after the non-natural disaster as referred to in paragraph (1) ends, through the mechanism referred to in Article 122A.

The provisions of Article 122 and Article 201, Article 202 of the Election Law as the postponement article above are intended to be due to the Corona Virus Disease 2019 ("COVID-19") pandemic which has basically been designated by the President as a type of disease that causes a public health emergency. Although the articles of the Pilkada Law do not regulate the implementation of pilkada in a pandemic condition.

In fact, if we look closely at the provisions of Article 122 of the Pilkada Law, it is intended not to postpone the meaning of the entire territory of Indonesia but for regions per region or tps per tps so that the provisions are referred to in Chapter XVI for Advanced Elections and Secondary Elections, while the reasons for postponement after amendments are added with the sentence disaster. non natural. Thus the provisions for postponement based on Article 122 are not intended to be due to a pandemic, because if the provisions for postponement are due to a pandemic, many articles in the Pilkada Law will follow the conditions in accordance with the health emergency.

Based on the background of the problems above, the problem can be formulated whether it is legal to hold regional elections during a pandemic based on the Pilkada Law which does not regulate Pilkada in a pandemic or the Pilkada Law only regulates normal conditions?

## **Results and discussion**

The state of the abnormality of our country due to the outbreak of the Covid-19 disease is based on Presidential Decree No. 11 of 2020 as a health emergency, and this can also be seen in KPU Decree No. 179 / PL.02- Kpt / 01 / KPU / III / 2020 concerning the Postponement of the Stages of Election for Governors and Deputy Governors, Regents and Deputy Regents, and / or Mayor and Deputy Mayors in 2020. The decree broadly consists of 4 stages of holding postponed regional head elections including the inauguration of voting committees, verification of support requirements for individual candidates. , the establishment of Voter Data Updating Committee, as well as updating and compiling voter lists. Referring to the current situation due to the Covid-19 pandemic outbreak, the advanced selection mechanism is more appropriate to be implemented and set as an option. However, what becomes an obstacle for the choice of further election only refers to each respective region. However, it becomes a dilemma that the Pilkada Law does not regulate with regard to dangerous situations nationally, so it must be postponed simultaneously due to the widespread spread of this epidemic and for the sake of maintaining the health of the people. However, as a greater risk disaster mitigation effort, it needs to be appreciated when the KPU issued a step to postpone the 4 stages of the 2020 Pilkada as the right and responsive step in addressing the current situation to suppress the spread of the Covid-19 pandemic that is increasingly widespread.

Seeing the condition of the pandemic, all stages of regional head elections should be postponed totally. In terms of starting the postponed election stages based on KPU Decree Number 179 / PL.02-Kpt / 01 / KPU / III / 2020, including the postponement of the following stages to the voting stage, because it is impossible to hold elections according to the agenda set out in the law. -invited, if the covid-19 pandemic has not been completely finished. Indeed, the State should first focus on basic and fundamental matters, namely efforts to deal with the Covid-19 pandemic outbreak that has attacked Indonesia and strive for the welfare of its people equally.

As we know, the pilkada, which is carried out directly by the people, is one of the main means of realizing people's sovereignty in order to produce a democratic state government. The 1945 Constitution has clearly emphasized that general elections are held by a general election commission that is national, permanent and independent (Article 22E Paragraph (5) of the 1945 Constitution) which is based on elections: direct, general, free, secret, honest and fair (Article 22E paragraph (1) of the 1945 Constitution). It is realized that carrying out elections during the Covid 19 pandemic is very tough, difficult and expensive. So the Government must ensure safety, especially strict health procedures in elections. Among other things, the carrying capacity of the election is a legal framework that provides security protection in implementing election techniques. That the realization of free and fair elections must be made within a framework that ensures transparency in the electoral process. Fair for the electorate as well as for the organizers. There are no worries and shadows of fear for the organizers in carrying out the stages in the midst of the Covid 19 pandemic (Raden, 2020).

It takes a solid electoral framework, namely in the form of a legal framework that can ensure that election organizers have integrity, have strong capabilities and capacities. Culturally, it is also expected that there will be a conducive political nature that has the carrying capacity of participants, organizers and voters both in the election process and

results. In addition, it ensures high voter participation so that there is legitimacy for the elected regional head.

Many experts have agreed to state that elections are one of the important pillars in a democratic country. In short, a country will not be called democratic if the head of government and the people's representatives who sit in parliament are not elected through an election process. Elections are said to be democratic when they are carried out in a manner "free and fair election". It is stated emphatically that "free and fair elections are essential in assuring the consent of the governed" (Democracy in Brief, Bureau of Information Program US Departments of State). A democratic system based on law and people's sovereignty is the basis of life in the nation and state. Democracy as a system of government adopted by Indonesia states that a government is led by the people, by the people, and for the people. The embodiment of the democratic system is the holding of direct elections. The basic basis for the implementation of elections is article 22 E paragraph (1) of the 1945 Constitution which has mandated the holding of quality elections, including the widest possible participation of the people on the principles of democracy, namely direct, general, free, secret, honest and fair through a law. invitation.<sup>9</sup> General elections or Pilkada as a means of exercising people's sovereignty which is carried out directly, publicly, freely, honestly and fairly by guaranteeing the principles of representation, accountability and legitimacy in the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution.

The problems are not simple but they are so complex, including the ideas and concepts of the Indonesian rule of law that are so complex and complicated, even though it is known that many legal problems have not been properly resolved, especially in matters of the legal system and legal instruments in realizing legal certainty. Because apart from that there are not many choices for this pluralistic nation if it wants to survive, except to create a rule of law. Thus the essence (essence) of democracy lies in the real role of the people in the political process that runs especially in the making and implementation of public policies, namely various programs aimed at solving various public problems (society, nation and state) which are decided by the authorized official or institution. Public problems, for example: developing freedom of expression, overcoming poverty and unemployment, increasing the right of citizens to obtain education and health services and so on.

In a constitutional constitutional state, the state in implementing the postponement of the elections is in accordance with the provisions of the constitution, namely in the form of statutory regulations as a constitutional guarantee for the postponement of the 2020 Pilkada. able to protect the people and guarantee welfare (Preamble to the 1945 Constitution). In accordance with the adage put forward by Cicero in his book *De Legibus* which reads "Salus populi suprema lex esto". This means that people's safety is the highest law (Asshiddique, 2010). If you look at the context of the precarious situation, coercion and the inability of the Pilkada Law to respond to the current situation, a policy in the form of a Government Regulation in Lieu of a Law is the right thing. This is based on Article 22 of the 1945 Constitution that "In the event of a compelling crisis, the President has the right to stipulate government regulations as a substitute for the Law."

The Perppu Pilkada can be used as legality for the postponement of simultaneous regional elections for 2020. In the material content of the Perppu, it must include at least several things including the status of post-postponement stages, the scheme for filling

regional head positions for regions that experience regional head vacancies before the implementation of the pilkada, the 2020 election budget reallocation mechanism and determining the source of the post-postponement pilkada budget and at least paying attention to the implementation of the election with the design of the electoral arrangement which is specifically contained in the Constitutional Court Decision Number 55 / PUU-XVII / 2019 concerning the constitutionality of the simultaneous election model so that there is no patchwork in determining the schedule of the elections in the future. So if the state is responsive in responding to the postponement of regional elections through a Government Regulation in Lieu of a Law with all legal considerations and various other fields of study. So the law can run as a function according to Mochtar Kusumaatmadja (2002) that "Law should be used as a means to solve problems in the administration of the State.

The big question that arises is why the government together with the House of Representatives (DPR) and election organizers decide to continue implementing the 2020 regional elections in the midst of a pandemic? to answer this question, the KPU as the election organizer explained that the basis for making this decision referred to two things, namely Government Regulation in Lieu of Law (Perppu) Number 2 of 2020 concerning Pilkada and a letter of recommendation from the Task Force for the Acceleration of Handling Covid-19. In the Perppu signed by President Joko Widodo on May 4, 2020, Article 201A states that the simultaneous voting stages that were delayed due to non-natural disasters, in this case the Covid-19 pandemic, will be held again in December 2020. Following up on that, the government, The DPR and the KPU then decided on the day for the 2020 regional elections to fall on December 9. This decision was taken after consultation with all stakeholders, including the Task Force for the Acceleration of Handling Covid-19, the Ministry of Health (Kemenkes), and experts. Although, the same article also states that there is an option that allows for the postponement of the simultaneous regional election stages again until the situation and conditions support for the implementation of voting. Then the second basis is a letter of recommendation from the Task Force for the Acceleration of Handling Covid-19. Doni Munardo, as Chair of the Task Force for the Acceleration of Handling Covid-19, has given the green light to resume the 2020 simultaneous regional elections.

There is only one condition stipulated, namely that its implementation must comply with and carry out the Covid-19 health protocol. The reason is, based on data from the Task Force for the Acceleration of Handling Covid-19, of the 261 districts / cities that will carry out the elections, 40 of them are at high risk or the red zone for the spread of the corona virus. Meanwhile, as many as 99 districts / cities are in the orange zone or moderate risk, 72 districts / cities are in the yellow zone or low risk, and 43 districts / cities are in the green zone or are not affected by the spread of Covid-19. However, this is temporary data and is dynamic in nature. It could be that areas that enter the red zone ahead of the Pilkada turn into a yellow zone, or vice versa, the yellow zone can become an orange zone, even a red zone. Therefore, the health protocol must be carried out in all stages of the election and election organizers must be able to know in detail and follow the latest developments in which areas are green, yellow, orange, and red zones. In addition to Perppu No.2 of 2020 and the recommendation letter of the Task Force for the Acceleration of Handling Covid-19, the KPU also mentioned a number of other reasons why the regional elections should be held in the midst of a pandemic. First, until now no single person or institution can

confirm when the Covid-19 pandemic will end. The World Health Organization (WHO) itself some time ago gave the view that Covid-19 will not disappear automatically even once a vaccine has been found. In fact, they predict this virus will not disappear and will continue to exist side by side with humans (Rohim, 2016).

The next reason is, as was mentioned earlier, that currently all activities in various sectors have been allowed to gradually return in preparation for an era of adaptation to new habits. When the pilkada stages are not continued, this will be contradicting the government's policy. On the one hand, they allowed the public to return to their activities, but on the other hand, the elections were not continued. This will certainly be another question for the community.

Lastly, the KPU's consideration concerns election funds. If the pilkada is postponed again and passes the current year or is held in 2021, then the budget that has been disbursed this year will be wasted because it has passed the year of use. Meanwhile, the funds that have been disbursed have reached Rp. 4.1 trillion.

The government's argument that proposes the election for the election to be held in December 2020 has generated a lot of debate. Among them, as mentioned above, the Government argued about the takeover of the position of the regional head by the temporary acting and the reasons for not being explained when the corona pandemic ended, no party could confirm so that it was an excuse to implement it. Seeing the increasing trend of the spread of the corona virus actually suggests that the government is in a hurry to make decisions, without considering the conditions of society and not even seeing the political effects behind it. The fluctuation in the number of people exposed to Covid-19 along with the potential for very fast transmission through various mediums indicate that the social situation will not be the same.

The reason for the availability of officials is logical because it will be difficult to find officials at the intermediate and primary levels, especially since these positions are currently busy handling the outbreak, plus their limited authority later. The government's reason for referring to the Covid-19 emergency response period which ended on May 29, 2020 is considered less strong because it is only based on predictions that are inversely proportional to reality. The consideration of postponing the regional election to its sustainability must be based on the latest facts of the number of people exposed, then the number of people who have recovered to the mapping of areas prone to Covid-19. Not only partially guessing the development of certain regions, but the condition of all regions must also be seen nationally.

The handling of a pandemic in each region must be recognized differently depending on the implementation of the red zone. This means that attention should not only be focused on reducing the number of positive patients in a number of areas, but also on seeing preventive action and progress in areas where the number of patients is minimal. Because many areas have just started to become infected and the potential for spreading is increasingly widespread. So that the options taken really prioritize the safety of the entire community. At the same time, the discussion of the perppu to postpone the regional elections should not escape the attention of all parties. Legal certainty for postponing the elections should be hastened in order to avoid a legal vacuum because the mandate of the Election Law has not been implemented. With the Perppu, election organizers both KPU and Bawaslu can determine technical steps to formulate further regulations on the implementation of stages and their supervision. Although this epidemic has caused

confusion in the implementation of the elections, as much as possible the legal basis must be prioritized. As stated by the Head of Bawaslu Abhan, certainty is part of the principle of elections. So that legal certainty and certainty of stages are the main points in the Perppu.

The vote for the simultaneous regional elections in 2020 has been decided on December 9, 2020, this means that the Pilkada stages have started to run again. The General Election Commission (KPU) has now restarted the stages that had been halted due to the Covid-19 pandemic. One of them is the matching stage and research (verification) of voter data. In the midst of the COVID-19 pandemic which has yet to subside, public concerns arise, can this Pilkada be held safely, safely and legally? Pilkada certainly does not only channel people's political participation, but also produces quality leaders. But how can this be done, if the situation is not as normal as it is today? The KPU has indeed published PKPU No.5 of 2020 concerning the stages, programs and schedule of the Pilkada. Thus, the KPU resumed its Pilkada activities which had been delayed some time ago due to the COVID-19 pandemic. One of the most crucial stages that is being and will be completed is factual verification of the support of individual candidates participating in the Pilkada. PKPU No. 5 of 2020, the stages of the regional elections have indeed adjusted to the pandemic conditions, but PKPU No. 5 of 2020, of course, based on the Pilkada Law which still regulates it in normal conditions.

As is well known, factual verification must be carried out for all individuals who provide support to prospective regional head candidates through individual channels. In this stage, KPU officers who will verify the terms of support for these candidates will directly visit individuals to prove the validity of the support they provide to the prospective regional head candidates. In this condition, the Regional KPU must equip its officers with Personal Protective Equipment (PPE) so that they are safe and secure in carrying out their duties so that they are not infected with the SARS-Cov-2 virus. Unfortunately, with the very kasip conditions and the limited availability of PPE, of course this will be a serious problem that will be faced by the KPU and Bawaslu in the early stages of PKPU implementation (Arinanto, 2000).

Indeed, many people think that the Pilkada during the COVID-19 Pandemic feels too forced. In fact, the readiness of the organizers seems very minimal. Not to mention the issue of the budget for activities that have been determined, not all regions can use it because not all regions experience budget difficulties due to overcoming COVID-19. With the necessity to follow health protocols in the implementation of this Pilkada, it is inevitable that the budget for providing PPE must be allocated to ensure that all stages, programs and schedules that have been determined can be implemented.

Indeed, there are a number of concerns about the holding of this Pilkada so that it may neglect the quality of the Pilkada administration. First, due to unsafe and healthy conditions, during the implementation of the Pilkada stages and programs, what emerged was a permissive attitude and ignoring violations of existing rules by field officers. Because it is human nature that tends to choose safe and secure at work, if they are in danger, such as being infected with the SARS-COV-2 virus.

As a result, what has become their standard of work is neglected. This complaint actually appeared when the verification stage carried out on the support of the candidate for governor from the individual route carried out by KPU field officers was not implemented. Obviously this is detrimental to the verified individual candidate. Not to mention the other problems that will be faced when carrying out the next stages. Therefore,

KPU professionalism is demanded so that public trust in the organizers of this Pilkada is maintained. This condition is what is actually feared, when the organizer is very permissive and ignores how the implementation of the rules that have been set. One of the impacts is of course on the quality of the Pilkada produced. This condition is indeed a very dilemma for the organizers (Asshiddique, 2012).

The bad experiences of the 2019 simultaneous elections still overshadow the organizers of this Pilkada, especially with the presence of KPPS officers who died during the simultaneous Election. Not meant to scare. Simultaneous elections in normal circumstances are already high pressure faced by the organizers. Moreover, the Pilkada which is held is under the risk of being infected with COVID-19. If this does not get serious attention, the polling stations that are visited by the public as voters will become a new cluster of COVID-19 transmission. This condition must be anticipated by the KPU and Bawaslu as Pilkada organizers. Second, the question arises, what if the state of the COVID-19 pandemic gets worse, has the KPU prepared a backup plan to deal with this situation? For example, postponing the Pilkada in that area or canceling the overall implementation of the Pilkada or continuing to be carried out with the risk of being infected with COVID-19. Until now, the KPU has not yet explained the reserve plan, because this is clearly more important so that there will be no chaos in the implementation of the Pilkada during this pandemic. The third problem that must also be of concern to the KPU and Bawaslu in the regions is the level of voter turnout in the Pilkada. In the condition that the spread of the SARS-COV-2 virus has not subsided, of course there are public concerns to follow every stage of the Pilkada. The chances of being infected by these voters are greater, especially on election day with the potential for large crowds to gather. This concern is what makes them prefer not to come to the polling stations on election day, if there is no guarantee of their safety.

The presence of these voters also correlates with the economic problems of the people affected by the COVID-19 pandemic. Not a few of those who work in the informal sector feel the impact of COVID-19 on their lives. The prediction figure from Bappenas will add around 5.23 million new unemployed and 5.71 million poor people in Indonesia. In fact, it is estimated that for the next year, those who are directly affected by COVID-19 will still have difficulty meeting their economic needs. If this group is faced with the choice of whether they have to go to work to make ends meet or have to come to a polling station, of course the realistic choice is to work. In order to reduce the weight of pressure on Pilkada organizers to run safe, healthy and with quality, of course all parties must play a role in helping the implementation of this Pilkada. The problem now is how these parties take part in the success of the Pilkada in conditions that are indeed "abnormal".

The first stages that took place after the agreement in the RDP were the stages of starting the PPK and PPS working periods which were carried out due to delays in the stages before the widespread pandemic, namely starting on June 15, 2020, formation of PPDP since June 19, 2020, and factual verification for 14 days since PPS has received support documents for individual candidates since June 24, 2020. At least from the author's observations, these are the three closest steps that election organizers will take for this year's regional elections. Thus, it needs to be realized that even though the election day is still December 9, in terms of preparation for the voting day, the implementation will be carried out within a few days after the hearing which decided that the Pilkada should be held during this pandemic.



Law Number 6 of 2020 has indeed been born and has been passed as law as an amendment to the previous Pilkada Law. However, due to the nature of amendments to the law, several clauses in the Pilkada Law apply unless there is an amended article regulated in Law Number 6 of 2020. Some of them are related to the provisions on the implementation of stages that are regulated and are still in effect stated in the law as referred to referred to in the elucidation of Article 20, namely verification of support from an individual candidate who is the task of PPS, is a research activity regarding the validity of a statement of support, a photocopy of an Electronic Identity Card, proof of the absence of multiple support, the absence of supporters who have passed away, the absence of supporters who are not again being a resident of the area concerned, or there are no supporters who do not have the right to vote. Furthermore, it is conveyed that the recapitulation of support for individual candidates is by making details on the names of individual candidate supporters based on the results of the verification signed by the chairman and members of PPS and known by the head of the sub-district / village head or other designations.

Because this clause has not changed, its technical implementation in the field must run in accordance with the statutory provisions. In accordance with the clause above, the managerial management of the stages carried out certainly requires a lot of interaction between organizers, voters and other stakeholders. Article 48 of the Pilkada Law even states that technically the implementation is carried out by the census method, namely by meeting directly with each candidate's supporters. If a candidate's supporters cannot be found during factual verification, the pair of candidates are given the opportunity to present their supporters at the PPS office no later than three days after the PPS cannot meet those supporters. This is an inherent concern because the implementation of these activities should start on June 24, 2020, and must be done face-to-face between the organizers and voters and other stakeholders. On the other hand, in the concluding clause of the hearing, it was stated that one of the requirements that must be done is that it must be in accordance with the health protocol in coordination with the Covid-19 Task Force and be guided by democratic principles. This of course will experience several obstacles, both juridical, technical, and budgeting in terms of implementation in the field.

The availability of derivative regulations as technical guidelines that must be available according to the Covid-19 protocol for each stage, namely the procurement of appropriate equipment availability and there is also an upstream downstream cycle of procurement to distribution, certainty of budgeting, as well as adequate socialization and technical guidance to officers and the public. In relation to the provision of the availability of derivative regulations as stipulated in the KPU Regulations, it is stated that the preparation and stipulation procedures require a long flow of time because a public examination must be carried out first. Furthermore, consultations with the House of Representatives and the government in a forum for hearings through the process of invitations at Kemenkumham This procedure takes a long time.

Likewise with the following stages, such as checking the voter list until the final voter list is established in the regional elections, adequate forms of socialization and technical guidance, logistics procurement, polling station regression procedures to limit crowds, financing stages that must be adjusted to the current conditions of the Covid-19 pandemic in each region election. The standardization of its implementation is important

in maintaining the safety of the people to improve public confidence in the credibility of election administrators as well as the quality of its implementation.

On the one hand, we continue to carry out the local democratization process through regional elections according to the provisions, but what is also very important is making all efforts to maintain the safety of all parties amid the Covid-19 pandemic. The readiness of all parties, starting from the acceleration of technical regulations, innovations that adapt to applicable regulations, including strict voter discipline are the main things so that the objective of implementing a democratic election with the hope of high legitimacy for the results can occur and still cares about safety in the face of this Covid-19 pandemic. Likewise, the sociological condition of the voting community has become a concern and even a consideration of the implementation of policy planning with the full support of all parties. budgeting, as well as adequate socialization and technical guidance to officers and the public.

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Holding elections in the midst of a public health crisis has become a decision taken by policy makers, but large, targeted and immediate planning through technical provisions is a necessity to avoid worsening the situation of the Covid-19 pandemic in the community. As is well known, Law no. 6 of 2020 concerning Postponement of Pilkada is the legal basis for postponing the implementation of regional head elections simultaneously from 23 September 2020 to 9 December 2020. But more than that, the Perpu Pilkada also adjusts the rules of the game regarding further elections and subsequent elections, which become the basis for the implementation of regional elections in Indonesia. during the outbreak.

Article 120 of Law no. 6 of 2020 concerning Postponement of Pilkada regulates that:

In the event that in part of the Electoral area, the entire Electoral area, the majority of the region, or the entire area, riots, security disturbances, natural disasters, non-natural disasters, or other disturbances occur which result in part of the Election or simultaneous Election implementation stages not being implemented, a further Election shall be carried out or Continuous selection continued.

The implementation of the continued Election or the continued simultaneous Election as referred to in paragraph (1) starts from the stage of holding the Election or the simultaneous Election which is stopped. Article 120 of the Perpu Pilkada only adds one phrase from Article 120 which was regulated in the previous provision, namely 'non-natural disaster'. However, this addition is essential because the COVID-19 pandemic has been declared a non-natural disaster, based on Presidential Decree No.12 of 2020 concerning the Determination of Non-Natural Disaster for the Spread of Corona Virus Disease 2019 (COVID-19) as a National Disaster. Based on this provision, it is regulated that the simultaneous voting for the Governor and Deputy Governor, the Regent and Deputy Regent, as well as the Mayor and Deputy Mayor of the 2015 election results which was originally held in September 2020, is postponed due to a non-natural disaster. Seeing the current conditions for the prevention of COVID-19, or at least until the Perpu Pilkada is issued on May 4, 2020, in my opinion it is very inappropriate to carry out the Pilkada. Based on existing data, the number of sufferers and deaths due to COVID-19 is still very high. The government still receives a lot of criticism due to delays in action and confusion of information and coordination in the field, so that many health protocols are not implemented by the community. Meanwhile, the actual implementation of the Pilkada in December 2020 as stipulated in the Perpu Pilkada, is only a matter of voting day.

Pilkada preparation, starting from candidate registration, verification, to campaigning, has been taking place since mid-June 2020. In fact, in June 2020, COVID-19 data still showed a very high number. If the implementation is carried out since June, it is feared that this data will continue to rise, not sloping as expected and has happened in many other countries. On the other hand, there are financial problems too. Indonesia's economic condition is currently in decline, while strict health protocols have actually created an increase in the cost of implementing the Pilkada. Starting from sanitation equipment, masks, to waiting and voting facilitation which must be modified so that there is sufficient distance for voters. Pilkada actually does not need to be forced to be held in 2020. One of the reasons for the urgency of the Pilkada contained in the Perpu Pilkada is to maintain domestic political stability. Although it is not explained further in the Perpu Pilkada, in my opinion, there are concerns because there is an expired term of office, while the 2020 Pilkada is one of the Pilkada held simultaneously. Regarding this matter, actually Perpu No. 1 of 2014 and its amendments have regulated the existence of an executor of duties for regional heads whose term of office has expired.

To fill the vacant position of Governor, an acting Governor is appointed from an intermediate high leadership position up to the Governor's inauguration in accordance with the provisions of laws and regulations. Meanwhile, to fill the vacant position of Regent / Mayor, an acting Regent / Mayor is appointed from a high-ranking executive position up to the inauguration of the Regent and Mayor. Changing the Pilkada to be simultaneous does have a logical consequence of having a regional head whose term of office expires until the next simultaneous Pilkada. Thus, there is no legal problem here. What exists is a

contestation of political interests in the regions. In fact, the lives of residents will be at stake.

In terms of juridically between the health emergency and the implementation of the Pilkada, several legal problems emerged, as stated by the Association for Elections and Democracy (Perludem) which encouraged the 2020 Pilkada to be postponed until 2021 so that the preparation time for the further election stages would be longer. Perludem Program Manager, Fadli Ramadhanil said, organizing regional elections in the midst of the Covid-19 pandemic requires a legal basis because existing regulations only regulate in normal conditions. We have to admit that we currently do not have the legal framework at the legal level to hold regional elections in the midst of a disaster. Law Number 10 of 2016 concerning Pilkada only regulates emergencies or disasters in a part of the region. Unlike Covid-19 which was set to be a national disaster, almost all regions that were organizing the 2020 Pilkada were exposed to the corona virus.

The implementation of regional elections in the midst of a pandemic is also not regulated in Law Number 6 of 2020 concerning Pilkada. The Pilkada Law only regulates the postponement and rescheduling of the 2020 Pilkada voting to December from the original schedule in September due to Covid-19. It didn't set the election at all in the midst of a disaster. But because the regional elections continued to be pushed in the midst of pandemic conditions, a legal framework that regulates the technical details of the election, especially its adjustment to health protocols, is needed. If the President does not revoke the disaster emergency situation, then the KPU Decree issued during the Pilkada stage cannot be used as the object of a lawsuit as stated in Article 49 of Law No. 5 of 1986:

- The court is not authorized to examine, decide, and resolve certain State Administrative disputes in the event that the disputed decision is issued:
- in time of war, in a state of danger, a state of natural disaster, or an extraordinary situation that is endangering, based on the prevailing statutory regulations;
- in an urgent situation for the public interest based on the prevailing laws and regulations.

## **Conclusion**

Based on the description and discussion above, it can be concluded that the legal basis for organizing Pilkada is in the form of Law no. 6 of 2020 does not regulate the implementation of Pilkada during a pandemic, which is regulated only a matter of postponement so that derivative regulations such as PKPU No. 5 of 2020 which regulates Pilkada activities during the Pandemic period has the potential to violate the political rights of citizens, so it can be said that the holding of Pilkada during a pandemic period which does not have a legal basis is invalid according to law.

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## **LEGAL REVIEW OF MANAGEMENT RIGHTS IN THE CREATIVE WORK LAW (LAND CLUSTER)**

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**Abstract:** *This paper will explain related land policies, among others, manifested through the concept of granting Management Rights (HPL) with a term of 90 Years in the Cipta Kerja Law with the aim of attracting foreign investors who are expected to have an impact on the resilience and state land in the form land monopoly. the question is whether the Management Right is the right to control the state over land or land rights. this is because management rights are not stated in the Basic Agrarian Law, but are mentioned in management. and we must understand that HPL does not have a legal basis that's is in accordance with the hierarchy of laws and regulations is also in substance contrary to the main procedural objectives of the basic regulations. As a result, long before the Omnibuslaw was born HPL caused a lot of controversion and many problems in practice. As a result, long before the Omnibuslaw was born, HPL Caused a lot of controversy and problems in practice. Many cases due to HPL, occur everywhere. the existence of HPL must be addressed, especially in the legal system, given the right legal basis, or eliminated altogether. so that framework of regulatory structures can be created that is truly harmonized with good rules as a basic philosophical foundation as the basis for a comprehensive arrangement. so that it can align the objectives not only to advance the economic aspect of investment but also to reduce the gap and direct distribution of land use and management through an institutional called the Land Bank.*

**Keywords :** *Legal Review, Work Law, Land Cluster.*

### **Introduction**

The policy of The Government of Ir. Joko Widodo, to improve economic development, takes into account its influence on national land. But looking at the policy of land law through agrarian politics, it was not accompanied by the structuring of the legal system. As a result many provisions of land law overlap. In the process of establishing a legal system (lawmaking) against the birth of the Omnibuslaw Law, especially land clusters there are indications that there has been politicization of the law, at least in the regulation of HPL (Management Rights). In the Basic Agrarian Law of 1960 there are no rules on Management Rights (HPL). As a result, HPL has caused chaos of land tenure, because it is a form of perversion of the right to control of the state (HMN). In fact, in the Decision of the Court No.001-021-022/PUU-1/2003 that HMN means the policy of regulation, management, management and supervision referring to Article 33 Paragraph 3, and does not mean the state owns the land. While in the Copyright Act, HPL as a granting of rights on state land such as wanting to revive the concept of domein verklaring colonial era, which has been removed in the 1960 UUPA.

According to Professor of Faculty of Law, Gajahmada University, Yogyakarta, Prof. Dr. Maria S.W. Sumardjono., S.H., MCL., MPA, long before Omnibuslaw was born in his book entitled "Reflections on Various Land Policies" (2020) has skinned the land policy implemented by the government. Prof Maria said the regulation on Management Rights (HPL) was not intended to straighten out the concept of HPL as a "function" of management, but instead to establish it as a civil "right" as shown in the title "Strengthening Management Rights". Crucial issues include (Maria, 2008):

- (1) violate Article 28 of the ACT, as it governs that HGU may be administered on HPL land; (2) the arrangement of the legal relationship between HPL holders and third parties utilizing
- (2) a portion of HPL land and its authority, denying the regulation on the position of HPL as an asset (BMN/D or SOE/D);
- (3) the period of land rights on HPL land shall be granted at once for 90 years and in certain circumstances the granting of land rights on HPL land can be granted an extension at once.

According to Prof Maria, increasing the attractiveness of investment by granting 90 years of land rights or extension of rights at once with the granting, it clearly violates the Constitution. Ease can be given through simplification of administration, for example the application for extension of rights can be done 5 years before the right expires (see Regulation of the Minister of Agrarian affairs and Spatial Planning / Head of BPN No. 7 of 2017 Arrangements and Procedures for Determination of Business Rights) to be processed his Decree, but the extension of his rights is granted simultaneously with his registration.

Furthermore, to restore HPL as a public management "function", it must be done by:

- (1) the affirmation that Property Rights, Building Rights, and Usage Rights can be granted above the Management Rights (HPL), but business rights (HGU) can still only be granted on state land in accordance with the Law - Agrarian Basic Law (UUPA);
- (2) The authority of third parties to perform legal actions through the utilization of part of the Land Management Rights (HPL), shall be submitted to the provisions on the utilization of Management Rights (HPL) as assets in accordance with applicable laws and regulations, outside the land law regime.

The government in this case has deviated the implementation of the Basic Agrarian Law (UUPA 5/1960), and explored land policy by quibble for the benefit of the state and investment. And by using the authority owned, the government acts on behalf of the State, which at the highest level holds power over the land to carry out the liberation and revocation of people's land in the national interest. The national interest, elastically interpreted according to the will of the ruler. Furthermore, the author argues that there is an over-interpretation of the Right to Control of The State on Land, and the disresues of the principles of the UUPA that are packaged in agrarian political policy by the government, both in the form of legislation and its implementing regulations have created overlapping regulations and led to inequalities and injustices in the social and economic fields of society (Harsono, 1997).

Since the beginning, the presence of this omnibus law raises a variety of concerns, among others, potentially causing many agrarian problems. The contents of the omnibus law are considered by various experts and academics, as well as researchers, considered to

be inclined to side with businesses and potentially further complicate the implementation of agrarian reform. Concern over the chaos in national land law has actually occurred since the Era of the New Order Government, which then led to the People's Consultative Assembly (MPR), issuing Decree IX / 2001 on Agrarian Reform and Natural Resource Management. The spirit of this MPR Decree is to restore land regulations referring back to the 1945 Constitution and the UUPA.

Quoting Eko Cahyono's statement from the Sajogjo Institute through the Mongabay environmental site, he said that the agrarian problem in Indonesia is inequality in land tenure and conflicts continue to occur. This condition is not properly answered by the Job Creation Law (UU Cipta Kerja. Meanwhile, Prof. Dr. Maria S.W. Sumardjono, Professor of the Faculty of Law, Gadjah Mada University (UGM) assessed that many articles in the Job Creation Law concern land clusters with substantive and formal problems. The Job Creation Law, will cause many problems in agrarian issues. In contrast to Prof. Maria and Eko Cahyono, Sofyan Djalil, as the Minister of Agrarian Affairs and Spatial Planning / BPN, explained the question of "how important" omnibus law is. By 'fixing' 79 conflicting laws through the Job Creation Law, the investment climate will be easier. That way, investors are willing to invest in Indonesia, they don't need to deal with many permits which are considered complicated (Sadono, 2010).

Then, referring to the Basic Agrarian Law, said Eko, it is clear that land has a social function. It cannot be traded and cannot be commodified. The creation of a land bank, he said, was an unconstitutional act. Viewed from the side of political law. According to Eko, the ratification of the Job Creation Law shows that legal politics seeks to bypass various regulations, remove bottlenecks or all barriers to investment in Indonesia. With the assumption, Indonesia's economy will suffer if investment does not come in. Agrarian Activist Sajogjo Institute invites to look at the findings of the KPK in the national movement to save natural resources, which clearly shows the inhibition of investment as a corruption so the conditions and processes are already corrupt. Then answered by omnibus law that has a high potential for corruption. actually want to use investment for economic growth with the main problem of the law is corruption. This instead legalizes the omnibus law which has the potential to perpetuate corruption.

According to thrifty authors, so far many government agencies use the land under its control for business purposes, while the UUPA asserts that for the benefit of government agencies are given special usage rights for public services are not commercial. And of course, this clearly violates the conception of the right to control the state on land, and this condition as Eko's opinion above, can actually be a potential corruption, although the desire to trim the licensing process is expected to facilitate and accelerate the acquisition of rights for investors.

## **Research methods**

This type of research is a legal research, which is a research conducted through a way of reviewing the rules and laws that apply to answer the legal problems studied. Legal research is a research by analyzing the rule of law and law based on dogmatic law, legal theory, and legal philosophy. Problem formulation in this study:

How is the Implementation of Management Rights within a period of 90 years that has an impac



How is the Development of Management Rights up to the management of the Land Bank Institution? on violations of the Constitution?

### **Results and discussion**

The development of National land management rights as a legitimate control based on people's welfare. In advancing the reform of the National Land Law the government has a number of details in the improvement so that it can face the era of globalization, which today has felt its influence in the field of activities and control over a right to land. The right to control of the country is the authority to (Harsono, 2007):

- regulate and organize the allocation, use, provision and maintenance of the earth, water, and space
- determine and regulate the relationships of people with the earth and others (in other words the state is authorized in determining and regulating civil rights and other rights obtained on the earth).
- determine and regulate the legal relationships between people and legal acts that exist in the context of the earth, water and space (Article 2 paragraph (2)) authority that is sourced on the right of control of the country, used later to achieve the prosperity of the people in the sense of nationality, welfare and independence in an independent, sovereign, just and prosperous Indonesian society and legal state (Article 2 paragraph (3)).

In the implementation of the right to power from the country is authorized to the swatantra region that is autonomous so that there needs to be anti-opposition in the indigenous legal community, the government and businesses that focus on development interests (Sukirno, 2006), so that state power is only limited to the legitimacy of power which gives authority to land owned by a person with a right, be it property right, right to cultivate, right to build or use right according to its designation and needs or to give it in management to a ruling body to be used for implementation of their respective duties so that the points of Article 2 paragraph (3) can be administered and mandated by law in accordance with their designation, namely the welfare of the entire community. Talking about land use rights, one of which is quite controversial, namely the Management Rights granted 90 years for foreign investors, the most feared thing is that there is a monopoly in terms of objectives that can have fatal consequences for the administration of government itself and the defense system itself. Talking about land use rights, one of which is quite controversial, namely the Management Rights granted 90 years for foreign investors, the most feared thing is that there is a monopoly in terms of objectives that can have fatal consequences for the administration of government itself and the defense system itself. Management rights provide opportunities for collaboration with third parties. Article 6 regulates that the HPL holder can surrender parts of the land to a third party, with a usufruct of 6 years. HPL holders are widened again by article 7 which regulates that in addition to the agencies mentioned in Article 4, management by the Minister of Agrarian Affairs can also be given to other agencies which to carry out their duties require control of state lands, with this authority in Article 6. Article 5 PMA 9 of 1965 stipulates that HPL is given when state land is not only used by the agency given the right, it is also intended for cooperation with third parties. Article 6 regulates the authority of the HPL holder in addition to making

plans, also to use the land to carry out their duties, and to hand over part of the land to a third party with a use right for a period of 6 years.

From the shadowy foundations of the concept in the UUPA, the role of HPL is increasingly clarified in the next implementing regulation, even the concept which is shaky its footing is used as the basis for regulating in the form of a law. For example, Law Number 16 of 1985 concerning Flats, and Law Number 21 of 1997 concerning Fees for Acquisition and Acquisition of Rights to Land and Buildings. In the explanation of the UUPA it is emphasized that according to Article 33 of the 1945 Constitution, the state does not need to act as the owner of the land, only has the power to regulate. For this reason, the state has the authority to grant rights to individuals or legal entities, in the form of property rights, HGU, HGB, or use rights, or to give them in management to a ruling body (department, service, or autonomous area) to be used for carrying out their respective duties. -Each, according to article 2 paragraph 4. This is where the word management first appeared, although it has shifted somewhat from Article 2 paragraph 4 of the UUPA, and there are still limitations that management is still related to the duties of each agency assigned the management task. Article 2, paragraph 4 reads: "The right to control of the state above its implementation can be exercised in autonomous regions and customary law communities, only necessary and does not conflict with national interests, according to the provisions of government regulations". the conception of flats and violates the principle of horizontal separation and the principle of the UUPA regarding land rights for foreigners. Furthermore, in Law no. 20 of 2011 concerning Flats emphasizes the difference between flats standing on leased land and those standing on private land, in this case HGB and HP. Flats on leased land, can be rented or owned by anyone: Indonesian citizens / foreigners, Indonesian legal entities / foreign legal entities because they do not involve joint ownership of land. Proof of rights in the form of Building Ownership Certificate (SKBG) because what is owned is only the building / building. SKBG is issued by the Government of 83 Regency / City. It is different if the apartment is on HGB / HP land, where there is individual ownership of the unit / flat / apartment, as well as joint ownership of the land, building, and part of the apartment concerned. Proof of ownership rights in the form of a Certificate of Ownership on a Flat Unit (HMSRS Certificate) issued by a land agency.

It is somewhat surprising that the Minister of ATR made the following statement: that the right to use for the apartment is considered to be an obstacle for foreigners working in Indonesia. It is stated that the foreigner needs the space (meaning: the building), the foreigner buys an apartment without land. This statement is "miraculous" because consciously or not, what the Minister of ATR means is an apartment that stands on leased land. Even without special rules made by law, there is no problem if foreigners buy an apartment that stands on leased land. This statement is in accordance with the definition of a flat in Article 143. However, it is different from what was stated by the Minister of ATR, which is also regulated in the Law, which indicates that it is permissible for foreigners and foreign legal entities to have flat units on HGB land (Article 145). guarantees that shared land with HGB status can be granted extension and renewal of rights after obtaining a Certificate of Acceptability of Function (notes on this can be checked in the previous description). Realizing that what is regulated in this law is contrary to the UUPA and the Law on Flats (UURS), then in the Elucidation of the Law it is stated that this provision only applies in Special Economic Zones (KEK).

The question is, does the existence of KEK give legitimacy to make regulations that contradict the UUPA, UURS, and other related regulations? Is KEK a "state within the state", or vice versa, is it not included in the territory of the Republic of Indonesia so that it does not submit to the legal jurisdiction of the Republic of Indonesia? Who can guarantee that the rules for the ownership of flats by foreigners in this law are not followed by developers outside the KEK, so that violations of the principles of the UUPA and UURS are also legal for locations outside the KEK?

The second feature of HGB over HPL is that it specifically regulates ownership of apartment units whose shared land has the status of HGB above HPL for foreigners and foreign legal entities (Articles 143-145). Logically, with the opening of the investment door, it is necessary to provide the possibility of owning an apartment for foreigners working in Indonesia. The definition of flats is twisted in such a way, deliberately obscuring the notion of flats that stand on leased land and flats that stand on land rights, in this case HGB and Use Rights. Overall Articles 143-145 stipulate that foreigners and foreign legal entities can own flats standing on HGB land, which clearly violates the conception of flats and violates the principle of horizontal separation and the principle of UUPA regarding ownership of land rights for foreigners. Furthermore, in Law no. 20 of 2011 concerning Flats emphasizes the difference between flats standing on leased land and those standing on private land, in this case HGB and HP. Flats on leased land, can be rented or owned by anyone: Indonesian citizens / foreigners, Indonesian legal entities / foreign legal entities because they do not involve joint ownership of land. Proof of rights in the form of Building Ownership Certificate (SKBG) because what is owned is only the building / building. SKBG is issued by the Government of 83 Regency / City. It is different if the apartment is on HGB / HP land, where there is individual ownership of the unit / flat / apartment, as well as joint ownership of the land, building, and part of the apartment concerned. Proof of ownership rights in the form of a Certificate of Ownership on a Flat Unit (HMSRS Certificate) issued by a land agency.

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that the rules for the ownership of flats by foreigners in this law are not followed by developers outside the KEK, so that violations of the principles of the UUPA and UURS are also legal for locations outside the KEK?. it should be a special economic policy that focuses on countries in asean, especially Indonesia, to prioritize the analysis of the application of the policy itself, not necessarily to apply it without clear boundaries, causing confusion, one of which is disturbing stability to chaotic overlapping of reducing the national legal system.

### **Land Bank as a Provider of Land for the Allocation of National Development Goals in the Economic Sector**

If seen also in the government's plan to manage land assets in order to increase investment cooperation by investors, it is considered to impose land redistribution for the community, especially the lower class, the institution is considered to be able to synergize in achieving the objectives of development programs with economic objectives so that it can clarify the role of government institutions in the welfare of the people. . There are also institutions in the form of a Land Bank which was formed as an institution that provides land not only for civil society but also for business actors such as investors. If the Land Bank was primarily formed to provide land to investors in the hope of creating the widest possible employment opportunities, the question is, where did the land for the investor come from? Of course, from the results of land acquisition originating from community land and customary law communities (MHA). If this happens, then the community and the MHA who originally owned land and obtained the results / production from working or taking advantage of and exploiting land and other natural resources in the environment where they live / work and / or within their territory, with compensation given, they have relocated. independently, far from the original place of residence, without the certainty of obtaining socio-economic welfare that is at least equal to the previous conditions.

Those who previously were able to live from working in agriculture and other jobs in rural areas, as well as MHA could support themselves independently without assistance from the government, could very well lose their jobs because they have to organize their life in a new place. The impact is certainly worse for women as household heads who are forced to make a living in a new place. If the location which later became the authority of the Land Bank was provided for investors, and if later factories and other forms of business activities were built, would it be possible to create the widest possible job opportunities. Must see:

- First, is it impossible for the available employment opportunities to absorb as many workers as possible. It must be limited because there are conditions that must be met by prospective workers and this is very reasonable.

- Second, then, what about the fate of the former holders of land rights / MHA whose land was released to be controlled by BT.

It is unlikely that they will be absorbed in new employment opportunities, either because of the distance from where they live, or the fulfillment of the requirements to be accepted as a workforce. This phenomenon can be understood as “creating jobs” by eliminating existing jobs. The labor force that is absorbed is limited and is likely to come more from “outside” (not from local communities whose land has been taken over to be used as areas for economic development).

Without empowerment for former rights holders / MHAs, through regulations on the need for monitoring and evaluation of former rights holders / MHAs to ensure that their economic welfare does not diminish after relocating independently from their original place, the opening of employment by investors will not affect the fate of the majority. former rights holder / MHA who left their land in the interest of providing land for investors through BT. To smooth out the big scenario that begins with the formation of BBT, BBT is given HPL status (Goesniadhie, 2010). If the Land Bank was primarily formed to provide land to investors in the hope of creating the widest possible employment opportunities, the question is, where did the land for the investor come from? Of course, from the results of land acquisition originating from community land and customary law communities (MHA) (Kusumaadtmadja, 2006). If this happens, then the community and the MHA who originally owned land and obtained the results / production from working or taking advantage of and exploiting land and other natural resources in the environment where they live / work and / or within their territory, with compensation given, they have relocated. independently, far from the original place of residence, without the certainty of obtaining socio-economic welfare that is at least equal to the previous conditions.

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- compiling a plan for the designation, use and utilization of the land in accordance with the spatial plan;

- use and utilize all or part of the HPL land for own use or in cooperation with third parties; and
- determine the tariff and receive income / compensation and / or mandatory annual money from third parties in accordance with the agreement.

As a note, it can be stated that the content of Article 137 paragraph (2) has undergone a modification of the authority of the HPL holder according to the previous regulation (PMA No.9 of 1965 y.o Permendagri No.5 of 1974; Permendagri No.1 of 1977).

In the Law, the authority of the Land bank Agency as the holder of HPL in order to support investors is contained in Article 129 paragraph (4), namely:

- carry out the preparation of the master plan;
- help to facilitate Business Licensing / Approval;
- carry out land acquisition; and
- determine service rates.

Thus it can be said that the Land Bank Agency has the authority to hold HPL plus. As an HPL holder, when preparing land for BBT investors, they are authorized to help facilitate Business Licensing / Approval and determine service rates; as an HPL holder, if the HPL on behalf of BBT is collaborated with a third party, BBT can determine the tariff and receive the annual mandatory income and money. The management of the two sources of wealth mentioned above (service fees and income and annual mandatory fees) needs to be carried out in a transparent and accountable manner to prevent corruption from occurring in all its effects, including hindering investment. How do you make the land that has been obtained by the Land Bank Agency to be given to other parties, for example the Government / Regional Government, BUMN / BUMD. In Article 137 paragraph (4) it is stated that HPL can be released to other parties who meet the requirements. This provision should not be interpreted as direct release, but rather released for later on HPL land which has become state land can be given HPL on behalf of another party who meets the requirements. Excessive provisions can be found in Article 141 which states that in the context of controlling the use of land rights over HPL, within a certain period of time, an evaluation of the use of land rights is carried out. Why is it too much? Because it must be specifically regulated in law.

The question is, has so far the ATR / BPN not supervised and controlled all land rights that have been assigned, whether given on state land or on HPL land. The closing note on Land Bank is the regulation regarding the institutional structure of a Land Bank as stipulated in Articles 130-134. Judging from its structure, the BT Institution is dominated by the Ministry of ATR / BPN. The Chairperson of the Committee is held by the Minister of ATR, accompanied by members consisting of 86 Ministers and related Heads. The Chairperson and members of the Committee are determined by a Presidential Decree based on a recommendation from the Minister of ATR. This formula should have been split into two paragraphs. The Supervisory Board consists of 7 (seven) persons consisting of 4 (four) persons from professional elements selected by the Central Government, elected and approved by the DPR. And the 3 (three) people elected by the Central Government.

## **Conclusion**

The land substance contained in Chapter VIII Part Four (Articles 125-147) of the Job Creation Law (UU) is proven not to simplify regulation because Law No.5 of 1960

(UUPA) as the original Law was not referred to for amendment / deletion. The formulation was prepared by copying the substance in the Land Bill, which discussion was postponed on September 23, 2019 due to crucial issues for which no solution has been obtained. The addition of the formula in the law actually adds to the complexity of its substance. The arrangement of land arrangements is based on large scenarios to open up investment opportunities through relatively easy land acquisition for business actors. For this reason, a Land Bank Agency was formed which would provide land and help provide Ease of Business Licensing / Approval. The position of the Management Rights (HPL) as a function was changed to become rights because it was used as a basis for the rights of third parties to run their businesses by obtaining Land Rights over the HPL. Building Use Rights (HGB) over HPL are used as the prima donna because the majority of types of development for investment require a right base in the form of HGB. Even though the HGB has not ended, an extension and renewal of rights can be given after obtaining a Proper Function Certificate (SLF). This provision has the opportunity to be submitted for review in the Constitutional Court. In particular, foreigners and foreign legal entities are allowed to own 89 apartments / sarusun whose shared land has HGB status.

Unfortunately, this scenario was drafted in violation of / contradicting the Constitutional Court Decision, TAP MPR IX / 2001, UUPA, and Nawacita especially the fifth program. On the other hand, mentioning Agrarian Reform (RA) as one of the objectives of the Land Bank has no impact on the redistribution of agricultural land. The Land Bank ideology is incompatible with the objectives of RA. Apart from being ambiguous, this provision has the potential to weaken the implementation of RA as stipulated in Presidential Decree No.86 of 2018 concerning Agrarian Reform. Therefore, the question of what the law actually means and the function of law in society can be returned to the basic question: what is the purpose of law. In the final analysis, the main objective of the law if it is to be reduced to one thing only is order. Order is the ultimate and first objective of all law. this need for order is a fundamental condition for the existence of an orderly human society. legal harmonization does not only concern matters that are intended to avoid overlapping or conflicting arrangements. in law harmonization defines efforts to harmonize objectives, strategies to achieve goals, and guidelines for implementing strategies so that the objectives of each statutory regulation can be achieved. Therefore, the importance of reviewing the concept of the Omnibus Law Work Creation Law into the basic regulations of the agrarian foundation which refers to several rules and decisions of Mk MPR IX / 2001 UUPA and Nawacita, especially the fifth program. On the other hand, mentioning Agrarian Reform (RA) as one of the objectives of the Land Bank has no impact on the redistribution of agricultural land. The Land Bank ideology is incompatible with the objectives of RA. Apart from being ambiguous, this provision has the potential to weaken the implementation of RA as stipulated in Presidential Decree No.86 of 2018 concerning Agrarian Reform. As well as the preparation of five RPPs for the implementation of the Law has the potential to increase legal uncertainty because the land substance in the Law is contrary to the original Law (UUPA) and the implementing regulations which are still fully valid. so that existing land regulations can be used to support investment. Improvements can be made as needed, without having to introduce new regulations that are problematic in law. To encourage investment, what must be done is to provide more professional, clean and responsible land services.

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## **FULFILLMENT OF DECENT AND AFFORDABLE HOUSING NEEDS THROUGH THE AVAILABILITY OF PUBLIC FLATS**

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**Abstract:** *Sustainable development and environment is development that meets the needs of the present generation without diminishing the opportunities for future generations to get a chance of life, with the goal of achieving ecological sustainability, economic, social, cultural, political, and defense and security. In fact, in an effort to meet people's need for affordable housing and residential areas for low-income people and to meet the demands of modern lifestyles, the government has always been faced with the problem of land limitations available for housing development, especially in densely populated urban areas. This is one of the obstacles in meeting the needs of public housing, resulting in a high number of housing backlogs in Indonesia, because the number of people who need a home is more than the supply of homes that can be provided in each year. Thus, strategic steps are needed that can be a breakthrough to overcome the housing backlog. This research is a legal research, a research by analyzing the rule of law and law based on dogmatic law, legal theory, and legal philosophy. The purpose of this study is to review Law No. 20 of 2011 on Flats, especially efforts to meet the needs of decent and affordable housing through the availability of public flats. As a regulator, the Government makes and prepares regulations and policies. Through various regulations issued by the Government is expected to be a solution in unraveling and addressing the problem of public housing and does not overlap, so that the target of meeting the needs of decent and affordable homes for MBR can be achieved.*

**Keywords:** *sustainable development, housing backlog, public flats.*

### **Introduction**

As the mandate of the Constitution which states that everyone has the right to live a prosperous life inwardly and outwardly, live and get a live environment that is viable and healthy, the state is responsible for the implementation of the housing and settlements for the people. In order to carry out these responsibilities, the state is obliged to meet the needs of a decent place of residence for all people, as the fulfillment of the civil and political

rights, economic, social and cultural rights of each of its citizens, of which these rights are attached to man as a natural right, contained in the International Covenant on Economic, Social, and Cultural Rights set forth in The United Nations General Assembly resolution 2200 A (XXI) dated December 16, 1966 (Kurniati, 2014). Furthermore, the International Covenant on Economic, Social and Cultural Rights by the Republic of Indonesia has been ratified through the establishment of a law that ratifies it (Law Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Culture Rights). In addition, Indonesia has also ratified the International Covenant on Civil and Political Rights with a law specifically made to ratify it. The hope of the community with the ratification of the two covenants is that there is a guarantee of legal certainty and justice for upholding their human rights, especially in fulfilling the need for livable housing which is the government's obligation to fulfill it. Ideally, every family should have an adequate place to live, especially for low-income families and people who live in densely populated urban areas. But in reality, with various obstacles and problems as discussed in the previous chapter, the housing backlog figure is still high. This means that there are still very many families, especially the low-income group, who do not live in proper housing or do not have houses. This is where the role of the government as state administrator is needed in maintaining the continuity of housing provision to meet the needs of adequate housing for all people, as a form of state responsibility in fulfilling citizens' rights, especially in the housing sector.

### **Legal materials and method**

This research is a legal research, which is a research that is carried out by examining the rules and laws that apply to answer the legal problems under study (Ibrahim, 2012). Legal research is a research by analyzing legal rules and laws based on dogmatic law, legal theory, and legal philosophy (Marzuki, 2011). The normative side that will be studied is Law Number 20 of 2011 concerning Flats, especially efforts to fulfill the need for decent and affordable housing through the availability of public flats. As a legal research with the obligation to provide public flats by the State in the Flat Law, this study uses several approaches in order to understand legal issues more holistically. As a legal researcher with the obligation to provide public flats by the State in the Bill, this study uses several approaches in order to understand legal issues holistically. First, the approach of legislation (statute approach) (Soekanto, 1998), namely by reviewing and researching the legislation related to consistency between the basic constitution of the 1945 Constitution, and several laws and other legal rules related to flats. Second, conceptual approach, which is an approach by studying and studying the doctrines or principles of law that can be used as a basis in solving legal problems faced.

### **Results and discussion**

#### **The Government's Role in Housing Management**

In the implementation of housing the role of the government is as a regulator, facilitator and operator.

### *Government's Role as a Regulator*

As a regulator in the implementation of public housing, the government has a role in making / issuing a variety of regulations related to the implementation of public housing, ranging from the formation of laws, government regulations, ministerial regulations, and local regulations, because the implementation of public housing is not only the domain of the central government, but also includes local governments. In carrying out its role as a regulator in the implementation of public housing, the government continues to strive for the growth of the housing sector, especially in housing development for MBR is maintained. As it is formulated in 5 (five) strategies in dealing with the challenges of housing development outlined in the National Long-Term Development Achievement (RPJPN) 2005-2025. These five strategies are guidelines used as guidelines and directives in making regulations in the field of housing and settlements including the regulation of flats. The first strategy includes tax reform, regional licensing levy, land and spatial planning. The second strategy is to improve the pattern of housing subsidies. The third strategy encourages tax incentives for the business world. The fourth strategy is to provide housing microcredit facilities and community empowerment through the technical assistance of community groups. The fifth strategy is the provision of housing that takes into account a variety of factors, not limited to just the purchasing power factors of the community (Winayanti, 2017). Based on the strategy as outlined above, related to the provision of assistance in the form of ease of housing financing for MBR, the government has issued several policies, namely KPR-FLPP (Housing Financing Liquidity Facility) and SSB (Interest Difference Subsidy), as the authors discussed in the previous chapter, SBUM (Down Payment Assistance Subsidy) for MBR, as well as the provision of low-interest mortgage loans through the FLPP scheme and the freedom to determine down payments for banks. In addition, the Government of the Ministry of Finance has issued a regulation on Simple House Price Restrictions that is exempt from the imposition of Value Added Tax (VAT). In an effort to support the success of housing development, especially decent homes for MBR, in addition to acting as a regulator, the government also carries out the task of accelerating. Related to this, there are three accelerators that also have an important role in the development of the housing sector, namely the Financial Services Authority (OJK) through banking regulation and consumer protection, both of which bank Indonesia, related to credit growth policy through Loan To Value (loan size compared to the value of property used as collateral), and the third Government, through fiscal policy, incentives and transactions (Mardiasmo, 2018). As a regulator, various regulations issued by the Government can be a solution in unraveling and addressing the problem of public housing and does not overlap, so that the target of meeting the needs of decent and affordable homes for MBR can be achieved.

### *Government's Role as a Facilitator*

In the implementation of housing, in addition to being a regulator, the Government also serves as a facilitator that facilitates the provision of housing and settlements for the community, especially for MBR, and facilitates the implementation of policies and strategies at the national level (Article 13 letters g and h "Law on Housing and Settlement Areas (Perkim)"). Community involvement in the development of public housing is the widest right and opportunity to participate in the implementation of housing, as it is provided by law, based on the Settlement Law and the Flats Law. With the granting of

rights and opportunities for the community in the implementation of housing by the laws governing the field of housing as stated above, the Government by the laws governing housing is given the task to act as a facilitator with the main task of facilitating the provision of housing and settlements for the community, especially low-income people. The task of facilitating this includes providing incentives to development actors and ease for MBR in obtaining decent homes/flats by providing financing assistance through Home Ownership Loans under the Housing Financing Liquidity Facility (FLPP) scheme, Interest Difference Subsidy (SSB), and Housing Advance Assistance (BUMP), as reviewed and outlined in the previous chapter. This is in accordance with the politics of legislation in the field of housing (Settlement Law and Flats Law) that shows the state's impartiality to low-income people. With the spirit of the implementation of regional autonomy as the provisions of the prevailing laws and regulations, as well as the emergence of housing problems that are no longer centralized and more likely to be oriented in exploring and developing the capabilities of local communities, the role of the Government as a facilitator in the implementation of housing is implemented decentralized, in accordance with the demands of autonomy in the implementation of housing. In terms of the provision of land for the construction of housing both tread houses and flats, in addition to the release of land rights, can be done by utilizing the former land of abandoned land or through a mechanism of land consolidation involving landowners whose land will be used as objects of land consolidation (Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 12 of 2019 concerning Land Consolidation, State Gazette of the Republic of Indonesia of 2019 Number 756. Article 1 number 1). Given that in the mechanism of land consolidation where in its implementation will involve the active participation of landowners as participants of land consolidation, it is expected that through the role of the Government as a facilitator can empower the community, especially MBR landowners to participate in the provision of housing. In addition to the main task of facilitating the provision of decent homes for MBR, as a facilitator the Government has the task of facilitating the implementation of policies and strategies at the national level. At the provincial level, in addition to the task of facilitating the provision of homes for MBR, the Provincial Government facilitates the management of housing and residential areas at the provincial level, and facilitates the implementation of policies and strategies at the provincial level. While the District / City Government only has the task of facilitating the provision of housing and settlements for the community, especially MBR. In the implementation of flats, the Government has the task of facilitating the provision of flats for the community, especially MBR, facilitating the provision of PSU for flats provided for MBR (public flats), which is the same task as the duties of the Provincial Government. As for the Regency/City Government, in addition to the same tasks as the Government and Provincial Government above, as a facilitator of the implementation of flats, the Regency/City Government also has a duty to facilitate the maintenance and maintenance of PSU built independently by the community. The government in its role as a facilitator acts to facilitate the activities covered by housing management based on its duties and authorities according to the level of authority. Therefore, besides having the task of facilitating as described above, the Government also acts to facilitate based on the authority as stipulated in the Law on Settlement and the Law on Flats. Based on the authority they have, the Government and Regional Governments (Provinces and Regencies / Cities) facilitate cooperation between the Government and legal

entities in the management of housing (implementing housing and residential areas and administering flats) at the level according to their authority, facilitating the improvement of the quality of slum housing and settlements. slum, facilitating the management of housing and residential areas PSU (the authority to facilitate landed houses), facilitating the improvement of the quality of public flats, special flats and state flats and facilitating the management of common parts and common objects in public flats, special flats and flats state (authority to facilitate for flats). Another action that must be taken by the Government in its role as facilitator in housing management, particularly in the management of flats, is to facilitate several activities related to providing incentives to actors in the construction of public and special flats. The provision of incentives referred to is facilitation in land acquisition, facilitation of the land certification process, facilitation in the licensing process and facilitation of construction loans with low interest rates (Article 88 paragraph (2 letters a, b, c, d) "Law on Flat Houses (Flats)").

#### *Government's Role as Operator*

As the operator of housing management, the Government carries out the function of operationalization and coordination of the implementation of national policies on the provision of houses and development of residential areas and residential areas and allocates funds and / or development costs to support the realization of decent and affordable housing for low-income families (Article 13 letters e and f "Perkim Law"). Meanwhile, in the management of flats, the role of the government as an operator is to carry out the operational function of implementing the policy on the provision of flats and developing the apartment environment as part of the national level settlement (Article 13 letters e and f "Perkim Law"). Likewise, as the operator of the management of flats, the Government and Regional Governments are obliged to meet the needs of public flats for MBR through the provision of assistance and / or ease of construction of public flats with funding support originating from the APBN / APBD and or other funding sources (Article 13 letters e and f "Perkim Law"). In carrying out their obligations in fulfilling the needs of the apartment suitable for MBR, the Government and Local Government undertake the construction of flats, finance the program to provide easy acquisition of flats for MBR, carry out maintenance To support development activities and provide facilities for MBR as mentioned above, the Government and / or Local Governments undertake efforts to develop a financing system which includes the development of financing institutions (Elucidation of Article 91 paragraph (1) "Flat Law"), mobilizing and accumulating funds, utilizing sources of costs and facilities or financing assistance.and maintenance of flats and carry out construction in order to improve the quality of flats (Articles 94 and 95 "Flat Law"). Efforts to accumulate funds and develop a financing system are necessary to ensure the availability of long-term low-cost funds and funds, so that the availability of adequate housing and flats for MBR can be guaranteed.

#### *Government Efforts to Fulfill the Needs for Adequate Housing for MBR through the Availability of Public Flats*

One of the ways to improve the standard of living for low-income people is if they occupy or live in a decent shelter with a healthy and safe living environment. Particularly in urban areas, the need for decent and affordable housing for low-income families at this time can only be met through the provision of public flats, because the availability of land

is increasingly limited and the price is very expensive so that the purchasing power of MBRs cannot. Facing such a situation, the Government, which has the obligation to meet the needs of decent housing for low-income families as mandated by the constitution, has made various efforts so that the need for proper housing can be met through the availability of public flats. The Government's efforts were made in accordance with its role as regulator, facilitator and operator in the operation of flats. By increasing the efficiency of land use, the construction of decent and affordable public flats can be built on land located in the middle of the city, which makes it easier for low-income residents who live in flats to get closer to the center of their daily activities. Besides that, the existence of flats as a proper place to live can prevent the emergence of slum areas in urban areas, increase the capacity of low-income families who require proper housing, increase mobility with the ease of public transportation, all of which have a positive impact on increasing community productivity. In an effort to meet the needs of public flats in urban areas, both the Government and the Regional Government as the operator of the apartment management have built several simple rented flats (*rusunawa*), and as a regulator, through various regulations made, the Government makes it easy for MBR to obtain a house stacking feasible. Likewise, in their role as facilitator, the Government and / or local governments facilitate development actors / developers by providing various incentives to increase developers' interest in providing simple flat owned (*rusunami*) that can be owned by MBR. With the availability of public flats located in the middle of the city, it is hoped that the former MBR due to limited purchasing power will only be able to live in the suburbs far from his workplace. In such conditions, of course, people need large transportation costs and long travel times to carry out their mobility, which results in decreased community productivity. Meanwhile, for people whose homes are close to their economic activities, but who do not occupy proper housing, this can trigger the emergence of slum areas and cause irregular urban spatial planning. To answer the problem of public housing, especially in urban areas, the Government has made various efforts so that the needs for proper housing for the community, especially for low-income families, can be met.

*Provision of Land for the Construction of Simple Rental Flats (Rusunawa) by the Government*

In building a flat, land is an important main factor because it is related to fulfilling the legality requirements which form the basis of the status of land ownership rights on which the apartment is built. Likewise, land that is used for the construction of a flat that is built by the Government and or the Regional Government, where in accordance with the provisions in the Flat Law on the land concerned, a certificate of land rights must be issued. Based on the provisions of the prevailing laws and regulations, land obtained by the Government can be given a right to use. Land that is used to build a flat can come from land / land acquisition or from utilizing land which is an asset of State Property or Regional Property. The construction of public flats with lease status according to statutory provisions is one of the categories of development for the public interest, which is a development effort in the framework of national development organized by the Government and used for the prosperity of the people (Article 1 point 6 Law Number 2 Year 2012 concerning Land Acquisition for Development for Public Interest. Public Interest is the interest of the nation, state and society which must be realized by the government and used maximally for the prosperity of the people). Since the development of a flat is included in the

development for public interest, the provision of land must be carried out by the Government and / or the Government, where the procurement procedure is carried out according to the land acquisition mechanism regulated in the law in the field of land acquisition for development for public interest, and carried out while ensuring legal interests of the owner / holder of land rights. For the purposes of land acquisition, the Government and / or the Regional Government shall guarantee the availability of funding.

*The Allocation of Funds for the Development of Rusunawa which comes from the APBN / APBD*

The public housing problem which is felt to be increasingly critical and serious with the increasing number of the national housing backlog, not only requires serious attention, but the government must be present in the effort to overcome these problems. The imbalance between housing needs for the community, especially for low-income housing, with the ability of the government and developers to provide it, which according to estimates by the Ministry of PUPR only ranges from 30% -40% per year of the total number of housing units needed annually, causing a rapid increase in the housing backlog (Pakpahan, 2015). To fulfill the constitutional mandate and based on the prevailing laws and regulations, especially those regulating the housing sector, the Government has prepared a number of budget policy scenarios in order to reduce the housing backlog figure, one of which is through budget allocation for the construction of flat-houses whose source of funds comes from APBN / APBD.

*Providing Convenience for Low-Income Communities through Housing Financing*

The high need for houses which is not followed by the community's ability to own them due to their low income, requires the role of housing finance as an effort for citizens to build or own a house, by dividing the cost of buying or building a large enough house into a longer time period so that the community as a home buyer can adjust the burden according to their financial capacity (Coordinating Ministry for People's Welfare, 2012). If for the construction of rusunawa the role of the Government in the provision of houses for MBR is to build rusunawa, then in the construction of prosperous sites and rusunami houses the Government provides convenience for MBR in obtaining home ownership through housing financing programs. In the housing finance system, there are several parties involved, namely, developers who provide housing supplies, financial institutions that provide financing, and the Government as regulators and supporters. The important role of housing finance is partly due to the high price of the house so it is only natural that the purchase of a house is financed with a loan. Another important point is that no government in the world can meet all the housing needs of its citizens (Directorate General of Budget, Ministry of Finance of the Republic of Indonesia, 2015). In Indonesia, the housing financing scheme used by the public in general is through Home Ownership Credit (KPR), which is a credit product (financing) from banks that buy houses or for other consumptive needs with collateral in the form of a house (Sari, 2013). In terms of target borrowers, there are two types of KPR, namely subsidized KPR aimed at MBR based on Government policy, and non-subsidized KPR aimed at the entire community, either through conventional financing schemes or sharia financing schemes. The amount of financing provided by the Bank through KPR cannot reach 100% of the house price.

Housing financing in Indonesia has been started several years ago through the role of the Government with the establishment of the National Housing Development Public Company (Perum Perumnas) in 1974, which was given the responsibility of providing housing for MBR, followed by the formation of the State Savings Bank (BTN) to distribute credit or housing finance for low-income households in obtaining decent and affordable housing (Suparwoko, 2013). With the launch of the national program for the construction of a million houses, the Government has accompanied the program by launching a subsidized KPR program with the Interest Difference Subsidy (SSB) and Advance Assistance Subsidy (SBM) schemes. This subsidized KPR program was further developed with a new pattern currently in effect known as the KPR Sejahtera, the Housing Financing Liquidity Facility (FLPP). FLPP is a program provided by the Government in the form of revolving funds intended for financing KPR Sejahtera Tapak (for simple houses) and KPR Sejahtera Susun (for simple-owned flats) and subsidized Sharia mortgages for Sharia-based housing financing. In addition to financing based on the FLPP, SSB and SBM mortgage schemes, the Government also provides housing financing facilities with the Savings-Based Housing Financing Assistance (BP2BT) scheme. BP2BT is the implementation of the World Bank's National Affordable Housing Program (NAHP) in which the World Bank provides housing support funding loans to the Government which is one form of actualization of the State Partnership Framework (K3N). BP2BT program scheme is a government assistance program provided to MBR who have had savings in order to fulfill part of the down payment on the acquisition of a house or part of the down payment for the acquisition of a house or part of the funds for the construction of a self-help house through credit or financing of the implementing bank (PUPR Ministerial Decree 858 / KPTS / M / 2017 concerning Savings-Based Housing Financing Assistance).

*Establishing Partnerships Through Cooperation Between Government and Business Entities (PPP) in Rusunawa Development*

The need for a high budget to suppress housing backlog figures has so far not been addressed due to the limited capacity of the Government's budget. Therefore, the Government through the Ministry of PUPR initiates by seeking to encourage private involvement in the construction of flats through various models of cooperation between the Government and Business Entities (PPP). This is done because not all the needs of public flats can be met alone by the Government, because of the limited source of funds from the State Budget / APBD, therefore, alternative innovation of non-APBN / APBD financing through ppp scheme that is currently being offered to business entities, both state-owned enterprises / BUMD and private business entities. PPP is a non-APBN creative financing, which is necessary to overcome the release of the Government's budget in the implementation of decent housing for MBR by involving private sector participation in housing supply investment (especially rusunawa or rusunami) by utilizing Government-owned land on the basis of cooperation agreements made between the government and business entities. To support the partnership program with the PPP scheme, the Ministry of PUPR has established a new Directorate called the Directorate General of Public Works and Housing Infrastructure Financing, whose task focuses on the development of non-apbn financing models such as non-budget government investment financing (PINA) or PPP (Handoyo, 2019).



### *Construction of Flats with Transit Oriented Development (TOD) Residential Concept*

To solve the problem of public housing, not only meet the needs of residential buildings and their environment, but must include the fulfillment of the need for ease of mobility in carrying out their socioeconomic activities. Providing public flats that are located far from the center of the crowd and economic activities in fact do not solve the housing problem because the community is not interested in inhabiting flats built in locations that are not strategic. Understanding the needs of the community that not only fulfills the availability of housing, the Government in its series of efforts to ensure the fulfillment of decent and affordable housing in dense urban areas, as well as to reduce the number of housing backlogs, has developed the concept of TOD housing, namely building flats that are integrated with public transportation facilities. This concept is a merger of residential and commercial areas in one area designed to maximize residents' access to public or public transportation, such as trains (commuter lines), mass rapid transit (MRT), light rail transit (LRT), and busways. The type of property built with the concept of TOD occupancy is vertical occupancy. This is because given the limited land in major cities, where for the property segment in addition to intended for people with middle and upper economic levels, also as much as 20-30 percent occupancy for middle-income people and lower (MBR criteria). The construction of flats with the concept of TOD allows people who inhabit flats can be easier in carrying out their activities to meet their daily needs, as well as to accessibility facilities, so as to save costs for transportation. Currently the Government in this case the Ministry of PUPR in synergy with the Ministry of SOEs is building 6 (six) TOD residential projects, 5 (five) locations in Jakarta, namely TOD Manggarai, TOD Tanah Abang, TOD Senen Station, TOD Tanjung Barat, TOD Pasar Jumat, and 1 (one) location in Depok, namely TOD Pondok Cina. All residential flats are integrated with Train/Electric Railway (KRL) stations, MRT stations and transjakarta buses. Tod residential development will continue to South Tangerang, Bogor and Bandung.

### **Conclusion**

As a form of state responsibility in the fulfillment of the rights of citizens, especially in the field of housing, the Government as the state organizer has an important role in maintaining the continuity of housing provision to meet the needs of decent housing for the entire community. These roles include the role of regulator, facilitator and operator. Through its role, the Government has made various efforts so that the fulfillment of the needs of decent and affordable homes for MBR can be met in accordance with the target planned in the RPJMN 2020-2024. As a regulator, the Government makes and prepares regulations and policies. Through various regulations issued by the Government is expected to be a solution in unraveling and addressing the problem of public housing and does not overlap, so that the target of meeting the needs of decent and affordable homes for MBR can be achieved. As a facilitator, the Government provides incentives to development actors and ease for MBR in obtaining decent homes/flats by providing financing assistance through Home Ownership Loans under the Housing Financing Licwidity Facility (FLPP), Interest Difference Subsidy (SSB), and Housing Advance Assistance (BUMP). As the operator of the implementation of flats, the Government and Local Government are obliged to meet the needs of public flats for MBR by carrying out

the construction of flats, financing the program of providing ease of acquisition of flats for MBR, maintaining and maintaining flats and carrying out development in order to improve the quality of flats. In carrying out the construction of public flats, both the Government and Local Government also seek to involve the private sector or business entities by establishing partnerships through the Government Cooperation with Business Entities (PPP) scheme. To support development activities and provide convenience for MBR as stated above, the Government and or Local Government conduct financing system development efforts that include the development of financing institutions, the deployment and fertilization of funds, utilizing the source of costs and ease or financing assistance.

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## **CHARACTERISTICS OF DISPUTE RESOLUTION IN WETLAND ENVIRONMENT**

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**Abstract:** *The purpose of this research is to study and analyze the characteristics of dispute resolution in a wetland environment through the integration of environmental aspects, culture and empowerment of rural communities. A life that is safe, orderly and peaceful, is the life of a human society, so that every dispute needs to be resolved. In fact, the principle of justice is simple, fast and low cost for most of the people. This research method uses a socio-juridical (socio-legal) approach using an interdisciplinary or "hybrid" approach between aspects of normative legal research with a sociological approach using qualitative analysis. Through the settlement of disputes based on deliberation to reach consensus (badamai) based on local wisdom that grows and develops in communities in wetland areas, it is hoped that it will be able to expand access to justice in rural communities and reduce the burden of cases on formal channels. This requires a forum as an institution that facilitates the settlement of disputes outside the court at the village level.*

**Keywords:** *Characteristics, Dispute Resolution, Wetland Environment.*

### **Introduction**

A dispute is a legal phenomenon, every dispute requires resolution action, there are two dispute resolution mechanisms, namely the litigation channel or through the court and the non-litigation channel or outside the court through deliberation / peace. Dispute resolution is often carried out outside the formal channels by means of deliberation and consensus and refers to the values of customary law and religion. In societies where kinship and group relations are still strong and still adhere to customs, the choice of dispute or conflict resolution is directed at non-formal methods through the cultural approach of deliberation or consensus (mediation). This is done because dispute resolution is interpreted as an effort to maintain order and implementation of spiritual values that exist

in society. At the village government level, through Law Number 6 of 2014 concerning Villages, it affirms the function of the village head as resolving village community disputes. Article 26 (1) states: "The Village Head is tasked with organizing Village Government, implementing Village Development, developing Village community, and empowering Village communities". Furthermore, Article 26 (4) letter k. states: "In carrying out the tasks referred to in paragraph (1), the Village Head is obliged to: resolve community disputes in the Village." In connection with the above problems, it is necessary to put forward the urgency of village empowerment in the context of strengthening institutions in resolving community disputes. In a development perspective based on local capabilities. The essence of community empowerment basically places the community at the center of attention as well as being seen and positioned as a subject in the development process. The community is a figure that is intact, active, has the ability to think, will and try. With regard to dispute resolution that occurs in the community, mediation tends to be chosen because it is cheaper, faster, and more accessible than the litigation route. The ease of public access, is instant, relatively restoring harmony in society as a prominent force. Mediation is not new, from generation to generation, the customs of the community have carried out efforts to resolve disputes by deliberation to reach a consensus. The Banjar tribe, which are generally located in wetland areas, namely riverbanks, settlement of disputes with the Badamai custom as local wisdom has long been applied hereditary and was formalized during the period of the Banjar Kingdom in the Sultan Adam Law. If it is related to the obligation of the Village Head to resolve community disputes in the Village as referred to in Article 26 and Article 28 of the Village Law, as well as efforts to empower villages through strengthening the Badamai system as an alternative to dispute resolution, it is important to study and analyze the characteristics of dispute resolution in the wetland environment through integration between environmental aspects, culture and empowerment of rural communities.

### **Research methods**

This research method uses a socio-juridical (socio-legal) approach using an interdisciplinary or "hybrid" approach between aspects of normative legal research with a sociological approach using qualitative analysis, namely by analyzing data in depth and holistically to study and analyze the characteristics of dispute resolution. in the wetland environment through the integration of environmental aspects, culture and empowerment of village communities, so that in the end we can examine the suitability of *das sollen* and *das sein*. This is to fulfill the need for a more detailed and accurate explanation of legal issues in a more meaningful way by making a comparison between the law in book and the law in action (Fetterman, 1998).

### **Results and discussion**

The out-of-court dispute resolution model is currently a way of resolving disputes that are being promoted, this is in accordance with the policy direction and legal development strategy contained in Presidential Regulation No.2 of 2015 concerning the National Medium-Term Development Plan through the implementation of an easy and easy Civil Law System Reform. fast especially civil law enforcement. Settlement of civil cases

carried out by encouraging the optimization of the mediation process in court and simplifying civil case procedures is expected to encourage settlement efficiency, especially civil cases. Peace is the energy from within humans, which is owned by everyone. Therefore, peace is built through honesty, a life of sharing, mutual respect and respect for each other. All that can happen if done sincerely, without intrigue and self-interest. "Peace is beautiful". We often hear this slogan which is even used as a motto to encourage harmony between people. Peace has many meanings. Peace can mean a state of calm. Peace can also describe the emotional state within. Peace can also be interpreted as a harmony in the natural life between humans where there is no enmity or conflict. The conception of peace is basically the same in every region, except that the term or designation differs according to certain cultures and environments. However, in simple terms, peace in social life can mean the absence of violence, harmony and a system of justice that applies both to individuals and in the social and political justice system as a whole. Peace involves thinking patterns, ways of behaving, behavior, character, mentality, beliefs, patterns of relationships with other parties, an order of living together which is marked by noble values such as justice, equality, democracy and solidarity. Culture of peace (culture of peace) concerns how we organize a new social life free from violence and oppression. A culture of peace is a set of values, attitudes, behaviors and a way of life that respects life and human rights, tolerance and solidarity. The culture of peace is peace that is manifestly reflected in everyday life. Regarding the culture of peace, the United Nations Declaration (1998) states: a culture of peace is a set of values, attitudes, traditions, ways of behaving and a way of life that reflects and inspires; First, respect for life and human rights. Second, rejection of all violence in all its forms and commitment to preventing violent conflict by solving root causes through dialogue and negotiation. Third, commitment to fully participate in the process of fulfilling the needs of present and future generations. Fourth, Respect and promote equal rights and opportunities for women and men. Fifth, acceptance of everyone's human rights to freedom of expression, opinion and information. Sixth, respect for the principles of freedom, justice, democracy, tolerance, solidarity, cooperation, pluralism, cultural diversity, dialogue and mutual understanding between nations, between ethnicities, religions, cultures and other groups and individuals (Abidin, 2019). The concept of peace that is applied to each region in Indonesia is in principle the same but has different names. This is influenced by regional conditions, socio-culture. In general, a culture of peace can be done based on:

- Religious values, where each religion teaches its adherents to live peacefully with others.
- The values of local wisdom, because we are a nation that is rich in heritage of noble values that have been tested by the times in realizing a peaceful and harmonious society.

The natives of South Kalimantan are also familiar with peaceful living patterns that have been implemented for a long time. The character of living in harmony and peace since the time when they generally lived along the river also had a strong influence from Islam. Islam is a special character of the banjar community at the same time as the Banjar Kingdom was founded. The Banjar culture is heavily influenced by Islamic values. Even Islam has become the basis of Banjar culture (Hasan, 2009). Historically, the Banjar community has always been identified with Islam. This reflects Islam as a system held by the Banjar people. This means that in many ways the behavior of the Banjar people can be

referred to in Islamic values. From this trend of reference to social behavior, the function of Islam by the Banjar community has finally become a symbol and identity that distinguishes them. The influence of Islam is reflected in the patterns of daily religious behavior, especially those in everyday terms called rukun-marukun (Daud, 1997). One of the implementations of the peculiarities of the Banjar culture which is inspired by the Islamic religion is the existence of a culture of peace in resolving disputes that occur in society, namely the custom of badamai. The custom of Badamai in the Banjar community is an implementation of the values of Islamic teachings which always teaches the way of peace or ishlah in resolving a dispute (Hasan, 2009).

One form of dispute resolution commonly carried out by the Banjar community is to bring together the two parties assisted by community leaders in order to avoid disputes that could endanger the social order. In the Banjar community, the deliberation mechanism is an alternative effort in finding solutions to solve problems that occur in society. This pattern of dispute resolution in the Banjar community has been rooted in social life for a long time and this pattern has enabled the ancient inhabitants to coexist peacefully even though they came from different areas. If there is a conflict or dispute that is not carried out with the custom of Badamai, it will actually destroy the order of harmony which is a violation of rooted traditional wisdom.

The concept of Badamai adat as a form of dispute resolution has existed since ancient times and has been applied to the Banjar people from generation to generation, even since 1835 it has been stipulated in the Sultan Adam Law (UUSA). The principles of Badamai that exist in UUSA, namely:

- Article 3: Every time I know the village, I will tell the people to agree, astamiyah again between relatives so as not to talk and arguments
- Article 21: Every village, if there is a dispute over the contents of the village, yes, all the villagers, I will tell them to talk about the consensus of the opponent who is the villain of his village, if no one can also talk about ikam bring to the judge
- Article 28: Whoever wants to bahuma in halabiu or other countries or continents then that is not allowed halabiu people or countries or others to raise and no one can recognize the limit without effort and understanding and no one can meharu blue
- Article 29: Any field left by a person for about two seasons or more then becomes a field and there is no sign of its own such as its crop or its pile or its river that lives on its land then it is also carried by the other person and it remains I did not tell the former person to demand more or to sue the judge.

These articles reflect the existence of peaceful methods that must be adopted if a problem arises in society. The pattern applied is to prioritize aspects of deliberation and consensus between the community. The UUSA is a historical document of the Banjar land law which is the source of law for the legal provisions that were applicable in Banjar land in the past. The Sultan Adam Law as a written law that applies Islamic law among residents in the Banjar Kingdom was issued by Sultan Adam al Wasiq Billah (1825-1857) deliberation to avoid disputes and arguments, where the principle of deliberation is emphasized. The more diverse people living in the South Kalimantan region, considering that the current population settlements in South Kalimantan do not only consist of the Banjar people, but also consist of various ethnic groups. Although the river remains the most important means of transportation, today the population has also spread to areas

relatively far from the riverbanks, but then spread slightly to the slopes of the higher mountains. This is because the low upstream areas provide economic access to local residents encouraging them to go to urban areas even though the real reason is that there are several pockets of the Hulu Sungai area that have cultural reasons to migrate (madam) (Arbain, 2020). This is also marked when roads are built and introduced to be an important means of transportation as well as river transportation, human settlements also occur along the highway, in addition to the old settlements that extend along the river. Along with this development, for a long time there has been an urbanization of suburban areas and villages in South Kalimantan and outside Kalimantan towards the city of Banjarmasin.

The hybrid between the conditions of rural and urban communities who live in one area at this time raises a state of high tolerance in the community environment. The life system of rural communities that has been living for decades with a cultural system that has been inherent from generation to generation reflects an attitude of mutual help, mutual cooperation and a peaceful life between communities that will be faced with a more individual cultural system by urban communities, but the custom of Badamai is still sustainable. In theory, the study of migration and mobility is strong enough to explain that migrants will usually form concentrated settlements among their ethnic groups. This is because later migrants in one village or ethnicity will find and hitchhike with pioneer migrants who have previously settled. Solidarity among ethnic groups living overseas tends to strengthen, because of the human instinct to help and get protection from fellow relatives and fellow villagers. Communal identity is also getting stronger, because it is related to a matter of opportunity, hope is sometimes included in economic resources because it is related to the interests of a survival strategy. The high rate of population migration affects the social fabric of society, apart from being caused by heterogeneous communal entities as well as heterogeneous education and employment in one region. The peri-urban area is located between rural areas on the one hand and urban areas on the other, so that it has hybrid characteristics between urban and rural characteristics (Yunus, 2008). In Banjarmasin, peri urban areas can be identified such as the outskirts of Kertak Hanyar District, Peat District, Sungai Tabuk District, Banjar Regency, and Alalak Berangas District, Barito Kuala Regency as the Peri Urban Area (WPU) of Banjarmasin.

The rate of population growth in the WPU area is followed by the addition of residences close to jobs in the city center. The WPU area was followed by the construction of housing. The impact of rapid population growth is directly proportional to the needs of residential areas. This is one of the factors in the proliferation of new housing complexes in areas directly adjacent to the provincial capital. This is because residential areas in the provincial capital are very unlikely due to limited land. The mushrooming of the construction of new housing complexes has also brought about the movement of people from outside the village. One of the effects of increasing population in an area is the existence of various tribes who then live in a place. Areas that were previously occupied only by local residents became diverse and heterogeneous populations due to the large number of migrants who came from various regions. The new physical development of the areas directly adjacent to the provincial capital has also brought changes to the livelihoods of the people, becoming new physical development areas from the outskirts of the city.

The suburban area is an area known as the urban fringe or peri urban area. The people who live in this area have an important role in the life of the population in the future. This area is characterized by being located between two areas that have a urban appearance



on the one hand and an area that has a urban appearance on the other. Because rural and urban areas have such complex dimensions of life, it will give rise to a new life order for people in this peri-urban area. The impact that arises from the peri-urban area is the physical expansion of the city such as loss of agricultural land, decreased agricultural productivity, besides that it has a multi-dimensional impact on the social, cultural and economic aspects. One of the impacts of the existence of this peri-urban area is the pattern of dispute resolution that occurs in communities that have become a combination of rural and urban characteristics. It is known that the indigenous people of the Banjar people have a hereditary way to resolve a dispute, namely in a peaceful way, but in its development the indigenous people have mingled with immigrant communities from various ethnic groups. The local wisdom values applied by the people in Banjar Regency and Barito Kuala Regency are still prioritizing peaceful dispute resolution patterns in the community, which is still preserved despite changes in the social order that has become communal heterogeneous, this is because it is a way of going downhill even though the settlement pattern in court is also an option that can be taken by the community. This is especially true for the condition of the people in Banjar Regency which still has the influence of the Banjar Sultanate, where peaceful methods of resolving disputes have been implemented by the Banjar Sultanate.

The pattern of peaceful dispute resolution has not disappeared even though the indigenous population has mingled with the immigrant community, as a result of the increasing number of settlements shifting to the suburban areas. According to Taufik Arbain, that one of the characteristics of Badamai custom is that it will remain attached as long as in one area even though it has become a heterogeneous society because of population growth in the peri-urban area there are still indigenous people of urang banjar, so the badamai custom will continue to be applied. One thing that affects why the custom of Badamai cannot be separated from the urang banjar is because the customary law of Badamai consists of 3 (three) elements, namely (Hasan, 2009):

- Unwritten Elements. In the form of habits that grow and develop in social practice in society. This includes everything that is used to be considered good by the community and will cause reactions from various levels of society if this is violated. Strictly speaking, violators will receive minimal sanctions in the form of criticism from the public.
- Elements Derived From Islamic Law. Includes all provisions of Islamic law and fiqh laws that are maintained and adhered to by the community as a large part of their religious teachings. Islam has become the official religion in the Banjar kingdom and is the only source of law that applies throughout the Banjar Kingdom (Regional Research and Development Agency for South Kalimantan Province, 2005).
- The Elements Originating From the Era of The Banjar Kingdom. As stated in the Sultan Adam Law (1835), the pattern applied in the provisions of the Sultan Adam Law is to prioritize aspects of deliberation and consensus between the people.
- Peaceful dispute resolution in society has now also been regulated in the Village Law Number 6 of 2014 concerning Villages, as regulated in Article 26 (1) states: "The Village Head is tasked with organizing Village Administration, implementing Village Development, Village community development, and Village community empowerment ". Furthermore, Article 26 (4) letter k. states: "In carrying out the

tasks referred to in paragraph (1), the Village Head is obliged to: resolve community disputes in the Village;”

The Village Government is the foremost unit of service to the community and is a major milestone for the success of all programs. Village Government as the smallest governmental element in the regency / city area. As a leading government unit in service to the community, the village has a strategic role in the government of a district / city. Therefore, strengthening the village is a must that cannot be postponed in an effort to accelerate the realization of community welfare as the goal of regional autonomy. Village society is the subject of development, which is a strength to build the nation if it continues to be improved. The community in the village can become a driving force for strength by increasing the movement, initiative and participation of the village community, preserving and advancing the traditions and culture of the village community as local wisdom to create a village that is advanced, independent and prosperous. Thus the village community has a strategic role in maintaining social unity as part of national resilience and for creating common prosperity. The village head is a figure who can play an important role as a mediator in dispute resolution in his community. This is inseparable from the position of the village head who is generally a figure respected by the community, in addition to Law Number 6 of 2014 concerning Villages which states that the village head is a government leader who has a strong (authoritative) position so that it is expected to be effective. in carrying out the role of a mediator or dispute resolution. The function of the village head as dispute resolution is basically a mediation that has a form between social network mediators and authoritative mediators. Historically, this function has long been known as a village court judge or *dorpjustite* (Nader and Todd, 1978). The function of the village head as dispute resolution as stipulated in Article 26 (4) letter k of Law Number 6 of 2014 concerning Villages is inseparable from the historical fact that in the past at the village level and customary law communities there was a village court and or customary court. The advantages possessed by the function of the village head as such dispute resolution will be very significant in reducing the flow of cases to the state court which is now very piling up. Many civil disputes and criminal cases or complaint offenses will be more effectively and efficiently resolved by informal courts (customary courts) which are expected to provide restorative justice (Musakkir, 2011).

Conflict resolution should be adapted to the context and background or setting in which the conflict occurs, in this case the universal approach is actually irrelevant to be applied in dealing with conflict problems. There is another form of conflict resolution approach that is often overlooked, namely: local wisdom. In a pluralistic society such as the Indonesian nation, there are a lot of local wisdoms that have great potential in resolving conflicts to create peace. Society is dynamic, and continues to grow increasingly complex. City is something that is closely related to community growth. As a large country with an area and degree of cultural, ethnic and linguistic plurality, Indonesia has a wealth of intellectual traditions including efforts to build peace and develop cultural-based conflict resolution mechanisms (Wahid, 2004). The existence of peace initiatives is carried out using local mechanisms. The models and mechanisms for resolving social conflicts in Indonesia are always supported by 2 (two) sides of the settlement, first the formal and procedural settlement model played by the government and its legal apparatus, the second is the cultural resolution model that is fully played by the local community by using the mechanism. customs that have been in effect from generation to generation. The existence

of this local value is strengthened by the community's obedience to government officials, which is reflected in the pattern of dispute resolution in rural areas. Figures who have formal positions such as the village head / lurah and other village officials have a respectable position in the community. There is inner satisfaction in the community when their conflicts are resolved by the village head, because they have the authority to regulate community life, trusted people are asked for advice as well as resolve their conflicts and disputes.

In Indonesia, the cooperative dispute resolution mechanism is wide open based on the opportunities provided by Article 130 HIR / 154 RBg, namely "if the two parties appear on the specified day, the district court, mediating between the two, will try to reconcile them". In Law Number 6 of 2004 concerning Villages, this peacemaker figure is played by the Village Head, as stipulated in Article 26 (1) states: "The Village Head has the duty to organize Village Government, carry out Village Development, Village community development, and empower Village communities" . Furthermore, Article 26 (4) letter k. states: "In carrying out the tasks referred to in paragraph (1), the Village Head is obliged to: resolve community disputes in the Village." The existence of an arrangement regarding the obligation of the village head to resolve disputes at the village level is very relevant to the contents of the regulation in Article 21 of the Sultan Adam Law which also requires community leaders to be the ones who will help resolve disputes. The pattern of peace which has been rooted for generations for the banjar community to date has made the implementation of the provisions of Article 26 paragraph (4) letter k of the Village Law very easy for the community to accept. Because in principle, the dispute resolution patterns contained in the Sultan Adam Law and the Village Law have similarities. This will in fact further strengthen the peace pattern institutions in the banjar community because at this time it has been supported by an obligation for the village head to resolve community disputes in the village. The integration between the environmental aspects of a peace-loving community with the tradition of coexistence and the role of the Village Government, in this case the village head or other village apparatus, is a strengthening of the implementation of a peaceful dispute resolution system in the banjar community. Settlement of disputes in the community which is carried out with the help of a mediator from the village head or village officials tends to use the interest based negotiation type of negotiation, the basis of which is that with this approach the interests of all parties can be represented. The objective of the mediation process and interest based negotiation is an agreement that satisfies the needs and interests and formulates options and alternatives in accordance with those interests. The village head or village apparatus assists the parties in reaching an agreement with a pattern of transitioning from positional negotiation to interest based negotiation in achieving an integrated solution that is reasonable and in accordance with the needs.

## **Conclusion**

The characteristics of dispute resolution in a wetland environment through the concept of badamai are identical to the pattern of dispute resolution through negotiation and mediation as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The integration between the environmental aspects of a peace-loving community with the tradition of coexistence and the role of the Village

Government, in this case the village head, is a factor that strengthens the implementation of a peaceful dispute resolution system in the banjar community. This strengthening is the integration that fits between the environmental aspects of wetlands (Nature), Culture (Badamai) and Village Government (Government) or the ABG concept with an interest-based model approach..

### Recommendation

Strengthening the custom of badamai in the form of recommendations for the preparation of an academic paper for village regulations on dispute resolution based on local wisdom (badamai). The pattern of dispute resolution in a peaceful manner should be maintained by the community in their daily life alongside the customs of other communities.

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