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Poslednja tri rada u ovom broju časopisa CIVITAS napisana su povodom 85. rođendana slavne kanadske književnice i 40 godina od objavljivanja njenog najčuvenijeg romana "Sluškinjina priča" (1985). Radovi se bave delima Atvudove kroz prizmu novijih kritičkih teorija, ali i kroz komparativnu analizu sa delima iz drugačijeg društvenog i kulturološkog konteksta, ispitujući teme slobode, telesne autonomije, ljudskih prava, institucionalne kontrole, represije i otpora, kao i degradacije životne sredine.

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Do sledećeg broja,

Prof. dr Vladimir Njegomir

U Novom Sadu, 20. jun 2025. godine

Editor's Note

Dear Readers, Colleagues, and Authors,

Welcome to the first issue of the CIVITAS Journal for 2025.

For the past 15 years, the CIVITAS journal has published articles focusing on various current developments and topics related to law, security, psychology, philology, and economics, as well as interdisciplinary research involving the above fields.

In 2021, the journal was awarded the M51 ranking by the Serbian Ministry of Education, Science and Technological Development, and classified as a leading national journal.

From 2018 the journal has been also indexed in the ERIH PLUS academic journal index for the HSS (Humanities and Social Sciences) society in Europe.

The articles accepted for publication examine a wide range of topics related to social sciences and humanities.

The last three papers in this issue of the journal *CIVITAS* were written on the occasion of the 85th birthday of the famous Canadian writer and the 40th anniversary of the publication of her most renowned novel *The Handmaid's Tale* (1985). The papers examine Atwood's works through the lens of newer critical theories, as well as through comparative analysis with works from different social and cultural contexts, exploring themes of freedom, bodily autonomy, human rights, institutional control, repression and resistance, as well as environmental degradation.

The information about the journal, instructions for authors and reviewers, editorial board members, and reviewers' names and affiliations are available on the journal website in Serbian and English.

The articles may be submitted via the journal web page http://civitas.rs/index.php/prijava-rada or via email to redakcija@civitas.rs

On behalf of the Editorial Board and myself, our sincere thanks to all the authors and contributors for the high quality of the articles in this issue.

Hoping that this issue will inspire further research, we invite all interested researchers to submit their articles for publication in CIVITAS.

Until the next issue,

Prof. dr Vladimir Njegomir, Editor-in-Chief

Novi Sad, 20 June 2025

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LATENTNA STRUKTURA I PSIHOMETRIJSKE KARAKTERISTIKE INSTRUMENTA STEREOTIPA PREMA VOĐAMA STERLID: PILOT-STUDIJA[4]

Apstrakt: Ciljevi ovog rada su konstrukcija instrumenta kojim se operacionalizuju stereotipi prema vođama i provera njegovih psihometrijskih karakteristika. Glavni predmet merenja jesu opažene karakteristike koje određuju generalizovanu, odnosno stereotipnu sliku ispitanika prema ljudima koji obavljaju liderske pozicije. Prilikom razvoja instrumenta pošlo se od širokog korpusa karakteristika koje se odnose na različite aspekte ličnosti vođa. Procedura konstrukcije podrazumevala je dve etape pilot-istraživanja na uzorcima od 162 i 218 ispitanika sa ciljem konstrtukcije skale i mogućnosti izbora stavki sa najboljim psihometrijskim karakteristikama. Eksplorativnom faktorskom analizom utvrđena je trofaktorska struktura. Na osnovu sadržinske analize ekstrahovani faktori nazvani su: Poverenje, Nadmoć nad drugim ljudima i Sposobnost. Ovi faktori omogućavaju procenu pozitivnosti i negativnosti stereotipa, ali i jasnije aspekte o karakteristikama vođa na osnovu kojih se formira ovako uopšten odnos ispitanika.

Ključne reči: *stereotip, vođa, psihometrijske karakteristike, STERLID*

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1. Uvod

U okviru dinamike grupe jedna od najznačajnijih relacija za njeno funkcionisanje vezuje se za odnos članova prema vođi i vođe prema pripadnicima grupe. Priroda tog odnosa rezultat je istorijata konkretnih transakcija, ali i opšte generalizovane stereotipne slike koju ljudi usvajaju u određenom socijalnom kontekstu. Dakle, stereotipna slika jeste usmerenje percepcije, ali i faktor uspostavljanja interakcija u sadašnjim i/ili budućim ulogama članova i vođa grupe.

Može se reći da je vođstvo, kao objekat stereotipa, univerzalno, u smislu da kao članovi pojedinih grupa eksplicitno ili implicitno stvaramo sliku o ljudima na višim hijerarhijskim pozicijama i to zbog važnosti i istaknutosti njihove uloge. Baveći se mladima, njihovim stavovima i orijentacijama u kontekstu preduzetničke orijentacije, jedno od značajnih pitanja je kako oni sagledavaju vođe. Stereotipnost njihovog odnosa zasnovana je na činjenici da je iskustvo mladih u pogledu interakcija sa vođama još uvek sporadično, imajući u vidu njihove godine, ali i na uopštenosti koja je karakteristična za situacije ispitivanja odnosa prema nekim kategorijama ljudi.

Stereotipi predstavljaju široko prihvaćene i pojednostavljene predstave o određenoj grupi ljudi kategorisanih na osnovu različitih kriterijuma, kao što su rasa, pol, starost, profesija i status u grupi (Eagly & Koenig, 2021). Stereotipne slike su generalizovane pretpostavke o osobinama koje poseduju pripadnici određenih kategorija ljudi (Hilton & von Hippel, 1996). One su kognitivne prečice koje pomažu ljudima da kategorizuju i obrađuju društvene informacije. Imaju značajne socijalne posledice u tretiranju pojedinaca i pri uspostavljanju komunikacije sa ljudima, prvenstveno kroz prizmu njihove grupne pripadnosti.

Pri razradi objekta stereotipa pošli smo od teorijskih pristupa zasnovanih na karakteristikama vođa, odnosno lidera. U svojoj srži, liderstvo uključuje sposobnost uticaja na druge kako bi se usmerili na ostvarenje zajedničkog zadatka (Northouse, 2018). Kompleksnost ovog koncepta može se uočiti kroz različite pristupe izučavanju. Jedan od pristupa izučavanja vođstva zasnovan je na pretpostavci o specifičnim karakteristikama vođa bilo da su one urođene ili stečene. Spektar ovih karakteristika je širok, kao i sama uloga vođe, ali se mogu prepoznati neke od najvažnijih, kao što su inteligencija, samopouzdanje, harizma, odlučnost, društvenost i integritet (Northouse, 2018). Autori koji su se bavili proučavanjem liderstva su korišćenjem ovog pristupa proučavali i karakteristike koje prave distinkciju između uspešnih i manje uspešnih lidera a to su: visok energetski potencijal i tolerancija na stres, samopouzdanje, orijentacija ka unutrašnjem lokusu kontrole, emocionalna zrelost, lični integritet, socijalizovana težnja ka moći, umereno visok stepen orijentacije ka postignuću, umeren stepen potrebe za afilijativnošću (Francesko, 2003; Yukl, 2012). Nešto noviji pristup izučavanju liderstva stavlja veštine u prvi plan, naglašavajući mogućnost učenja i razvoja tehničkih, interpersonalnih i konceptualnih kompetencija (Northouse, 2018). Bez obzira na to da li su ponašanja lidera većim delom urođena ili stečena, važno je razmatranje poverenja sledbenika u sposobnosti i namere lidera. Neke od tih karakteristika navode pojedini autori, kao što su: etičnost (Brown & Treviño, 2006), sposobnost i integritet (Mayer et al., 1995), empatija (Goleman, 1998) i pravednost (Dirks & Ferrin, 2002). U izgrađivanju interakcije zasnovane na poverenju članova grupe neizostavan je uticaj stereotipnog sagledavanja hijerarhijski istaknute uloge koja nastaje kao objedinjeno iskustvo i generalizovana slika kroz koju se procenjuje svaki vođa.

Kratak prikaz pristupa zasnovanog na karakteristikama ukazuje na poseban izazov u nastojanju da se izdvoje, ali i objedine brojne osobine vođa. Pri konstrukciji skale stereotipa prema vođama nastojali smo obuhvatiti što širi korpus karakteristika koje je moguće svrstati u interpretabilne kategorije. Dosadašnja istraživanja stereotipa u ovoj oblasti bazirala su se na kategorizaciji pola, rase, starosti i fizičkog izgleda vođa. Na primer, uspešne žene koje su na liderskim pozicijama često su percipirane kao manje tople i ljubazne, što dovodi do društvenih i profesionalnih posledica čak i kad je njihov uspeh jednak uspehu muškarca (Eagly & Karau, 2002; Heilman & Okimoto, 2007). Autori ovog rada smatraju da pristup zasnovan na karakteristikama vođa, kada je reč o stereotipima, nije dovoljno prisutan u istraživanjima ove složene problematike.

Uočavajući važnost ovog opšteg generalnog faktora socijalne percepcije, konstruisali smo Skalu stereotipa prema vođama STERLID koja bi bila primenljiva za ispitivanje hetero i autostereotipa prema vođama. Cilj ovog rada jeste provera psihometrijskih karateristika instrumenta sa fokusom na procenu sadržinske interpretacije stereotipa. To znači traganje za odgovorima na pitanja: da li instrument omogućava logičnu sadržinsku interpretaciju koja uključuje osobine i kompetencije koje su izdvojene u pojedinim teorijskim pristupima i istraživanjima vođstva; da li se izdvajaju interpretabilni faktori stereotipnog odnosa koji bi omogućili tumačenje jezgra stereotipa i da li je prisutna evaluativna komponenta za ocenu pozitivnosti, odnosno negativnosti stereotipne slike ispitanika?

2. Metod

2.1. Uzorak

Postupak konstrukcije skale stereotipa podrazumevao je dve etape, što je zahtevalo i različite uzorke ispitanika. Prvom etapom je obuhvaćeno 168 studenata koji su popunjavali dve različite početne forme instrumenta. Rezultati prikazani u ovom radu dobijeni su u drugoj etapi na uzorku od 218 ispitanika starosti od 18 do 55 godina (M = 31,66; SD = 20,14). Od ukupnog broja ispitanika u drugoj etapi 62,4% je ženskog pola.

2.2. Procedura konstrukcije skale

Pri konstrukciji instrumenta pošlo se od lista karakteristika značajnih za ulogu vođe u grupi. U nastojanju da se obuhvati što širi spektar karakteristika izdvojeno je nekoliko kategorija. U okviru *motivacionih karakteristika* fokus je stavljen na socijalne motive, kao što su komponente motiva postignuća, moći, aspekti afilijativnosti i opšte tendencije u odnosu prema drugim ljudima. Primeri karakteristika su: *daju inicijativu*, *imaju želju da ostvare uspeh*, *vole moć*, *vole društvo*, *laktaši su* itd. Druga kategorija uključuje *emocionalne reakcije*, kao što su: *opušteni su*, *hladni su* i slično. Primeri karakteristika koje se odnose na *kognitivne sposobnosti* su: *u rešavanju problema su korak ispred drugih*, *dobro prepoznaju potrebe drugih*, *originalni su u rešavanju problema* itd. Nadalje, indikatori *(ne)etičnosti* su: *podmukli su*, *korumpirani su*, *stoje iza onoga* *što kažu* i tome slično. Sledeću kategoriju čine *veštine i kompetencije* koje uključuju implicitno i/ili eksplicitno uspešnost, efikasnost i sposobnost kao ishod. Primeri te kategorije karakteristika su: *dobro se nose sa problemskom situacijom*, *dobro poznaju posao*, *utiču na druge* itd. Celokupni korpus karakteristika može se teorijski razvrstati u one koje su prvenstveno inkorporirane u rešavanje zadataka i one u koje se odnose na interakciju sa ljudima.

Sačinjene su dve forme skale koje su se razlikovale po instrukciji ispitanicima. Obe forme sadržale su 61 karakteristiku. U prvoj formi ovog instrumenta instrukcija data ispitanicima (N = 82) jeste da procene u kom stepenu je svaka od karakteristika tipična za vođe na skali od 0 (uopšte nije tipična) do 5 (baš baš tipična). U drugoj formi skale ispitanici (N = 86) su dobili uputstvo da procene za 61 karakteristiku koji procenat vođa poseduje svaku od njih i to na skali od 0% (nijedan vođa) 20%, 40%, 60%, 80% i 100% (sve vođe). Primenom dve forme nastojali smo sagledati sličnosti i razlike načina reakcije ispitanika i smislenost dobijenih rezultata kako bi se izabrala adekvatnija forma instrumenta. Ova procena vršena je na osnovu statističkih provera, ali i kroz kvalitativnu analizu dobijenu fokus grupnim diskusijama. Rezultati eksplorativne faktorske analize uz Promax rotaciju ove prve pilot-studije pokazali su da se struktura obe zadate forme ovog instrumenta ne razlikuje značajno, te je u ovom istraživanju primenjena forma instrumenta STERLID sa šestostepenom skalom procene u rasponu od 0 (uopšte nije tipična) do 5 (baš baš tipična).

Prva etapa istraživanja sprovedena je u periodu od februara do juna 2022. godine, dok je druga etapa istraživanja, čiji su rezultati prikazani u ovom radu sprovedena u periodu od marta do juna 2023. godine. U obe etape ispitanici su popunjavali papir/olovka forme skala.

2.3. Analiza podataka

Psihometrijska analiza skale STERLID sačinjene od 61 ajtema izvedena je u dve faze. U prvoj fazi proverena je težina stavki i faktorska struktura skale. Eksplorativna faktorska analiza urađena je metodom glavnih osa. U drugoj fazi je ponovljena faktorska validacija na preostalom skupu od 54 stavke i za njih je urađena psihometrijska analiza korišćenjem makroa Rtt10g. U okviru ajtem analize prikazani su aritmetička sredina i standardna devijacija, diskriminativnost određena kao korigovana ajtem total korelacija, reprezentativnost definisana kao multipla korelacija ajtema i ostalih stavki, vrednost Cronbachove alfe, ako se data stavka isključi, faktorsko opterećenje na prvom Promax faktoru i faktorsko opterećenje na prvoj glavnoj komponenti. Prihvatljive vrednosti za korigovanu ajtem total korelaciju su bile od 0,30 do 0,80, za reprezentativnost ajtema od 0,40 do 0,70 (Fajgelj, 2020).

Psihometrijska analiza subskala zasnovana je na sledećim psihometrijskim pokazateljima: reprezentativnost (normalizovan Kaiser – Meyer – Olkinov koeficijent), pouzdanost (Cronbachov koeficijent; tip interne konzistencije), pouzdanost prve glavne komponente (Lord –Kaiser – Caffrey koeficijent), homogenost (prosečne interkorelacije stavki unutar skala i Momirovićev koeficijent homogenosti). Normalizovan Kaiser – Meyer – Olkinov koeficijent treba da bude veći od 0,60 da bi se konstatovala reprezentativnost, vrednosti koeficijenata pouzdanosti veće od 0,70, homogenost ako je Momirovićev koeficijent homogenosti veći od 0,60 (Tenjović i Radovanović, 1995) a kao sporedni kriterijum homogenosti ako je koeficijent prosečne interkorelacije stavki unutar subskala bio u rasponu od 0,20 do 0,50 (Clark & Watson, 1995).

3. Rezultati

Psihometrijska analiza skale započeta je ajtem analizom, tačnije pregledom aritmetičkih sredina i standardnih devijacija pojedinih stavki (Tabela 1). Aritmetičke sredine ajtema koje su bile preko 4,25 (Imaju želju da ostvare uspeh, Vole moć, Utiču na druge, Snalažljivi su, Vole da kontrolišu) isključili smo zbog negativnog efekta njihove asimetričnosti na ostale psihometrijske karakteristike. Međutim, na osnovu visokih vrednosti aritmetičkih sredina za ove ajteme zaključili smo i da opšti stereotip lidera određuju te osobine, zajedno sa ostalima na kojima su ispitanici imali povišene aritmetičke sredine.

Dalje je primenjena eksplorativna faktorska analiza (metod glavnih osa) uz kosouglu Promax rotaciju. Kao kriterijumi za opredeljenje za trofaktorsko rešenje korišćeni su paralelna analiza i Cattelov scree test (Slika 1, levo).

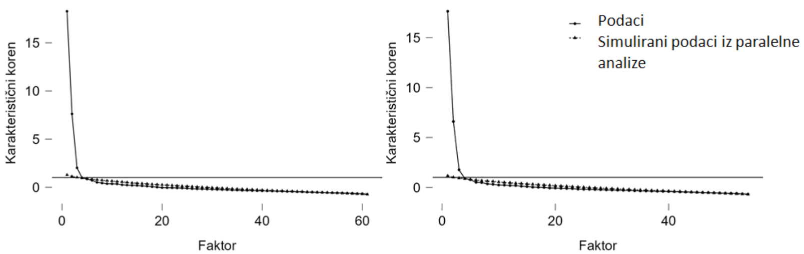
Tabela 1 – Deskriptivna statistika za početni skup ajtema, izvod iz matrice sklopa određene metodom glavnih osa, korelacije među faktorima i obuhvat varijanse

		Deskriptivna statistika				Matrica sklopa		
	Ajtemi	Min	Max	M	SD	F1	F2	F3
st1*	Ne vole promene	0	5	2.59	1.55			
st2*	Vole moć	0	5	4.44	.82		.35	.32
st3	U rešavanju problema su korak ispred drugih	0	5	3.90	.95	.40		
st4	Razmišljaju o posledicama svojih postupaka	0	5	3.46	1.22	.67		
st5*	Utiču na druge	2	5	4.39	.71			.40
st6	Dobro se nose sa problemskim situacijama	0	5	3.83	.98	.53		
st7	Skloni su druge kriviti za nastale greške	0	5	3.04	1.45		.61	
st8	Savesno obavljaju posao	0	5	3.72	.99	.77		
st9	Vešto rešavaju probleme	0	5	3.85	.95	.64		
st10	Prave konflikte među ljudima	0	5	2.10	1.38		.72	
st11*	Imaju želju da ostvare uspeh	2	5	4.74	.58			.43
st12	Stoje iza onoga što kažu	0	5	3.48	1.20	.95		
st13	Lako se prilagođavaju novim situacijama	0	5	3.63	.97	.54		
st14	Korumpirani su	0	5	2.70	1.47		.54	
st15	Dobro poznaju posao	0	5	3.83	.97	.61		
st16	Inovativni su	0	5	3.52	1.06	.79		
st17	Dobro prepoznaje potrebe drugih	0	5	3.20	1.21	.84		
st18	Ostavljaju utisak na druge	0	5	4.09	.91			.53
st19*	Sami donose odluke	1	5	3.96	.91			
st20	Hladni su	0	5	2.93	1.27		.71	
st21	Originalni su u rešavanju problema	0	5	3.28	1.07	.81		
st22	Dobro procenjuju druge ljude	0	5	3.61	1.01	.51		.32
st23	Vole društvo	0	5	3.65	1.00			.41
st24	Sigurni su u svoje sposobnosti	1	5	4.25	.80			.62
st25	Idu u korak sa vremenom	1	5	3.64	1.05	.42		
st26	Reaguju naglo	0	5	2.80	1.26		.62	
st27	Inteligentni su	0	5	3.87	1.01	.41		.38
st28	Dobri su govornici	1	5	4.25	.90			.53
st29	Saradljivi su	0	5	3.48	1.07	.61		
st30	Znaju da odrede šta je najvažnije	0	5	3.78	.99	.54		.31
st31	Strogi su	1	5	3.52	1.04	.39	.65	

st32	Brinu o drugima	0	5	3.04	1.14	.87		
st33	Nametljivi su	0	5	3.46	1.31		.51	.39
st34	Znaju da zarade novac	0	5	4.22	.98			.55
st35*	Vole da kontrolišu	0	5	4.28	.96		.50	.42
st36	Misle da su svemoćni	0	5	3.65	1.30		.55	.32
st37	Pristupačni su	0	5	2.99	1.01	.69		
st38	Drugi mogu da se oslone na njih	0	5	3.25	1.23	.85		
st39	Daju inicijativu	0	5	3.78	.97	.49		.33
st40	Visoko su moralni	0	5	2.77	1.25	.69		
st41	Posvećeni su	0	5	3.71	1.03	.62		
st42	Hrabri su	0	5	3.61	1.12	.55		.32
st43	Imaju osećanje ponosa	0	5	4.14	.93			.56
st44	Podmukli su	0	5	2.64	1.31		.80	
st45	Istrajni su	0	5	3.97	.94			.62
st46	Grubi su	0	5	2.85	1.24		.91	
st47	Kukavice su	0	5	1.67	1.23		.60	-.31
st48	Sebični su	0	5	2.60	1.45		.64	
st49	Napredni su	0	5	3.54	1.02	.54		.34
st50	Nepravedni su	0	5	2.52	1.31		.69	
st51	Borbeni su	0	5	4.06	.87			.58
st52	Agresivni su	0	5	2.73	1.32		.71	
st53	Razumni su	0	5	3.28	1.08	.72		
st54	Nepromišljeni su	0	5	2.00	1.17		.64	
st55*	Snalažljivi su	0	5	4.26	.85			.63
st56	Uobraženi su	0	5	3.04	1.36		.74	
st57	Praktični su	0	5	3.67	1.00	.59		
st58	Laktaši	0	5	3.24	1.45		.58	
st59	Zavide drugima	0	5	2.27	1.37		.78	
st60	Opušteni su	0	5	2.83	1.17	.33		
st61	Ne slušaju druge	0	5	2.87	1.42		.65	
Obuhvat varijanse po faktorima	Karakteristični koren pre rotacije (MGK)					18.88	8.39	2.76
	Simuliran karakteristični koren (MGK)					2.22	2.12	2.03
	Rotirana suma kvadriranih opterećenja (PAF)					17.06	12.48	9.43
Korelacije među faktorima	Nadmoć nad drugim ljudima (F2)					-.49		
	Sposobnost (F3)					.44	.08	

Napomena: Stavke označene * su isključene iz dalje analize; F1 = Poverenje; F2 = Nadmoć nad drugim ljudima; F3 = Sposobnost; u matrici sklopa su prikazana faktorska opterećenja iznad 0,30.

Rezultati Hornove paralelne analize (Horn, 1965) pokazuju da prva tri faktora imaju veće karakteristične korene od svojih pandana generisanih na osnovu nasumičnih podataka (Slika 1), a kod četvrtog faktora simulirana vrednost karakteristočnog korena ima veću vrednost od realne (Λ_{R4} = 1,69, Λ_{S4} = 1,95). Predstavljeni su rezultati za koji odgovaraju metodu glavnih komponenti. Poverenje i Nadmoć nad drugim ljudima su međusobno negativno korelisani i dele 24% zajedničke varijanse, a Poverenje i Sposobnost su pozitivno korelisani i dele 19% zajedničke varijanse. Korelacija između Nadmoći i Sposobnosti nije značajna.



Legenda
Početna verzija STERLID-a $\Lambda_{R4} = 1,69 < \Lambda_{S4} = 1,95$; *konačna verzija STERLID-a* $\Lambda_{R4} = 0,87 < \Lambda_{S4} = 0,90$

Slika 1 – Skree dijagram s prikazom rezultata Hornove paralelne analize za početnu (levo) i konačnu verziju skale (desno) STERLID.

U cilju dobijanja što boljih psihometrijskih karakteristika po subskalama u ovoj fazi konstrukcije skale za izbacivanje izabrane su stavke „Sami donose odluke“ (jer nije imala značajnih paralelnih projekcija na ekstrahovanim faktorima) i „Ne vole promene“ (jer je više od jedne paralelne projekcije prikazane u matrici sklopa) (Tabela 1).

U sledećoj fazi ponovljene su ajtem analiza i eksplorativna faktorska analiza sa metodom glavnih osa uz kosouglu Promax rotaciju na 54 preostale stavke. Kao kriterijumi za opredeljenje za trofaktorsko rešenje korišćeni su paralelna analiza i Cattelov scree test (Slika 1). Faktori su zajedno objasnili 49% ukupne varijanse. Nakon rotacije prvi faktor je objasnio 24% ukupne varijanse, drugi 16% a treći 9%. Rotirani faktori su po sadržaju stavki odgovarali inicijalnom rešenju, pa su nazvani i istim imenima. Poverenje je bilo značajno negativno povezano sa Nadmoći nad drugim ljudima, a pozitivno sa Sposobnosti, a sa obe je delilo po 22% zajedničke varijanse. Korelacija između Nadmoći i Sposobnosti nije značajna.

Na prvom faktoru su najviša opterećenja imale stavke *Stoje iza onoga što kažu*, *Dobro prepoznaju potrebe drugih* i *Drugi mogu da se oslone na njih*, koje se tiču usmerenosti na ljude. Dakle, ovaj faktor je definisan karakteristikama konstruktivne interakcije u vidu saradnje i brige o drugim ljudima. Slede stavke kao što su *Originalni su u rešavanju problema* i *Inovativni su*, koje ukazuju na sposobnost u rešavanju problema (Tabela 2). Na osnovu sadržinske analize, ovaj faktor nazvan je *Poverenje*. Izdvojene stavke ukazuju na vrline lidera koje se odnose na procenu kompetentnosti za obavljanje zadataka, ali i vođenje drugih ljudi. Uopšteno, mogu se tretirati kao indikatori pozitivne slike o liderima. Snižene vrednosti koeficijenata diskriminativnosti, reprezentativnosti i opterećenja su utvrđene za ajtem *Opušteni su*, ali on nije isključen, jer su vrednosti u dozvoljenom opsegu.

Tabela 2 – Psihometrijske karakteristike stavki, izvod iz matrice sklopa prvog Promax faktora i struktura prve glavne komponente subskale *Poverenje*

Stavke	r_{kor}(I-T)	R^2	α_c bez I	λ_P	λ_H
U rešavanju problema su korak ispred drugih	.52	.48	.96	.40	.55
Razmišljaju o posledicama svojih postupaka	.61	.56	.96	.67	.64
Dobro se nose sa problemskim situacijama	.67	.62	.96	.55	.71
Savesno obavljaju posao	.72	.66	.96	.79	.74
Vešto rešavaju probleme	.69	.69	.96	.65	.72
Stoje iza onoga što kažu	.75	.67	.96	.95	.78
Lako se prilagođavaju novim situacijama	.64	.57	.96	.55	.67
Dobro poznaju posao	.70	.57	.96	.64	.73
Inovativni su	.74	.66	.96	.80	.77
Dobro prepoznaje potrebe drugih	.76	.71	.96	.85	.79
Originalni su u rešavanju problema	.74	.68	.96	.81	.76
Dobro procenjuju druge ljude	.69	.64	.96	.52	.73

Idu u korak sa vremenom	.62	.52	.96	.43	.66
Inteligentni su	.65	.58	.96	.42	.69
Saradljivi su	.72	.64	.96	.62	.74
Znaju da odrede šta je najvažnije	.73	.66	.96	.55	.76
Brinu o drugima	.75	.71	.96	.86	.77
Pristupačni su	.65	.59	.96	.68	.67
Drugi mogu da se oslone na njih	.80	.73	.96	.84	.82
Daju inicijativu	.67	.59	.96	.50	.70
Visoko su moralni	.63	.56	.96	.70	.65
Posvećeni su	.72	.66	.96	.63	.75
Hrabri su	.71	.64	.96	.55	.74
Napredni su	.69	.56	.96	.56	.72
Razumni su	.70	.58	.96	.73	.72
Praktični su	.64	.53	.96	.60	.67
Opušteni su	.37	.33	.96	.33	.39

Napomena: Diskriminativnost – r_{kor}(I-T), Reprezentativnost – R^2, Cronbachova alfa ako se ajtem isključi α_c bez ajtema – α_c bez I, faktorsko opterećenje na prvom Promax faktoru – λ_P, faktorsko opterećenje na prvoj glavnoj komponenti – λ_H

Na drugom faktoru su najviša opterećenja imale stavke *Grubi su*, *Podmukli su* i *Zavide drugima* (Tabela 3), koje se odnose na dominaciju i socijalnu manipulaciju. Ovaj faktor nazvan je *Nadmoć nad drugim ljudima*. Uopšteno, sadržaji stavki koje definišu drugi faktor ukazuje i na negativan stereotip. Snižene vrednosti koeficijenata diskriminativnosti, reprezentativnosti i opterećenja su utvrđene za ajtem *Strogi su*, ali on nije isključen, jer su vrednosti pomenutih koeficijenata u dozvoljenom opsegu.

Tabela 3 – Psihometrijske karakteristike stavki, izvod iz matrice sklopa drugog Promax faktora i struktura prve glavne komponente subskale *Nadmoć nad drugim ljudima*

Stavke	r_{kor}(I-T)	R^2	α_c bez I	λ_P	λ_H
Skloni su druge kriviti za nastale greške	.67	.54	.94	.60	.71
Prave konflikte među ljudima	.66	.53	.94	.71	.70
Korumpirani su	.65	.53	.94	.54	.69
Hladni su	.53	.46	.94	.71	.58
Reaguju naglo	.56	.40	.94	.60	.60
Strogi su	.42	.39	.94	.64	.46
Nametljivi su	.64	.55	.94	.50	.68
Misle da su svemoćni	.67	.52	.94	.54	.71
Podmukli su	.72	.58	.94	.80	.76
Grubi su	.76	.67	.94	.89	.79
Kukavice su	.61	.51	.94	.59	.65
Sebični su	.74	.64	.94	.64	.78
Nepravedni su	.74	.63	.94	.69	.78
Agresivni su	.67	.52	.94	.70	.72
Nepromišljeni su	.57	.47	.94	.61	.62
Uobraženi su	.79	.70	.94	.74	.83
Laktaši	.66	.57	.94	.57	.70
Zavide drugima	.71	.59	.94	.76	.75
Ne slušaju druge	.67	.52	.94	.64	.72

Napomena: Diskriminativnost – r_{kor}(I-T), Reprezentativnost – R^2, Cronbachova alfa ako se ajtem isključi α_c bez ajtema – α_c bez I, faktorsko opterećenje na drugom Promax faktoru – λ_P, faktorsko opterećenje na prvoj glavnoj komponenti – λ_H

Na trećem faktoru su najviša opterećenja imale stavke *Istrajni su*, *Borbeni su* i *Sigurni su u svoje sposobnosti* (Tabela 4). Sadržinska analiza upućuje na prepoznavanje karakteristika značajnih za postizanje uspeha u materijalnom smislu i uticaju na druge ljude. Skraćeno, ovaj faktor može se nazvati *Sposobnost.* Ajtem *Vole društvo* ima niže diskriminativnost, reprezentativnost i opterećenja na faktoru, što ukazuje na relativno odstupanje predmeta merenja ovog ajtema od ostalih. Kao takav, skup izdvojenih karakteristika ukazuje takođe na pozitivan stereotip različite sadržinske analize, čemu u prilog idu i rezultati korelacija faktora (Tabela 1).

Tabela 4 – Psihometrijske karakteristike stavki, izvod iz matrice sklopa trećeg Promax faktora i struktura prve glavne komponente subskale *Sposobnost*

Stavke	r_{kor}(I-T)	R^2	α_c bez I	λ_P	λ_H
Ostavljaju utisak na druge	.56	.34	.78	.48	.69
Vole društvo	.40	.22	.80	.39	.53
Sigurni su u svoje sposobnosti	.50	.29	.79	.58	.62
Dobri su govornici	.51	.34	.78	.51	.65
Znaju da zarade novac	.43	.22	.80	.53	.56
Imaju osećanje ponosa	.50	.30	.79	.56	.63
Istrajni su	.66	.58	.76	.61	.80
Borbeni su	.60	.48	.77	.59	.74

Napomena: Diskriminativnost – r_{kor}(I-T), Reprezentativnost – R^2, Cronbachova alfa ako se ajtem isključi α_c bez ajtema – α_c bez I, faktorsko opterećenje na trećem Promax faktoru – λ_P, faktorsko opterećenje na prvoj glavnoj komponenti – λ_H

Izdvojeni faktori su bili osnova za tretiranje i psihometrijsku proveru tri subskale. Psihometrijska analiza po subskalama je pokazala da sve tri, uprkos nejednakoj družini, imaju veoma dobre psihometrijske karakteristike (reprezentativnost, pouzdanost i homogenost; Tabela 5). Ipak, valja napomenuti da treća subskala ima nešto lošije psihometrijske karakteristike, pa bi u sledećoj iteraciji tu subskalu trebalo nadopuniti ajtemima koji bi ocenili još neke aspekte sposobnosti.

Tabela 5 – Reprezentativnost, pouzdanost i homogenost skala STERLID

Skala	MSA	α	β	H1	H2	m
Poverenje	.99	.96	.96	.48	.78	27
Nadmoć nad drugim ljudima	.99	.94	.94	.46	.82	19
Sposobnost	.92	.81	.81	.34	.85	8

Napomena: Normalizovani Kaiser – Meyer – Olkinov koeficijent reprezentativnosti – *MSA*; Guttman – Cronbachova procena (koeficijent pouzdanosti tipa interne konzistencije) – α; Lord – Kaiser – Caffrey koeficijent pouzdanosti prve glavne komponente – β; homogenost kao prosečna interkorelacija stavki unutar skala – *H1*; Momirovićev koeficijent homogenosti – relativna veličina varijanse prve glavne imaž komponente – *H2*; broj stavki u skalama – *m*.

4. Diskusija

Vođstvu, kao predmetu proučavanja u ovom istraživanju, pristupilo se sa stanovišta stereotipnog sagledavanja ljudi koji su na višim hijerarhijskim pozicijama. U kreiranju stereotipne slike, odnosno sadržaja mernog instrumenta, pošlo se od pristupa zasnovanog na karakteristikama osoba vođa.

Mladi svoj stereotip temelje na iskustvima iz porodice, školskog, tj. akademskog i vršnjačkog okruženja, društveno-političkih organizacija i celokupnog procesa socijalizacije. Stereotipna slika je veoma važna, jer ona usmerava dalje odnose mladih prema vođama, kao i tendenciju da i sami postanu lideri. Takođe, i stereotipi prema vođama se mogu tretirati kao indirektni pokazatelji vrednosnog sistema mladih.

Odgovori ispitanika na prezentovanim ajtemima, tj. visine aritmetičkih sredina ukazuju da mladi lidere vide u značajnoj meri kao ambiciozne, željne moći, ali i snalažljive i sposobne. Međutim, stereotipna slika mladih prema liderima obuhvata različite sadržinske odrednice, što ukazuje na to da imaju razvijen složen odnos prema ljudima na višim hijerarhijskim pozicijama.

Utvrđena je višedimenzionalna priroda stereotipa u kojoj se ajtemi razdvajaju u sadržinski različite grupe odrednica, što ide u prilog pretpostavci o složenosti odnosa prema vođama. Ekstrahovani faktori nazvani su Poverenje, Nadmoć nad drugim ljudima i Sposobnost. Poverenje obuhvata ajteme koji opisuju pozitivne karakteristike. Nadmoć nad drugim ljudima obuhvata ajteme koji opisuju nesocijalizovanu težnju ka moći. Dimenzija nazvana Sposobnost obuhvata ajteme koji ukazuju na kompetencije za pojedine aspekte uloge vođe. U prilog pretpostavci da mladi imaju razvijen složen odnos prema vođama idu rezultati korelacione analize među izdvojenim faktorima. Jasno se izdvaja negativna povezanost između odnosa poverenja i opažanja tendencije vođa da budu nadmoćni nad drugim ljudima. Stereotipna slika obuhvata razdvajanje karakteristika Poverenja i Sposobnosti, ali je taj odnos u umereno pozitivnoj korelaciji. Opravdanost izdvajanja Poverenja i Sposobnosti, kao različitih sadržinskih odrednica stereotipa, potvrđuje se i odsustvom korelacije između karakteristika Sposobnosti i Nadmoći nad drugim ljudima.

Dobijeni rezultati ukazuju da je i u okviru ove pilot-studije obuhvaćen relativno širok psihološki prostor za utvrđivanje stereotipne slike mladih prema vođama.

5. Zaključak

Na osnovu prikazanih rezultata, može se zaključiti da je skala STERLID primenljiva za ispitivanje stereotipa prema vođama. Početni hipotetički okvir izvojenih karakteristika lidera dao je osnovu za izdvajanje i interpretaciju sadržinski smislenih faktora za analizu stereotipne slike ispitanika prema vođama. Izdvojeni faktori stereotipa omogućavaju sagledavanje stepena pozitivnosti, odnosno negativnosti odnosa prema vođama, ali i otvaraju mogućnost dubljeg sagledavanja na čemu i kojim karakteristikama se gradi pozitivan, odnosno negativan stereotip.

Shodno ovome, omogućava sagledavanje prisutnosti i usmerenosti na procenu „sposobnosti" u rešavanju problema i sa tim povezanim socijalno-kognitivnim obrascima motivacionih procesa, kao što su elementi motiva postignuća (inicijativa, istrajnost). Jasno se izdvaja korpus karakteristika sa negativnom konotacijom u odnosu sa drugim ljudima i posebno tendencija za dominacijom i moći. Oba ova elementa, evaluativni i sadržinski, mogu biti kriterijumi za izdvajanje i interpretaciju jezgra autostereotipa i heterostereotipa, u smislu sagledavanja da li i u kojoj meri postoji „saglasnost" oko generalizovane slike ispitanika prema ovoj kategoriji ljudi. Korelacije između izvojenih faktora mogu se tretirati kao dodatna argumentacija za opravdanost izdvajanja tri faktora, kao i za njihovo sadržinsko tumačenje. Konstruisana skala, takođe, ima zadovoljavajuće psihometrijske karakteristike.

I pored pozitivnih karakteristika na koje ukazuju prikazani rezultati neophodno je nastaviti dalji rad na skali STERLID, što uključuje korelacije sa drugim sociopsihološkim varijablama u cilju provere konstruktne valjanosti. Takođe, dalja analiza instrumenta zahteva njegovu primenu na različitim kategorijama ispitanika, što bi omogućilo sagledavanje da li je STERLID dovoljno dobar instrument za operacionalizaciju autostereotipa i heterostereotipa lidera.

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LATENT STRUCTURE AND PSYCHOMETRIC PROPERTIES OF THE STERLID INSTRUMENT FOR LEADER STEREOTYPES: A PILOT STUDY[4]

Abstract: The aims of this paper are the development of an instrument for operationalizing stereotypes about leaders and the evaluation of its psychometric properties. The primary focus of measurement is the perceived traits that shape a generalized, i.e., stereotypical image held by respondents regarding individuals in leadership positions. The instrument was developed based on a broad corpus of characteristics associated with various aspects of leaders' personalities. The construction procedure involved two phases of pilot testing on samples of 162 and 218 participants, respectively, with the scale and selecting the goal of building items with the most robust psychometric properties. Exploratory factor analysis revealed a three-factor structure. Based on content analysis, the extracted factors were labeled: Trust, Dominance over Others, and Competence. These factors enable the assessment of both the positivity and negativity of stereotypes, as well as a clearer understanding of the specific traits of leaders that shape respondents' generalized perceptions.

Keywords: stereotype, leader, psychometric properties, STERLID

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1. Introduction

Within group dynamics, one of the most significant relationships for its functioning is the interaction between members and the leader, as well as the leader's relationship toward group members. The nature of this relationship is shaped not only by the history of specific transactions, but also by a generalized, stereotypical image that individuals adopt within a given social context. Thus, the stereotypical image serves both as a perceptual orientation and as a factor in establishing interactions in current and/or future roles of group members and leaders.

Leadership, as an object of stereotype, may be considered universal in the sense that, as members of various groups, we explicitly or implicitly construct images of individuals occupying higher hierarchical positions—precisely because of the importance and prominence of their role. When examining young people, their attitudes and orientations in the context of entrepreneurial inclination, one of the key questions is how they perceive leaders. The stereotypical nature of their perception stems from the fact that young people's experience with leaders is still sporadic, given their age, but also from the generalizations typical of situations in which attitudes toward certain categories of people are being examined.

Stereotypes are widely accepted and simplified representations of particular groups of people, categorized according to various criteria such as race, gender, age, profession, and group status (Eagly & Koenig, 2021). Stereotypical portrayals are generalized assumptions about the traits attributed to members of specific social categories (Hilton & von Hippel, 1996). They function as cognitive shortcuts that help individuals categorize and process social information. However, they carry significant social consequences in how individuals are treated and in how communication is established, primarily through the lens of group affiliation.

To elaborate the object of stereotype, we drew upon theoretical approaches grounded in the characteristics of leaders. At its core, leadership entails the ability to influence others toward the achievement of a shared goal (Northouse, 2018). The complexity of this concept is evident in the diversity of approaches to its study. One such approach is based on the assumption that leaders possess specific traits, whether innate or acquired. The spectrum of these traits is as broad as the role of the leader itself, yet several key attributes can be identified, such as intelligence, self-confidence, charisma, decisiveness, sociability, and integrity (Northouse, 2018).

Researchers adopting this trait-based approach have also examined the characteristics that distinguish successful leaders from less successful ones. These include high energy potential and stress tolerance, self-confidence, an internal locus of control, emotional maturity, personal integrity, socialized power motivation, a moderately high achievement orientation, and a moderate need for affiliation (Francěško, 2003; Yukl, 2012).

A more recent approach to leadership emphasizes skills, foregrounding the potential for learning and developing technical, interpersonal, and conceptual competencies (Northouse, 2018). Regardless of whether leadership behaviors are primarily innate or acquired, it is essential to consider followers' trust in the leader's abilities and intentions. Some of the traits associated with this trust, as identified by various authors, include ethical conduct (Brown & Treviño, 2006), competence and integrity (Mayer et al., 1995), empathy (Goleman, 1998), and fairness (Dirks & Ferrin, 2002).

In shaping interactions grounded in group members' trust, the influence of stereotypical perceptions of hierarchically prominent roles is unavoidable. These perceptions emerge as a composite of prior experience and generalized imagery through which every leader is evaluated.

A brief overview of the trait-based approach highlights a particular challenge: the effort to both distinguish and synthesize the numerous attributes associated with leaders. In constructing a stereotype scale related to leaders, we aimed to encompass a broad corpus of traits that could be grouped into interpretable categories. Previous research on stereotypes in this domain has primarily focused on categorizing leaders by gender, race, age, and physical appearance. For instance, successful women in leadership positions are often perceived as less warm and personable, which leads to social and professional consequences, even when their achievements match those of their male counterparts (Eagly

& Karau, 2002; Heilman & Okimoto, 2007). The authors will argue that the trait-based approach to leadership stereotypes remains underrepresented in research addressing this complex issue.

Recognizing the significance of this broad, generalized factor in social perception, we developed the STERLID Scale of Stereotypes Toward Leaders, designed to assess both hetero- and auto-stereotypes related to leadership. The aim of this study is to examine the psychometric properties of the instrument, with a particular focus on evaluating the substantive interpretation of stereotypes. This entails seeking answers to the following questions:

- Does the instrument allow for a coherent substantive interpretation that encompasses traits and competencies identified in various theoretical approaches and leadership studies?
- Can interpretable factors of stereotypical perception be extracted that enable an understanding of the core structure of stereotypes?
- Does the instrument include an evaluative component that permits assessment of the positivity or negativity of respondents' stereotypical images?

2. Method

2.1 Sample

The procedure for constructing the stereotype scale involved two stages, each requiring distinct participant samples. The first stage included 168 university students who completed two preliminary versions of the instrument. The results presented in this paper were obtained during the second stage, based on a sample of 218 participants aged between 18 and 55 years (M = 31.66; SD = 20.14). Of the total sample in the second stage, 62.4% were female.

2.2 Scale Construction Procedure

The construction of the instrument was based on a list of traits deemed significant for the role of a leader within a group. In an effort to capture a broad spectrum of characteristics, several categories were delineated.

- Motivational traits focused on social motives, including components of achievement and power motivation, aspects of affiliative tendencies, and general orientations toward others. Examples include: *take initiative*, *desire success*, *enjoy power*, *enjoy socializing*, *are pushy/ self-serving*.

- Emotional reactions included descriptors such as: *are relaxed*, *are cold*, and similar affective indicators.

- Cognitive abilities were represented by traits such as: *are one step ahead in problem-solving, accurately perceive others' needs, have original approach to problem-solving.*

- Indicators of (un)ethical behavior included: *are devious, are corrupt, are true to their word*, among others.

- Skills and competencies encompassed both implicit and explicit markers of success, efficiency, and capability as outcomes. Examples include: *handle problem situations well, have expertise, influence others*.

The entire corpus of traits can be theoretically classified into those primarily oriented toward task execution and those oriented toward interpersonal interaction.

Two versions of the scale were developed, differing in the instructions provided to participants. Both versions included 61 leadership-related traits. In the first version, participants (N = 82) were instructed to rate the extent to which each trait is typical of leaders, using a scale from 0 (not at all typical) to 5 (extremely typical). In the second version, participants (N = 86) were asked to estimate the percentage of leaders who possess each trait, using a scale ranging from 0% (no leaders) to 100% (all leaders), with intermediate points at 20%, 40%, 60%, and 80%.

By employing both formats, we aimed to examine similarities and differences in participants' response patterns and to assess the interpretive clarity of the results in order to select the more suitable version of the instrument. This evaluation was conducted through statistical analyses as well as qualitative insights gathered via focus group discussions.

Results from an exploratory factor analysis with Promax rotation in this initial pilot study indicated that the structural composition of both formats did not differ significantly. Consequently, the present study employed the STERLID instrument using the six-point rating scale ranging from 0 (not at all typical) to 5 (extremely typical).

The first stage of the research was conducted between February and June 2022, while the second stage—whose results are presented in this paper—was carried out between March and June 2023. In both stages, participants completed paper-and-pencil versions of the scale.

2.3. Data Analysis

The psychometric analysis of the STERLID scale, composed of 61 items, was conducted in two phases. In the first phase, item difficulty and the factor structure of the scale were examined. Exploratory factor analysis was performed using the principal axis method. In the second phase, factor validation was repeated on the remaining set of 54 items, and psychometric analysis was conducted using the Rtt10g macro. As part of the item analysis, the following metrics were reported: arithmetic mean and standard deviation, item discrimination (defined as corrected item-total correlation), item representativeness (defined as the multiple correlation between each item and the remaining items), Cronbach's alpha if the item is deleted, factor loading on the first Promax factor, and loading on the first principal component. Acceptable values for corrected item-total correlation ranged from 0.30 to 0.80, and for item representativeness from 0.40 to 0.70 (Fajgelj, 2020).

The psychometric analysis of the subscales was based on the following indicators:

- Representativeness, assessed via the normalized Kaiser–Meyer–Olkin (KMO) coefficient
- Reliability, measured by Cronbach's alpha (a type of internal consistency)
- Reliability of the first principal component, evaluated using the Lord–Kaiser–Caffrey coefficient

- Homogeneity, assessed through average inter-item correlations within subscales and Momirović's coefficient of homogeneity

A normalized KMO coefficient above 0.60 is considered indicative of representativeness. Reliability coefficients greater than 0.70 are deemed acceptable. Homogeneity is supported when Momirović's coefficient exceeds 0.60 (Tenjović & Radovanović, 1995), and a secondary criterion for homogeneity is met when the average inter-item correlation within subscales falls within the range of 0.20 to 0.50 (Clark & Watson, 1995).

3. Results

The psychometric analysis of the scale began with an item-level review, specifically an examination of the arithmetic means and standard deviations of individual items (Table 1). Items with arithmetic means exceeding 4.25 (e.g., *Desire to achieve success*, *Like power*, *Influence others*, *Resourceful*, *Enjoy control*) were excluded due to the negative impact of their skewness on other psychometric properties. However, based on the high mean values for these items, we also inferred that these traits—alongside others with elevated mean scores—constitute the dominant stereotype of a leader.

Subsequently, an exploratory factor analysis was conducted using the principal axis method with oblique Promax rotation. The decision to retain a three-factor solution was guided by parallel analysis and Cattell's scree test (Figure 1, left).

Table 1 – Descriptive metrics for the original item set, segment of the factor loading matrix (principal axis method), factor correlations, and total variance captured

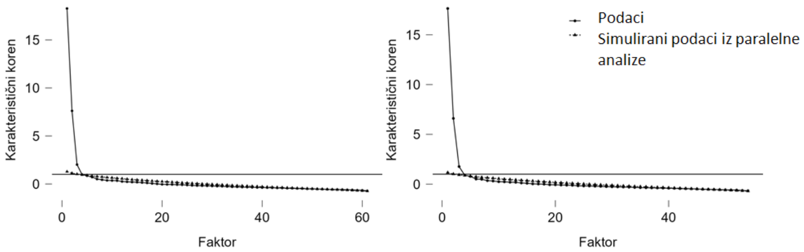
		Descriptive metrics				Factor structure matrix		
	Items	Min	Max	M	SD	F1	F2	F3
st1*	Dislike change	0	5	2.59	1.55			
st2*	Like power	0	5	4.44	.82		.35	.32
st3	Are one step ahead in problem-solving	0	5	3.90	.95	.40		
st4	Consider consequences of their actions	0	5	3.46	1.22	.67		
st5*	Influence others	2	5	4.39	.71			.40
st6	Handle problem situations well	0	5	3.83	.98	.53		
st7	Tend to blame others for mistakes	0	5	3.04	1.45		.61	
st8	Perform their duties responsibly	0	5	3.72	.99	.77		
st9	Apt in problem-solving	0	5	3.85	.95	.64		
st10	Create interpersonal conflicts	0	5	2.10	1.38		.72	
st11*	Desire to achieve success	2	5	4.74	.58			.43
st12	True to their word	0	5	3.48	1.20	.95		
st13	Adapt to new circumstances easily	0	5	3.63	.97	.54		
st14	Corrupt	0	5	2.70	1.47		.54	
st15	Have expertise	0	5	3.83	.97	.61		
st16	Innovative	0	5	3.52	1.06	.79		
st17	Accurately perceive others’ needs	0	5	3.20	1.21	.84		
st18	Make an impression on others	0	5	4.09	.91			.53
st19*	Make decisions independently	1	5	3.96	.91			
st20	Cold	0	5	2.93	1.27		.71	
st21	Have original approach to problem-solving	0	5	3.28	1.07	.81		
st22	Accurately assess others	0	5	3.61	1.01	.51		.32
st23	Enjoy socializing	0	5	3.65	1.00			.41
st24	Trust their skills	1	5	4.25	.80			.62
st25	Keep up with the times	1	5	3.64	1.05	.42		
st26	Act impulsive	0	5	2.80	1.26		.62	
st27	Intelligent	0	5	3.87	1.01	.41		.38
st28	Good speakers	1	5	4.25	.90			.53
st29	Cooperative	0	5	3.48	1.07	.61		
st30	Know their priorities	0	5	3.78	.99	.54		.31
st31	Strict	1	5	3.52	1.04	.39	.65	
st32	Caring	0	5	3.04	1.14	.87		
st33	Meddlesome	0	5	3.46	1.31		.51	.39
st34	Know how to make money	0	5	4.22	.98			.55
st35*	Enjoy control	0	5	4.28	.96		.50	.42
st36	Think they are all-powerful	0	5	3.65	1.30		.55	.32
st37	Personable	0	5	2.99	1.01	.69		
st38	Reliable	0	5	3.25	1.23	.85		
st39	Initiate actions	0	5	3.78	.97	.49		.33
st40	Have high moral standards	0	5	2.77	1.25	.69		
st41	Dedicated	0	5	3.71	1.03	.62		

st42	Courageous	0	5	3.61	1.12	.55		.32
st43	Have a sense of pride	0	5	4.14	.93			.56
st44	Devious	0	5	2.64	1.31		.80	
st45	Persistant	0	5	3.97	.94			.62
st46	Harsh	0	5	2.85	1.24		.91	
st47	Cowardly	0	5	1.67	1.23		.60	-.31
st48	Selfish	0	5	2.60	1.45		.64	
st49	Progressive	0	5	3.54	1.02	.54		.34
st50	Unfair	0	5	2.52	1.31		.69	
st51	Driven	0	5	4.06	.87			.58
st52	Agressive	0	5	2.73	1.32		.71	
st53	Reasonable	0	5	3.28	1.08	.72		
st54	Reckless	0	5	2.00	1.17		.64	
st55*	Resourceful	0	5	4.26	.85			.63
st56	Self-important	0	5	3.04	1.36		.74	
st57	Practical	0	5	3.67	1.00	.59		
st58	Self-serving	0	5	3.24	1.45		.58	
st59	Envious of others	0	5	2.27	1.37		.78	
st60	Easy-going	0	5	2.83	1.17	.33		
st61	Take no heed of others	0	5	2.87	1.42		.65	
Variance distribution across factors	Initial eigenvalue (prior to rotation) (MGK)					18.88	8.39	2.76
	Eigenvalue simulation (MGK)					2.22	2.12	2.03
	Post-rotation squared loadings sum (PAF)					17.06	12.48	9.43
Factor correlations	Dominance over others (F2)					-.49		
	Competence (F3)					.44	.08	

Notes: Items marked with * have been excluded from further analysis; F1 = Trust; F2 = Dominance over others; F3 = Competence; factor structure matrix shows factor loadings above 0,30.

Results from Horn's parallel analysis (Horn, 1965) indicate that the first three factors have eigenvalues greater than those of their counterparts generated from random data (Figure 1). For the fourth factor, however, the simulated eigenvalue exceeds the observed one (ΛR4 = 1.69, ΛS4 = 1.95). The results presented correspond to the principal components method.

Trust and *Dominance over others* are negatively correlated, sharing 24% of their variance. In contrast, *Trust* and *Competence* are positively correlated, with 19% shared variance. The correlation between *Dominance* and *Competence* is not statistically significant.



Legend
Initial STERLID version $\Lambda_{R4} = 1{,}69 < \Lambda_{S4} = 1{,}95$; *final STERLID version* $\Lambda_{R4} = 0{,}87 < \Lambda_{S4} = 0{,}90$

Figure 1 – Scree diagram showing results of Horn's parallel analysis for initial (left) and final (right) versions of the STERLID scale.

In order to optimize the psychometric properties of the subscales during this phase of scale construction, two items were excluded: *Make decisions independently* (due to the absence of significant parallel projections on the extracted factors) and *Dislike change* (due to multiple parallel projections shown in the structure matrix) (Table 1).

In the next phase, item analysis and exploratory factor analysis were repeated using the principal axis factoring method with oblique Promax rotation on the remaining 54 items. Parallel analysis and Cattell's scree test (Figure 1) were used as criteria for selecting the three-factor solution. Together, the factors accounted for 49% of the total variance. After rotation, the first factor explained 24% of the variance, the second 16%, and the third 9%. The rotated factors aligned with the initial solution in terms of item content and were therefore assigned the same names. *Trust* was significantly negatively correlated with *Dominance over others*, and positively correlated with *Competence*, sharing 22% of common variance with each. The correlation between *Dominance* and *Competence* was not significant.

On the first factor, the highest loadings were observed for the items *True to their word*, *Accurately perceive others' needs*, and *Reliable*, all of which pertain to interpersonal orientation. Thus, this factor is defined by characteristics of constructive interaction, such as cooperation and concern for others. These are followed by items like *Have original approach to problem-solving* and *Innovative*, which indicate problem-solving ability (Table 2). Based on content analysis, this factor was labeled *Trust*. The selected items reflect leadership virtues related not only to task competence but also to guiding others. Broadly speaking, they may be treated as indicators of a positive image of leaders. Lower values of discrimination, representativeness, and factor loading coefficients were found for the item *Easy-going*, but it was not excluded, as the values remained within the acceptable range.

Table 2 – Psychometric item features, excerpt from factor structure matrix of the first Promax factor and structure of the first principal component of the *Trust* subscale

Items	r_{kor}(I-T)	R^2	α_c w/o I	λ_P	λ_H
Are one step ahead in problem-solving	.52	.48	.96	.40	.55
Consider consequences of their actions	.61	.56	.96	.67	.64
Handle problem situations well	.67	.62	.96	.55	.71
Perform their duties responsibly	.72	.66	.96	.79	.74
Apt in problem-solving	.69	.69	.96	.65	.72
True to their word	.75	.67	.96	.95	.78
Adapt to new circumstances easily	.64	.57	.96	.55	.67
Have expertise	.70	.57	.96	.64	.73
Innovative	.74	.66	.96	.80	.77
Accurately perceive others' needs	.76	.71	.96	.85	.79
Have original approach to problem-solving	.74	.68	.96	.81	.76

Accurately assess others	.69	.64	.96	.52	.73
Keep up with the times	.62	.52	.96	.43	.66
Intelligent	.65	.58	.96	.42	.69
Cooperative	.72	.64	.96	.62	.74
Know their priorities	.73	.66	.96	.55	.76
Caring	.75	.71	.96	.86	.77
Personable	.65	.59	.96	.68	.67
Reliable	.80	.73	.96	.84	.82
Initiate actions	.67	.59	.96	.50	.70
Have high moral standards	.63	.56	.96	.70	.65
Dedicated	.72	.66	.96	.63	.75
Courageous	.71	.64	.96	.55	.74
Progressive	.69	.56	.96	.56	.72
Rational	.70	.58	.96	.73	.72
Practical	.64	.53	.96	.60	.67
Relaxed	.37	.33	.96	.33	.39

Note: Item discrimination – r_{kor}(I-T), Item representativeness – R^2, Cronbach's alpha if item is deleted α_c without item – α_c w/o I, factor loading on the first Promax factor– λ_P, Loading on the first principal component– λ_H

The highest loadings on the second factor were observed for the items *Harsh*, *Devious*, and *Envious of others* (Table 3), all of which pertain to dominance and social manipulation. This factor was labeled *Dominance over others*. Broadly speaking, the content of the items defining this factor also reflects a negative stereotype. Lower values of item discrimination, representativeness, and factor loadings were found for the item *Harsh*. However, this item was not excluded, as the values of the aforementioned coefficients remained within the acceptable range.

Table 3 – Psychometric item features, excerpt from factor structure matrix of the second Promax factor and structure of the first principal component of the *Dominance over others* subscale

Items	r_{kor}(I-T)	R^2	α_c bez I	λ_P	λ_H
Tend to blame others for mistakes	.67	.54	.94	.60	.71
Create interpersonal conflicts	.66	.53	.94	.71	.70
Corrupt	.65	.53	.94	.54	.69
Cold	.53	.46	.94	.71	.58
Act impulsive	.56	.40	.94	.60	.60
Strict	.42	.39	.94	.64	.46
Meddlesome	.64	.55	.94	.50	.68
Think they are all-powerful	.67	.52	.94	.54	.71
Devious	.72	.58	.94	.80	.76
Harsh	.76	.67	.94	.89	.79
Cowardly	.61	.51	.94	.59	.65
Selfish	.74	.64	.94	.64	.78
Unfair	.74	.63	.94	.69	.78
Agressive	.67	.52	.94	.70	.72
Reckless	.57	.47	.94	.61	.62
Self-important	.79	.70	.94	.74	.83
Self-serving	.66	.57	.94	.57	.70
Envious of others	.71	.59	.94	.76	.75
Take no heed of others	.67	.52	.94	.64	.72

Note: Item discrimination – r_{kor}(I-T), Item representativeness – R^2, Cronbach's alpha if item is deleted α_c without item – α_c w/o I, factor loading on the second Promax factor– λ_P, Loading on the first principal component– λ_H

The highest loadings on the third factor were observed for the items *Persistent*, *Driven*, and *Trust their skills* (Table 4). Content analysis suggests that these traits are associated with achieving success in material terms and exerting influence over others. In abbreviated form, this factor was labeled *Competence*. The item *Enjoy socializing* showed lower values for discrimination, representativeness, and factor loading, indicating a relative divergence in the construct it measures compared to the other items. As such, the cluster of extracted characteristics also reflects a positive stereotype, albeit with a distinct thematic profile—an interpretation further supported by the factor correlation results (Table 1).

Tabela 4 – Psychometric item features, excerpt from factor structure matrix of the third Promax factor and structure of the first principal component of the *Competence* subscale

Items	r_{kor}(I-T)	R^2	α_c bez I	λ_P	λ_H
Make an impression on others	.56	.34	.78	.48	.69
Enjoy socializing	.40	.22	.80	.39	.53
Trust their skills	.50	.29	.79	.58	.62
Good speakers	.51	.34	.78	.51	.65
Know how to make money	.43	.22	.80	.53	.56
Have a sense of pride	.50	.30	.79	.56	.63
Persistent	.66	.58	.76	.61	.80
Driven	.60	.48	.77	.59	.74

Note: Item discrimination – rkor(I-T), Item representativeness – R2, Cronbach's alpha if item is deleted αc without item – αc w/o I, factor loading on the third Promax factor– λP, Loading on the first principal component– λH

The identified factors formed the foundation for the development and psychometric validation of three subscales. Despite differences in item count, all three subscales demonstrated strong psychometric properties, including representativeness, internal consistency, and homogeneity (Table 5). However, the third subscale showed slightly lower psychometric robustness, indicating the need for additional items in future iterations to better capture the multifaceted nature of capability.

Tabela 5 – Representativeness, internal consistency, and homogeneity of the STERLID scale

Scale	MSA	α	β	H1	H2	m
Trust	.99	.96	.96	.48	.78	27
Dominance over others	.99	.94	.94	.46	.82	19
Competence	.92	.81	.81	.34	.85	8

Napomena: Normalized Kaiser–Meyer–Olkin measure of sampling adequacy– *MSA*; Guttman – Cronbach estimate (internal consistency reliability coefficient) – α; Lord – Kaiser – Caffrey reliability coefficient of the first principal component – β; homogeneity as the average inter-item correlation within scales– *H1*; Momirović homogeneity coefficient – relative variance of the first principal image component – *H2*; number of items in scales – *m*.

4. Discussion

In this study, leadership was approached from the perspective of stereotypical perceptions of individuals occupying higher hierarchical positions. The development of the stereotypical image—and thus the content of the measurement instrument—was grounded in traits commonly attributed to leaders.

Young people tend to base their stereotypes on experiences drawn from family, educational (i.e., academic and peer) environments, socio-political organizations, and the broader process of socialization. The stereotypical image is highly significant, as it shapes young people's attitudes toward leaders and influences their own inclination to assume leadership roles. Moreover, stereotypes about leaders can be viewed as indirect indicators of the value system held by youth.

Respondents' answers to the presented items—specifically, the levels of arithmetic means—suggest that young people predominantly perceive leaders as ambitious, power-seeking, but also resourceful and competent. However, the stereotypical image held by youth encompasses a range of content dimensions, indicating a complex and differentiated attitude toward individuals in higher hierarchical positions.

The stereotype was found to be multidimensional, with items clustering into substantively distinct groups of attributes, supporting the assumption of a nuanced perception of leaders. The extracted factors were labeled *Trust*, *Dominance over Others*, and *Competence*.

- *Trust* includes items describing positive personal traits.
- *Dominance over Others* comprises items reflecting unsocialized striving for power.
- *Competence* encompasses items indicating specific skills relevant to the leadership role.

The results of the correlational analysis among the extracted factors further support the assumption that young people hold a complex view of leadership. A clear negative correlation emerged between *Trust* and the perception of leaders as *Dominant over Others*. While *Trust* and *Competence* represent distinct dimensions of the stereotype, they are moderately positively correlated. The justification for treating *Trust* and *Competence* as separate content domains is further reinforced by the absence of correlation between *Competence* and *Dominance over Others*.

These findings suggest that even within this pilot study, a relatively broad psychological space was captured for identifying the stereotypical image of leaders among youth.

5. Conclusion

Based on the presented findings, it can be concluded that the STERLID scale is applicable for examining stereotypes about leaders. The initial hypothetical framework of leader characteristics provided a foundation for extracting and interpreting conceptually meaningful factors in the analysis of respondents' stereotypical images of leadership. The identified stereotype factors allow for assessing the degree of positivity or negativity in attitudes toward leaders, while also enabling a deeper understanding of the traits that underpin positive versus negative stereotypes.

Accordingly, the scale facilitates insight into the presence and orientation toward evaluating *competence* in problem-solving, along with associated socio-cognitive patterns of motivational processes—such as elements of achievement motivation (initiative, persistence). A distinct cluster of negatively connoted traits emerges, particularly in relation to interpersonal dynamics and the tendency toward dominance and power. These evaluative and content-based elements may serve as criteria for identifying and interpreting the core of *autostereotypes* and *heterostereotypes*, in terms of assessing whether and to what extent there is "consensus" around a generalized image of leaders among respondents.

Correlations among the extracted factors can be treated as additional evidence supporting the validity of the three-factor structure, as well as their substantive interpretation. The constructed scale also demonstrates satisfactory psychometric properties.

Despite the positive characteristics indicated by the results, further development of the STERLID scale is necessary. This includes examining correlations with other socio-psychological variables to assess construct validity. Moreover, continued analysis requires applying the instrument to different respondent categories, which would help determine whether STERLID is a sufficiently robust tool for operationalizing both autostereotypes and heterostereotypes of leaders.

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KLASTER ANALIZA SIROMAŠTVA I SOCIJALNE ISKLJUČENOSTI U EVROPSKIM ZEMLJAMA

Rezime: Siromaštvo i socijalna isključenost su kompleksni problemi sa ozbiljnim posledicama kako za pojedinca, tako i za društvo u celini. Cilj ovoga rada bio je da se identifikuju grupe zemalja sa sličnim nivoima siromaštva. U tu svrhu primenjena je klaster analiza kojom su obuhvaćene zemlje članice EU i nekoliko susednih zemalja. Podaci su preuzeti iz zvanične baze Eurostata a nivo siromaštva meren je na osnovu ključnih indikatora, poput stope rizika od siromaštva, materijalne i socijalne deprivacije, kao i niske radne intenzivnosti domaćinstava. Identifikovana su tri glavna klastera. Rezultati analize jasno su ukazali na prisustvo regionalnih razlika u nivoima siromaštva, pri čemu su se zemlje sa nižim BDP-om i višom nezaposlenošću istakle kao posebno ranjive. Dobijeni rezultati pružili su uvid u strukturu siromaštva u Evropi i, kao takvi, mogu predstavljati polaznu tačku za buduće socioekonomske politike usmerene ka smanjenju siromaštva.

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Ključne reči: *siromaštvo, deprivacija, socijalna nejednakost, multivarijaciona analiza, klaster analiza.*

1. Uvod

Siromaštvo je složen i višedimenzionalni društveni problem koji ne uključuje samo nedostatak materijalnih resursa, već i nejednak pristup osnovnim životnim potrebama, kao što su adekvatna ishrana, zdravstvena zaštita, obrazovanje i stanovanje. Prema podacima za 2023. godinu, čak 94,6 miliona ljudi u Evropskoj uniji, odnosno 21,4% populacije bilo je u riziku od siromaštva ili socijalne isključenosti (Kotzeva, 2024). Ovaj pokazatelj obuhvata osobe koje se suočavaju s niskim prihodima, materijalnim i socijalnim nedostacima, kao i one koje žive u domaćinstvima s veoma niskim intenzitetom rada.

U Srbiji je, prema poslednjim dostupnim podacima za 2023. godinu, stopa rizika od siromaštva iznosila 19,9%, dok je stopa rizika od siromaštva ili socijalne isključenosti bila 27,2%. Ove brojke ukazuju na blago smanjenje u odnosu na prethodne godine, što pokazuje određeni napredak u borbi protiv siromaštva, ali i dalje ostavlja zabrinjavajući procenat stanovništva u ugroženoj poziciji. Prag rizika od siromaštva, koji se određuje kao 60% medijane ekvivalentnog raspoloživog prihoda, iznosio je 29.100 dinara mesečno za jednočlano domaćinstvo, dok je za četvoročlano domaćinstvo taj prag bio 61.110 dinara (Saopštenje RZS, 2024).

Osim finansijskih pokazatelja, analiza siromaštva uključuje i indikatore materijalne i socijalne deprivacije koji pružaju dublji uvid u uslove života stanovništva. U Srbiji značajan procenat domaćinstava ne može da priušti osnovne potrebe kao što su adekvatno grejanje domaćinstva, zamena dotrajalog nameštaja ili konzumacija mesa ili ribe svaka dva dana. Stopa izražene materijalne i socijalne uskraćenosti dodatno ukazuje na ozbiljnost problema, budući da je znatan deo stanovništva lišen pristupa ključnim životnim uslovima.

Sociodemografski faktori, kao što su starosna dob, obrazovni nivo i status zaposlenosti, imaju značajan uticaj na izloženost riziku od siromaštva. Prema podacima iz 2023. godine, osobe starije od 65 godina bile su najviše izložene riziku od siromaštva – sa stopom od 23,5% (Kotzeva, 2024). Takođe, domaćinstva sa troje ili više dece beleže značajno veću stopu rizika u poređenju s domaćinstvima s manjim brojem članova.

Ovi podaci ukazuju na činjenicu da siromaštvo nije isključivo rezultat ekonomske nejednakosti, već i šire socijalne isključenosti. Takođe, relativni jaz rizika od siromaštva, koji meri razliku između praga siromaštva i prosečnih prihoda onih koji su ispod tog praga, ukazuje na prisutnu nejednakost u distribuciji prihoda unutar društva. Ova nejednakost dodatno otežava izlazak najugroženijih grupa iz stanja siromaštva, jer su suočeni s ograničenim mogućnostima za poboljšanje svojih ekonomskih i socijalnih uslova.

U borbi protiv siromaštva potrebno je primeniti integrisan i sveobuhvatan pristup koji će obuhvatiti različite dimenzije problema – od unapređenja obrazovnih i zdravstvenih usluga, do stvaranja prilika za zapošljavanje i smanjenja socijalne isključenosti. Samo kroz sinergiju ekonomske i socijalne politike moguće je ostvariti značajniji napredak u smanjenju siromaštva i poboljšanju kvaliteta života najugroženijih grupa u društvu.

Cilj ovoga rada je da se upotrebom metoda multivarijacione statističke analize identifikuju grupe zemlja na teritoriji Evrope koje su međusobno slične po pitanju siromštva. Za identifikaciju sličnih evropskih zemalja u pogledu siromaštva korišćena je metodologija klaster analize. Analiza obuhvata EU27, Švajcarsku, Island, Crnu Goru, Severnu Makedoniju, Norvešku, Srbiju, Tursku i Ujedinjeno Kraljevstvo, a podaci su preuzeti iz Eurostata. Posmatrani indikatori uključuju: broj ljudi u riziku od siromaštva ili socijalne isključenosti, stopu rizika od siromaštva, stopu ozbiljne materijalne i socijalne uskraćenosti, udeo osoba u domaćinstvima s niskim intenzitetom rada i kvintilni odnos prihoda (S80/S20). Rezultati analize siromaštva u Evropi upućuju na tri grupe zemalja, prema ekonomskom razvoju, životnom standardu i socijalnoj isključenosti. Prvu grupu, u koju spada i Srbija, karakterišu nizak BDP po glavi stanovnika, visoka nezaposlenost i izražena materijalna uskraćenost. Druga grupa obuhvata ekonomski razvijene zemlje, poput Nemačke, Francuske i Švedske, sa stabilnim tržištima, niskom nezaposlenošću i snažnim socijalnim sistemima. Treća grupa uključuje zemlje, poput Španije, Italije i Estonije, koje se oslanjaju na turizam i digitalizaciju, ali se suočavaju sa izazovima migracija i demografskog opadanja.

Ostatak rada strukturiran je na sledeći način: u narednom poglavlju naveden je kratak pregled literature i dosadašnjih istraživanja sa ovom temom; treće poglavlje sadrži kratak opis primenjenih metoda analize i njome obuhvaćenih podataka; četvrto poglavlje sadrži pregled i analizu dobijenih rezultata, a u poslednjem poglavlju dat je prikaz zaključaka do kojih se tokom istraživanja došlo.

2. Pregled literature

Ravalion (2001) koristi apsolutni prag od jednog dolara dnevno, izražen kroz paritet kupovne moći, kako bi procenio globalno siromaštvo. Autor ističe da su, iako je globalni rast smanjio siromaštvo, prisutne velike varijacije u ovom broju, čime Afrika i Južna Azija predstavljaju regione sa najvećom koncentracijom siromašnih.

Žan i dr. (2016) koriste satelitske slike i mašinsko učenje kako bi identifikovali i predvideli siromaštvo u ruralnim oblastima Afrike. Uz pomoć satelitskih snimaka, oni su identifikovali infrastrukturne karakteristike, poput naseljenosti i poljoprivrednih površina, koje su zatim analizirali pomoću neuronskih mreža.

Filmer i Pričet (2001), u svom radu, koriste imovinske podatke za procenu bogatstva domaćinstava u odsustvu podataka o potrošnji. Njihova metodologija zasniva se na analizi posedovanja osnovnih dobara (npr. bicikla, radija) i koristi analizu glavnih komponenti kako bi stvorio imovinski indeks koji se pokazao kao vrlo precizan u proceni obrazovnih i ekonomskih ishoda.

Atkinson (2007) pruža detaljnu analizu raspodele zarada u pet zemalja – Sjedinjenim Američkim Državama, Velikoj Britaniji, Švedskoj, Nemačkoj i Kanadi, praćenu tokom dužeg vremenskog perioda. Autor ističe da su zarade tokom decenija pokazale trendove rastuće nejednakosti u većini analiziranih zemalja, ali u različitim stepenima. Nejednakost u zaradama se značajno povećala u SAD i Velikoj Britaniji, dok su Švedska i Nemačka zabeležile manji porast. Kao ključni faktori koji utiču na promene u raspodeli zarada, identifikovane su tehnološke promene i globalizacija. Tehnologija je uticala na rast tražnje za kvalifikovanom radnom snagom, što je povećalo zarade visoko kvalifikovanih radnika u odnosu na nisko kvalifikovane radnike. Atkinson takođe naglašava da su promene u raspodeli zarada dugoročni procesi, a ne privremeni trendovi. Ova analiza omogućava dublje razumevanje kako ekonomske, tehnološke i političke sile utiču na raspodelu zarada na duži rok.

Milanović (2011) nudi pregled globalne nejednakosti kroz istoriju, naglašavajući kako su globalni tokovi trgovine, tehnologije i imperijalizma doprineli stvaranju velikih nejednakosti između nacija. Milanović razlikuje dva ključna oblika nejednakosti – internu (unutar država) i eksternu (između država). Do sredine 20. veka globalna nejednakost je pretežno zavisila od razlika između država, a ne unutar njih. Milanović takođe uvodi koncept indeksa ekstrakcije nejednakosti. „Indeks ekstrakcije pokazuje koliko vlada i elite eksploatišu ekonomsku moć na račun najsiromašnijih, dodatno povećavajući društvenu nejednakost". Ovaj koncept je ključan za razumevanje kako ekonomske i političke strukture utiču na siromaštvo.

Alkir i Foster (2011) razvijaju koncept Multidimenzionalnog indeksa siromaštva (MPI) koji uzima u obzir širi spektar deprivacija od samih prihoda, uključujući pristup obrazovanju, zdravlju i osnovnim uslugama. Ovaj indeks omogućava identifikaciju domaćinstava koja su siromašna ne samo zbog niskih prihoda, već i zbog ograničenog pristupa ključnim resursima. Predložena metodologija posebno je korisna za analizu siromaštva u ruralnim i manje razvijenim područjima, gde prihodi možda nisu jedini ili najbolji pokazatelj deprivacije. MPI takođe omogućava uporedivost između različitih zemalja, što olakšava praćenje napretka u smanjenju siromaštva na globalnom nivou.

Bourgunjon (2004) ističe međusobnu povezanost siromaštva, rasta i nejednakosti, te kako ovi faktori utiču jedni na druge. Prema autoru, siromaštvo se može smanjiti kroz kombinaciju ekonomskog rasta i redistributivnih politika. Međutim, samo oslanjanje na rast, bez obzira na nejednakost, može ograničiti mogućnosti smanjenja siromaštva. Autor ističe tri ključna elementa za smanjenje siromaštva: a) veći ekonomski rast, b) redistributivne politike koje smanjuju nejednakost i c) smanjenje početne nejednakosti pre nego što rast započne. Bourgunjon naglašava da nejednakost, ukoliko se ne kontroliše, može potpuno neutralisati benefite rasta.

3. Metodologija

Kako bi se identifikovale zemlje sa teritorije Evrope koje su međusobno slične sa aspekta siromaštva, upotrebljena je metoda klaster analize. Ova metoda multivarijacione statističke analize služi za grupisanje objekata u skupove (klastere) na osnovu njihovih sličnosti. Cilj klaster analize jeste da se objekti unutar istog klastera što više međusobno podudaraju, dok su objekti iz različitih klastera što različitiji. Da bi se sprovela klaster analiza, potrebno je definisati metriku za merenje sličnosti (ili udaljenosti) između objekata. Najčešće korišćene metrike su euklidsko, Mahalanobijusovo i Menhetn rastojanje. Nakon formiranja matrice rastojanja, proces klasterizovanja se može sprovesti hijerarhijskim metodom ili putem predefinisanog broja klastera (*eng*. K-means). U prvom slučaju kreira se hijerarhijska struktura klastera, gde svi objekti počinju kao pojedinačni klasteri koji se zatim sukcesivno spajaju primenom najbližih, najdaljih, prosečnih udaljenosti i drugih tehnika. Rezultat ove metode je dendrogram koji vizuelno prikazuje odnose među klasterima. Druga metoda polazi od unapred definisanog broj klastera nakon čega se iterativno optimizuje raspodela objekata u klastere, minimizirajući varijabilnost unutar svakog klastera.

Analizom su obuhvaćene zemlje članice Evropske unije (EU27) kao i Švajcarska, Island, Crna Gora, Severna Makedonija, Norveška, Srbija, Turska i Ujedinjeno Kraljevstvo. Podaci vezani za ključne indikatore siromaštva i socijalne isključenosti za navedene zemlje preuzeti su iz zvanične baze Eurostata.

Sledeći indikatori (uz navođenje koda sa Eurostata) posmatrani su na godišnjem nivou:

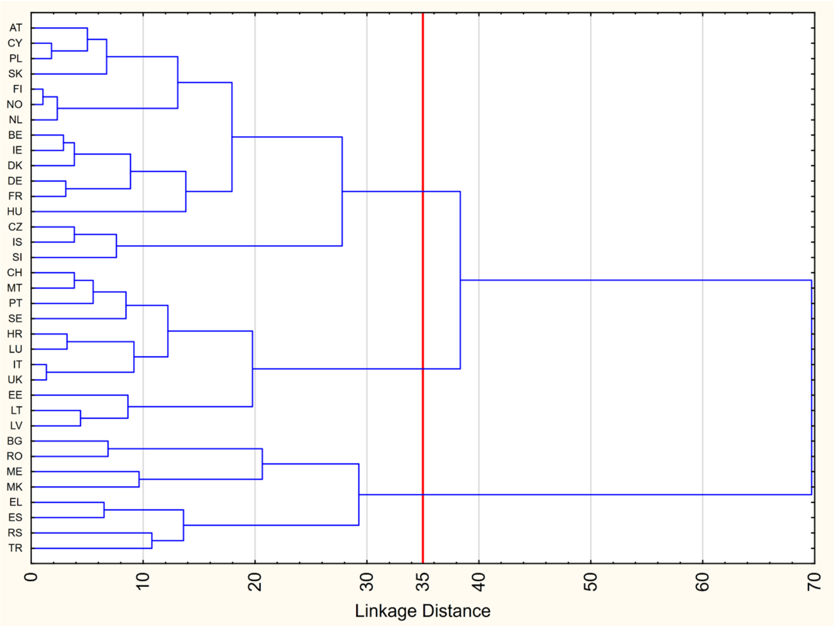
- Broj ljudi u riziku od siromaštva ili socijalne isključenosti (ilc_peps01n) odnosi se na osobe koje su u riziku od siromaštva, suočavaju se sa ozbiljnom materijalnom i socijalnom uskraćenošću ili žive u domaćinstvima s vrlo niskim intenzitetom rada.

Ovaj pokazatelj se može izraziti kao apsolutni broj ili kao procenat ukupne populacije,

- Stopa rizika od siromaštva (ilc_li02) odnosi se na procenat populacije, čiji je ekvivalentni raspoloživi prihod manji od 60% nacionalne medijane raspoloživog prihoda posle socijalnih transfera. Ova stopa meri relativno siromaštvo u poređenju sa ostalim stanovnicima u zemlji ili regionu, a ne nužno nizak standard života,
- Stopa ozbiljne materijalne i socijalne uskraćenosti (ilc_mdsd18) meri procenat populacije koja ne može da priušti najmanje sedam od trinaest osnovnih stavki potrebnih za adekvatan život, kao što su mogućnost grejanja stana ili redovni obroci. Prema ciljevima EU do 2030. godine, ovo je jedan od ključnih indikatora za praćenje napretka u smanjenju siromaštva,
- Ljudi koji žive u domaćinstvima s vrlo niskim intenzitetom rada (ilc_lvhl21n) odnosi se na radno sposobne odrasle osobe (18–64 godine) koje su tokom prethodnih 12 meseci radile manje od 20% potencijalnog radnog vremena. Pri izračunavanju ovog pokazatelja isključena su domaćinstva koja se sastoje samo od dece, studenata i penzionera,
- Kvintilni odnos prihoda (S80/S20) (ilc_di11) meri nejednakost u raspodeli prihoda i izračunava se kao odnos prihoda 20% najbogatijih u odnosu na prihode 20% najsiromašnijih. Sve vrednosti se odnose na ekvivalentne raspoložive prihode.
-

4. Rezultati istraživanja

Pet odabranih indikatora agregirano je u jedinstvenu meru korišćenjem Menhetn rastojanja. Nakon toga, primenom metode prosečnih udaljenosti, konstruisan je dendrogram, prikazan na Slici 1. Struktura dendrograma ukazuje na postojanje tri klastera, pri čemu su „najduže“ grane između klastera ključni pokazatelj njihove međusobne diferencijacije.



Slika 1. Hijerarhijsko klasterisanje
Izvor: autori

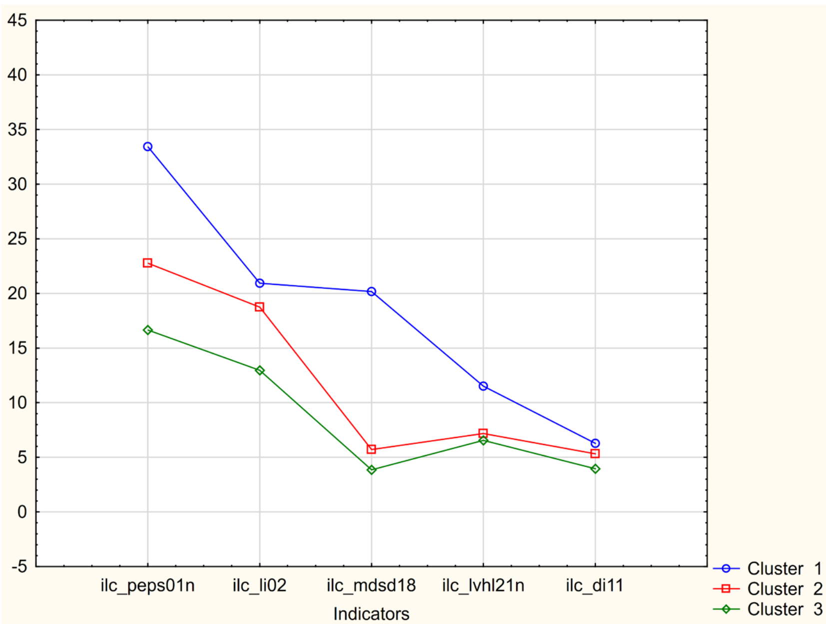
Na osnovu ove pomoćne informacije, sproveli smo *K*-means analizu sa tri predefinisana klastera. Rezultati analize varijanse su pokazali da su svi posmatrani indikatori statistički značajno doprineli razdvajanju zemalja u klastere, s obzirom da su sve *p*-vrednosti manje od 0,05.

Tabela 1. Analiza varijanse za indikatore siromaštva sa tri klastera

Indikator	Suma kvadrata između grupa	Broj stepeni slobode	Suma kvadrata unutar grupa	Broj stepeni slo-bode	*F*-test	*p*-vred-nost
ilc_peps01n	936,0236	2	214,4781	32	69,82705	<0,01
ilc_li02	398,0164	2	108,7305	32	58,56925	<0,01
ilc_mdsd18	829,5677	2	177,0911	32	74,95059	<0,01
ilc_lvhl21n	102,1048	2	308,1906	32	5,30087	0,01
ilc_di11	28,1080	2	16,4367	32	27,36127	<0,01

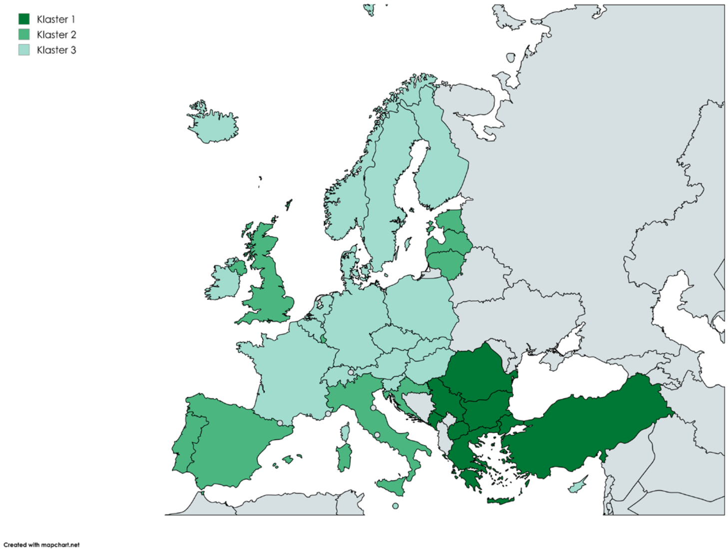
Izvor: Autori

Kao što vidimo u Tabeli 1, indikator „Broj ljudi u riziku od siromaštva ili socijalne isključenosti" (ilc_peps01n) i indikator „Stopa ozbiljne materijalne i socijalne uskraćenosti" (ilc_mdsd18) najviše doprinose formiranju klastera. Na Slici 2. dat je prikaz prosečnih vrednosti indikatora po klasterima, čime se dodatno može steći uvid u značaj pojedinih indikatora.



Slika 2. Prosečne vrednosti indikatora po klasterima
Izvor: Autori

Konačno, prikaz zemalja po klasterima dat je na Slici 3, što u određenoj meri može sugerisati teritorijalnu ulogu u generisanju siromaštva.



Slika 3. Prikaz zemalja po klasterima
Izvor: Autori

Zemlje Klastera 1 (Bugarska, Grčka, Crna Gora, Severna Makedonija, Rumunija, Srbija, Turska) karakteriše prelaz iz centralno planiranih u tržišne ekonomije. Bugarska, Rumunija, Severna Makedonija i Srbija bile su socijalističke države, dok je Turska, iako nije deo socijalističkog bloka, prošla kroz strukturne reforme. BDP po glavi stanovnika u ovom klasteru je relativno nizak u poređenju sa razvijenijim evropskim zemljama, sa prosekom od 60,43[5] (izraženo kroz paritet kupovne moći, 100 predstavlja prosek EU), i značajno zaostaje za Klasterom 2 (116,79) i Klasterom 3 (102,11). Harmonizovani indeks potrošačkih cena je, kao indikator inflacije, takođe viši u zemljama Klastera 1 (3,48%[6]) u poređenju sa Klasterom 2 (2,12%) i Klasterom 3 (1,76%). Produktivnost rada

[5] Kalkulacija autora na osnovu indikatora BDP po glavi stanovnika (tec00114)

[6] Kalkulacija autora na osnovu indikatora Harmonizovani indeks cena (prc_hicp_manr)

je niža u Klasteru 1 i iznosi 60%[7] naspram Klastera 2 (112%) i Klastera 3(93%), a poljoprivreda i dalje igra važnu ulogu, posebno u ruralnim područjima koja su znatno siromašnija i manje razvijena u odnosu na urbane centre. Ovaj jaz otežava socijalnu koheziju i doprinosi razlikama u životnom standardu. Minuli ratovi na Balkanu i sporo odvijanje demokratskih, tranzicionih procesa uzrokovali su prisustvo stalnih političkih turbulencija i nestabilnosti. Ercegovac i Beker Pucar (2022) ističu da se u ekonomijama u razvoju spoljašnji deficit često finansira prilivima stranih direktnih investicija (SDI). Pored toga, u slučaju Zapadnog Balkana, SDI su identifikovane kao ključni faktor u rešavanju spoljašnjih neravnoteža. Visoka nezaposlenost (10,60%[8]), posebno među mladima, podstiče migraciju stanovništva u razvijenije zemlje EU, što dovodi do demografskog pada i odliva mozgova.

Zemlje Klastera 2 (Austrija, Belgija, Švajcarska, Kipar, Češka, Nemačka, Danska, Finska, Francuska, Mađarska, Irska, Island, Malta, Holandija, Norveška, Poljska, Švedska, Slovenija, Slovačka) visoko su razvijene tržišne ekonomije sa stabilnim industrijskim i tehnološkim sektorima. Skandinavske zemlje (Danska, Finska, Norveška i Švedska), Nemačka i Švajcarska, prednjače u inovacijama, tehnologiji i istraživanju, uz značajna ulaganja u obrazovanje. To im omogućava visok nivo produktivnosti, relativno nisku stopu nezaposlenosti (4,65%) u poređenju sa klasterima 1 i 3. Sotiroski et al. (2024), koristeći DEA analizu, analizirali su makroekonomske indikatore kao što su stepen siromaštva, stopa nezaposlenosti i BDP, te su zaključili da zemlje s najvećom efikasnošću pripadaju upravo ovom klasteru. Među najistaknutijima su Finska, Holandija, Nemačka i Švedska, koje prednjače ne samo u ekonomskim performansama, već i u uspešnom balansiranju između ekonomske stabilnosti i socijalne kohezije. Njihova efikasnost je postignuta zahvaljujući integrisanim politikama koje kombinuju inovacije, ulaganja u ljudski kapital i razvijene socijalne sisteme. Posmatrano politički, ove zemlje su stabilne demokratske zemlje sa dugom tradicijom parlamentarnog upravljanja (naročito skandinavske zemlje i Nemačka), koje

[7] Kalkulacija autora na osnovu indikatora Produktivnost po zaposlenom (tesem160)

[8] Kalkulacija autora na osnovu indikatora Nezaposlenost (une_rt_a)

se odlikuju visokim nivoom transparentnosti. Većina ovih zemalja su ključne članice Evropske unije i evrozone, a Švajcarska i Norveška, iako nisu članice EU, imaju bliske političke i ekonomske veze s Unijom. Ove zemlje imaju razvijene sisteme socijalne zaštite, uključujući zdravstvenu zaštitu, obrazovanje i penzione sisteme, s ciljem minimizacije socijalnih razlika. Zbog visokog standarda života i ekonomskih prilika ove zemlje privlače migrante, iako izazovi u integraciji i dalje postoje.

Zemlje Klastera 3 (Estonija, Španija, Hrvatska, Italija, Litvanija, Luksemburg, Letonija, Portugalija, Velika Britanija) ekonomski su raznolike, ali ih spaja oslanjanje na turizam (posebno Španiju, Italiju, Hrvatsku i Portugalija) i uslužni sektor, dok Estonija i Litvanija prednjače u digitalizaciji. Baltičke zemlje (Estonija, Litvanija, Letonija) prošle su kroz političke tranzicije posle raspada Sovjetskog Saveza, dok su mediteranske zemlje prošle kroz političke krize tokom 20. veka. Sve zemlje, osim Velike Britanije, članice su EU i koriste pogodnosti zajedničkog tržišta. Bregzit je izazvao političke i ekonomske promene u Velikoj Britaniji. Baltičke zemlje i Hrvatska suočavaju se sa emigracijom, posebno mladih, dok mediteranske zemlje privlače migrante iz drugih delova sveta, ali se suočavaju sa izazovima integracije.

5. Zaključak

Na osnovu sprovedene klaster analize siromaštva u evropskim zemljama, identifikovane su tri glavne grupe zemalja koje se razlikuju po nivou ekonomskog razvoja, po standardu života i stepenima socijalne isključenosti. Zemlje prvog klastera, uključujući Srbiju, karakterišu nizak BDP po glavi stanovnika, visoka nezaposlenost i izraženija materijalna uskraćenost. Drugi klaster obuhvata razvijene evropske zemlje, poput Nemačke, Francuske i Švedske, koje se odlikuju stabilnim tržišnim ekonomijama, niskom nezaposlenošću i dobro razvijenim socijalnim sistemima. Treći klaster čine zemlje s naglašenom ulogom turizma i digitalizacije, poput Španije, Italije i Estonije, koje su suočene s izazovima integracije migranata i demografskim padom.

Sprovedena klaster analiza jasno nam ukazuje da su zemlje u različitim fazama ekonomskog razvoja i da su potrebne prilagođene politike kako bi se smanjila stopa siromaštva i nejednakosti. Zemlje s nižim ekonomskim standardom mogu da se fokusiraju na povećanje produktivnosti i kreiranje održivih radnih mesta, dok razvijenije zemlje mogu unaprediti socijalnu koheziju kroz inkluzivne politike i jačanje sistema socijalne zaštite.

Sprovedena klaster analiza, iako pruža vredne uvide u obrasce siromaštva i socijalne isključenosti u Evropi, suočava se s određenim ograničenjima. Oslanjanje na ograničen broj indikatora može rezultirati nekompletnim prikazom fenomena siromaštva, dok kvantitativni pristup ne obuhvata kvalitativne faktore, poput institucionalnih i kulturoloških uticaja. Grupisanje zemalja u tri klastera može prikriti unutargrupne razlike, a nedostatak longitudinalne analize otežava uvid u dugoročne trendove. Stoga, buduća istraživanja treba proširiti i uključiti širi spektar indikatora kako bi se obezbedila sveobuhvatnija analiza siromaštva u Evropi.

Buduća istraživanja sa temom siromaštva u evropskim zemljama mogla bi se fokusirati na nekoliko ključnih oblasti, kao što su uloga migracija i demografskih promena i uticaj digitalizacije i tehnoloških promena na smanjenje siromaštva, te na analizu ruralnog i urbanog siromaštva.

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CLUSTER ANALYSIS OF POVERTY AND SOCIAL EXCLUSION IN EUROPEAN COUNTRIES

Abstract: Poverty and social exclusion are complex issues with serious consequences for both individuals and society. The aim of this paper was to identify groups of countries with similar levels of poverty. For this purpose, cluster analysis was applied, encompassing EU member states and several neighboring countries. Data were obtained from the official Eurostat database, and the level of poverty was measured based on key indicators, such as the at-risk-of-poverty rate, material and social deprivation, as well as low household work intensity. Three main clusters were identified. The results of the analysis clearly indicated the presence of regional disparities in poverty levels, with countries having lower GDP and higher unemployment rates standing out as particularly

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vulnerable. The results obtained provide insight into the structure of poverty in Europe and can serve as a starting point for future socioeconomic policies aimed at reducing poverty.

Keywords: Poverty, deprivation, social inequality, multivariate analysis, cluster analysis.

1. Introduction

Poverty is a complex and multidimensional social issue that not only involves a lack of material resources but also unequal access to basic life necessities such as adequate nutrition, healthcare, education, and housing. According to data from 2023, as many as 94.6 million people in the European Union, or 21.4% of the population, were at risk of poverty or social exclusion (Kotzeva, 2024). This indicator encompasses individuals facing low income, material and social deprivation, and those living in households with very low work intensity.

In Serbia, based on the latest available data for 2023, the at-risk-of-poverty rate was 19.9%, while the at-risk-of-poverty or social exclusion rate stood at 27.2%. These figures indicate a slight decrease compared to previous years, reflecting some progress in the fight against poverty, but still leaving a concerning percentage of the population in a vulnerable position. The poverty risk threshold, defined as 60% of the median equivalent disposable income, amounted to 29,100 dinars per month for a single-person household, while for a household of four, this threshold was 61,110 dinars (RZS Report, 2024).

Besides financial indicators, poverty analysis includes indicators of material and social deprivation, which provide deeper insight into the living conditions of the population. In Serbia, a significant percentage of households cannot afford basic needs such as adequate home heating, replacing worn-out furniture, or consuming meat or fish every two days. The rate of severe material and social deprivation further highlights the severity of the issue, as a considerable portion of the population is deprived of access to essential living conditions.

Sociodemographic factors, such as age, education level, and employment status, have a significant impact on exposure to poverty risk. According to 2023 data, individuals over the age of 65 were at a higher risk of poverty, with a rate of 23.5% (Kotzeva, 2024). Additionally, households with three or more children face a significantly higher poverty risk compared to households with fewer members.

These data indicate that poverty is not solely the result of economic inequality but also of broader social exclusion. Furthermore, the relative poverty risk gap, which measures the difference between the poverty threshold and the average income of those below that threshold, points to existing inequality in income distribution within society. This inequality further complicates efforts to lift the most vulnerable groups out of poverty, as they face limited opportunities to improve their economic and social conditions.

In the fight against poverty, it is necessary to apply an integrated and comprehensive approach that addresses the various dimensions of the issue—from improving educational and healthcare services to creating employment opportunities and reducing social exclusion. Only through the synergy of economic and social policies can significant progress be made in reducing poverty and improving the quality of life for the most vulnerable groups in society.

The aim of this paper is to identify groups of European countries that share similar characteristics in terms of poverty using multivariate statistical analysis methods. The methodology of cluster analysis was employed to classify similar European countries based on poverty indicators. The analysis covers the EU27, Switzerland, Iceland, Montenegro, North Macedonia, Norway, Serbia, Turkey, and the United Kingdom, with data sourced from EUROSTAT. The examined indicators include the number of people at risk of poverty or social exclusion, the at-risk-of-poverty rate, the severe material and social deprivation rate, the share of individuals living in low-work-intensity households, and the income quintile ratio (S80/S20). The findings of the poverty analysis in Europe indicate the existence of three country groups based on economic development, living standards, and social exclusion. The first group, which includes Serbia, is characterized by low GDP per capita, high unemployment, and pronounced material deprivation. The second group consists of economically developed countries such as Germany, France, and Sweden, which feature stable market economies, low unemployment, and well-developed social welfare systems. The third group includes countries such as Spain, Italy, and Estonia, which rely on tourism and digitalization, but face challenges related to migration and demographic decline.

The remainder of this paper is structured as follows. The next section provides a brief review of the literature and previous research on this topic. The third section presents an overview of the applied analytical methods and the data used in the study. The fourth section contains an analysis and discussion of the results obtained. Finally, the concluding section summarizes the key findings of the research.

2. Literature review

Ravallion (2001) uses an absolute threshold of 1 dollar per day, expressed through purchasing power parity, to estimate global poverty. The author points out that while global growth has reduced poverty, there are significant variations in this number, with Africa and South Asia being the regions with the highest concentration of poor people.

Jean et al. (2016) use satellite images and machine learning to identify and predict poverty in the rural areas of Africa. With the help of satellite images, they identified infrastructural features, such as population density and agricultural land, which they subsequently analyzed using neural networks.

Filmer and Pritchett (2001) in their work use asset data to assess household wealth in the absence of consumption data. Their methodology is based on analyzing ownership of basic goods (e.g., bicycles, radios) and using principal component analysis to create an asset index, which has proven very accurate in estimating educational and economic outcomes.

Atkinson (2007) provides a detailed analysis of wage distribution in five countries—the United States, the United Kingdom, Sweden, Germany, and Canada—over a long period. The author points out that wages over the decades have shown trends of increasing inequality in most countries analyzed, but to varying degrees. Income inequality has significantly increased in the US and the UK, while Sweden and Germany have seen a smaller rise. The key factors identified as influencing changes in wage distribution are technological changes and globalization. Technology has driven demand for skilled labor, increasing the wages of highly skilled workers compared to low-skilled workers. Atkinson also emphasizes that changes in wage distribution are long-term processes, not temporary trends. This analysis enables a deeper understanding of how economic, technological, and political forces affect wage distribution in the long run. Milanović (2011) offers an overview of global inequality throughout history, emphasizing how global trade, technology, and imperialism have contributed to the creation of large disparities between nations. Milanović distinguishes between two key forms of inequality: internal (within countries) and external (between countries). By the mid-20th century, global inequality depended primarily on differences between countries rather than within them. Milanović also introduces the concept of the inequality extraction index. The extraction index shows how much governments and elites exploit economic power at the expense of the poorest, further increasing social inequality. This concept is crucial for understanding how economic and political structures affect poverty.

Alkire and Foster (2011) develop the concept of the Multidimensional Poverty Index (MPI), which takes into account a broader range of deprivations than just income, including access to education, health, and basic services. This index allows for the identification of households that are poor not only due to low income but also due to limited access to key resources. The proposed methodology is particularly useful for analyzing poverty in rural and less developed areas where income may not be the only or best indicator of deprivation. MPI also enables comparability between different countries, facilitating the tracking of progress in poverty reduction at the global level.

Bourguignon (2004) highlights the interconnectedness of poverty, growth, and inequality, and the way these factors influence each other. According to the author, poverty can be reduced through a combination of economic growth and redistributive policies. However, relying solely on growth without addressing inequality may limit the possibilities for poverty reduction. The author identifies three key elements for reducing poverty: a) higher economic growth, b) redistributive policies that reduce inequality, and c) reducing initial inequality before growth begins. Bourguignon emphasizes that inequality, if uncontrolled, can entirely neutralize the benefits of growth.

3. Methodology

To identify European countries that are similar in terms of poverty, the method of cluster analysis was used. This multivariate statistical analysis method is used to group objects into sets (clusters) based on their similarities. The goal of cluster analysis is to make objects within the same cluster as similar as possible, while objects from different clusters should be as different as possible. To conduct cluster analysis, it is necessary to define a metric for measuring similarity (or distance) between objects. The most used metrics are Euclidean, Mahalanobis, and Manhattan distances. After forming the distance matrix, the clustering process can be performed using a hierarchical method or by specifying a predefined number of clusters (*K*-means). In the first case, a hierarchical structure of clusters is created, where all objects start as individual clusters, which are then successively merged using nearest, furthest, average distances, and other techniques. The result of this method is a dendrogram, which visually represents the relationships between clusters. The second method starts with a predefined number of clusters, after which the allocation of objects into clusters is iteratively optimized to minimize the variability within each cluster.

The analysis includes EU 27 member states as well as Switzerland, Iceland, Montenegro, North Macedonia, Norway, Serbia, Turkey, and the United Kingdom. Data related to key indicators of poverty and social exclusion for the mentioned countries were obtained from the official EUROSTAT database.

The following indicators (with their EUROSTAT codes) were observed on an annual basis:

- The number of people at risk of poverty or social exclusion (ilc_peps01n) refers to people who are at risk of poverty, face severe material and social deprivation, or live in households with very low work intensity. This indicator can be expressed as an absolute number or as a percentage of the total population.
- The at-risk-of-poverty rate (ilc_li02) refers to the percentage of the population whose equivalent disposable income is less than 60% of the national median disposable income after social transfers. This rate measures relative poverty in comparison to other residents in the country or region, not necessarily a low standard of living.
- The severe material and social deprivation rate (ilc_mdsd18) measures the percentage of the population that cannot afford at least 7 out of 13 basic items necessary for an adequate life, such as the ability to heat their home or regular meals. According to EU goals by 2030, this is one of the key indicators for tracking progress in poverty reduction.
- People living in households with very low work intensity (ilc_lvhl21n) refers to working-age adults (18-64 years) who have worked less than 20% of their potential working time in the past 12 months. Households consisting only of children, students, and retirees are excluded from this calculation.
- The income quintile share ratio (S80/S20) (ilc_di11) measures income inequality and is calculated as the ratio of the income of the richest 20% to the income of the poorest 20%. All values refer to equivalent disposable incomes.

4. Results and discussion

The five selected indicators were aggregated into a single measure using Manhattan distance. Subsequently, the average linkage method was applied to construct a dendrogram, presented in Figure 1. The dendrogram structure indicates the existence of three clusters, with the longest branches between them serving as key markers of their differentiation.

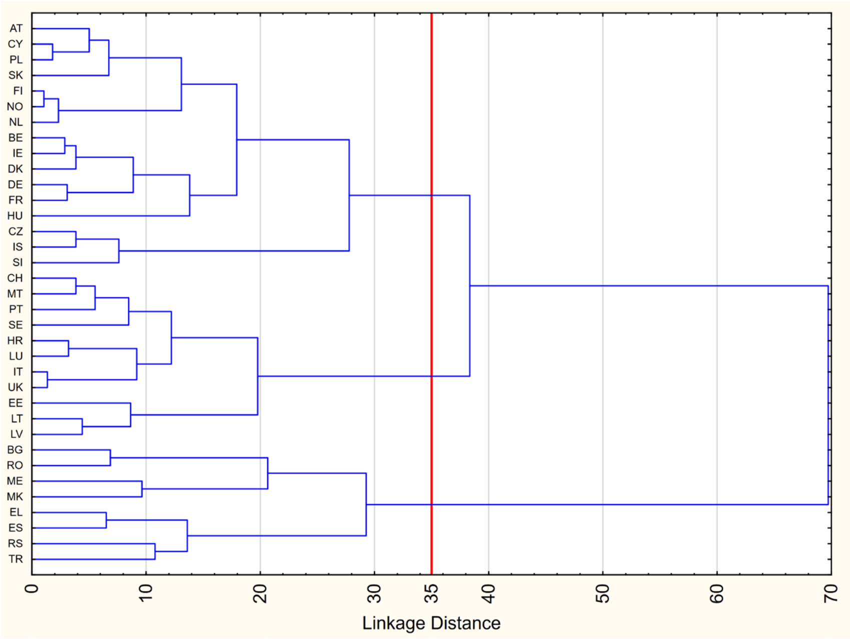

Figure 1. Hierarchical clustering
Source: Authors

Based on this auxiliary information, we conducted a *K*-means analysis with 3 predefined clusters. The results of the analysis of variance showed that all observed indicators contributed significantly to the separation of countries into clusters, as all *p*-values were less than 0.05.

Table 1. Analysis of variance for poverty indicators with 3 clusters

Indicator	Sum of squares between groups	Degrees of freedom	Sum of squares within groups	Degrees of freedom	*F*-test	*p*-value
ilc_peps01n	936.0236	2	214.4781	32	69.82705	<0.01
ilc_li02	398.0164	2	108.7305	32	58.56925	<0.01
ilc_mdsd18	829.5677	2	177.0911	32	74.95059	<0.01
ilc_lvhl21n	102.1048	2	308.1906	32	5.30087	0.01
ilc_di11	28.1080	2	16.4367	32	27.36127	<0.01

Source: Authors

As we can see in Table 1, the indicator “Number of people at risk of poverty or social exclusion” (ilc_peps01n) and the indicator “Severe material and social deprivation rate” (ilc_mdsd18) contribute the most to the formation of clusters. Figure 2 presents the average values of the indicators by cluster, providing further insight into the significance of individual indicators.

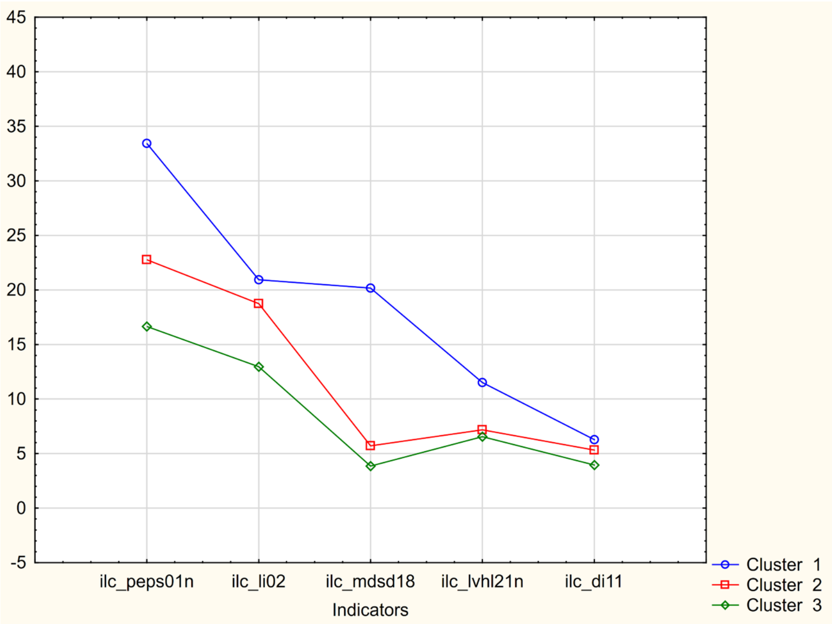

Figure 2. Average value of indicators by clusters
Source: Authors

Finally, Figure 3 shows the clusters on a map, which can suggest the roles of the neighboring territories in poverty generation.

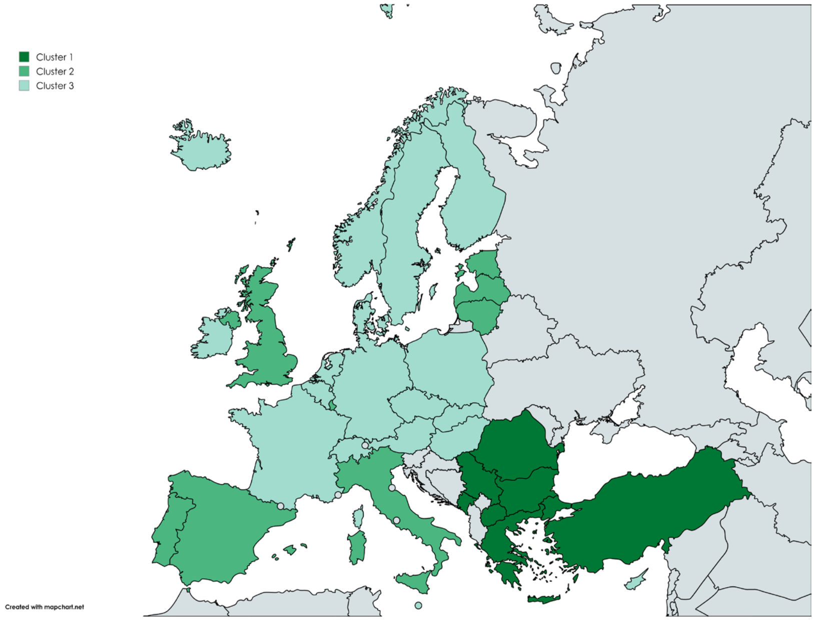

Figure 3. Map of countries by clusters
Source: Authors

The countries in Cluster 1 (Bulgaria, Greece, Montenegro, North Macedonia, Romania, Serbia and Turkey) are characterized by the transition from centrally planned to market economies. Bulgaria, Romania, North Macedonia, and Serbia were socialist countries, while Turkey, although not part of the socialist bloc, underwent structural reforms. The GDP per capita in this cluster is relatively low compared to more developed European countries, averaging 60.43[5] (expressed in purchasing power parity, where 100 represents the EU average), significantly lagging behind Cluster 2 (116.79) and Cluster 3 (102.11). The Harmonized Index of Consumer Prices, an indicator of inflation, is also higher in Cluster 1 countries (3.48%[6]) compared to Cluster 2 (2.12%)

[5] Author's calculation is based on the indicator GDP per capita (tec00114)

[6] Author's calculation is based on the indicator Harmonized price index (prc_hicp_manr)

and Cluster 3 (1.76%). Labor productivity is lower in Cluster 1 at 60%[7], compared to Cluster 2 (112%) and Cluster 3 (93%), and agriculture still plays an important role, especially in rural areas, which are significantly poorer and less developed than urban centers. This gap hampers social cohesion and contributes to differences in living standards. The recent wars in the Balkans and the slow progress of democratic, transitional processes have caused ongoing political turbulence and instability. Ercegovac and Beker Pucar (2022) emphasize that in emerging economies, the external deficit is commonly financed through Foreign Direct Investment (FDI) inflows. Furthermore, in the case of the Western Balkans, FDI is identified as a key factor in addressing external imbalances. High unemployment (10.60%[8]), especially among youth, drives migration to more developed EU countries, leading to demographic decline and brain drain.

The countries in Cluster 2 (Austria, Belgium, Switzerland, Cyprus, Czechia, Germany, Denmark, Finland, France, Hungary, Ireland, Iceland, Malta, the Netherlands, Norway, Poland, Sweden, Slovenia and Slovakia) are highly developed market economies with stable industrial and technological sectors. The Scandinavian countries (Denmark, Finland, Norway, and Sweden), Germany, and Switzerland lead in innovation, technology, and research, with significant investments in education. This allows for high productivity levels and relatively low unemployment (4.65%) compared to Clusters 1 and 3. Sotiroski et al. (2024), using DEA analysis, examined macroeconomic indicators such as the poverty rate, unemployment rate, and GDP, and concluded that the countries with the highest efficiency belong to this cluster. Among the most prominent are Finland, the Netherlands, Germany, and Sweden, which excel not only in economic performance but also in successfully balancing economic stability and social cohesion. Their efficiency is achieved through integrated policies that combine innovation, investments in human capital, and well-developed social systems. Politically, these are stable democracies with a long tradition of parliamentary governance (especially the Scandinavian countries and Germany), charac-

[7] Author's calculation is based on the indicator Labour productivity per person employed (tesem160)

[8] The author's calculation is based on the indicator Unemployement (une_rt_a)

terized by high levels of transparency. Most of these countries are key members of the European Union and the Eurozone, while Switzerland and Norway, though not EU members, maintain close political and economic ties with the Union. These countries have well-developed social protection systems, including healthcare, education, and pension systems, aimed at minimizing social disparities. Due to the high standard of living and economic opportunities, these countries attract migrants, though challenges in integration persist.

The countries in Cluster 3 (Estonia, Spain, Croatia, Italy, Lithuania, Luxembourg, Latvia, Portugal and the United Kingdom) are economically diverse, but they share a reliance on tourism (especially Spain, Italy, Croatia, and Portugal) and the service sector, while Estonia and Lithuania lead in digitalization. The Baltic countries (Estonia, Lithuania and Latvia) underwent political transitions after the collapse of the Soviet Union, while the Mediterranean countries experienced political crises during the 20th century. All countries, except the United Kingdom, are members of the EU and benefit from the common market. Brexit has caused political and economic changes in the UK. The Baltic countries and Croatia face emigration, particularly of young people, while the Mediterranean countries attract migrants from other parts of the world but face integration challenges.

5. Conclusions

Based on the cluster analysis of poverty in European countries, three main groups of countries have been identified, differing according to the levels of economic development, living standards, and degrees of social exclusion. The first cluster, including Serbia, is characterized by low GDP per capita, high unemployment, and more pronounced material deprivation. The second cluster comprises developed European countries such as Germany, France, and Sweden, which feature stable market economies, low unemployment, and well-developed social systems. The third cluster consists of countries with a prominent role in tourism and digitalization, such as Spain, Italy, and Estonia, which face challenges related to migrant integration and demographic decline.

The conducted cluster analysis clearly indicates that the countries are at different stages of economic development, and that tailored policies are needed to reduce poverty and inequality. Countries with lower economic standards may focus on increasing productivity and creating sustainable jobs, while more developed countries can enhance social cohesion through inclusive policies and strengthening social protection systems.

The conducted cluster analysis, while providing valuable insights into patterns of poverty and social exclusion in Europe, is subject to certain limitations. The reliance on a limited set of indicators may result in an incomplete representation of the poverty phenomenon, while the quantitative approach does not account for qualitative factors such as institutional and cultural influences. Grouping countries into three clusters may obscure intra-cluster differences, and the absence of longitudinal analysis limits the ability to capture long-term trends. Therefore, future research should expand the methodological framework and incorporate a broader range of indicators to ensure a more comprehensive analysis of poverty in Europe.

Future research on poverty in European countries could focus on several key areas, such as the role of migration and demographic changes, the impact of digitalization and technological changes on poverty reduction, and the analysis of rural and urban poverty.

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UTICAJ PRAVNIH ASPEKATA ZAŠTITE POTROŠAČA NA ZADOVOLJSTVO KORISNIKA TURISTIČKIH USLUGA U REPUBLICI SRBIJI

Apstrakt: U radu je prikazano istraživanje koje je imalo za cilj da utvrdi uticaj zaštite potrošača sa pravnog aspekta na zadovoljstvo korisnika turističkih usluga. Istraživanjem je obuhvaćen uzorak od 294 ispitanika. Rezultatima korelacione analize potvrđen je statistički značajan uticaj varijabli pravne zaštite potrošača na varijable zadovoljstvo korisnika. Putem regresione analize utvrđen je pojedinačni uticaj nezavisnih varijabli zaštite potrošača na zavisne varijable zadovoljstva korisnika, pri čemu je najveći uticaj ostvaren na varijablu sigurnost, dok je varijabla pristup uslugama svoj doprinos dala svim analiziranim varijablama. Na osnovu testa nezavisnih uzoraka zaštite potrošača, sa pravnog aspekta utvrđeno je postojanje statistički značajne razlike kod korisnika turističkih usluga, kada je u pitanju individualno i porodično putovanje. Rezultati ovog istraživanja ukazuju da se adekvatnom pravnom zaštitom korisnika turističkih usluga može znatno doprineti povećanju njihovog zadovoljstva, a samim tim i lojalnosti i mogućnosti ponovnog vraćanja istim uslugama.

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Ključne reči: *zaštita potrošača, zadovoljsto korisnika, turističke usluge, pristup uslugama.*

1. Uvod

Promene na tržištu usluga uslovljene su brzim razvojem uslužnih delatnosti, čiji trend je zabeležen i u razvijenim i u zemljama u razvoju. Da bi se što efikasnije zadovoljili zahtevi i potrebe korisnika turističkih usluga neophodan je kontinuirani rad na prilagođavanju turističkih usluga na osnovu razumevanja promena i događaja iz okruženja. Raste i potreba zaštite korisnika turističkih usluga od zloupotreba od strane organizatora ovih usluga. Gledano sa pravnog aspekta, potreba korisnika turističke usluge jeste da se zaštiti u pogledu obezbeđivanja nesavršenih informacija i ugovaranja i ograničenja u pogledu donošenja odluka. Da bi se obezbedilo veće poverenje potrošača, neophodno je bolje poznavanje potrošačkih prava (Izaguirre, 2020).

Karakteristike savremenog turizma su masovnost, diferenciranost ponude i kontinuriani rast potražnje (Pešutić, 2008). Turističke usluge moraju konstantno da se razvijaju u društvu u kom potrošač ima sve na jedan klik i njegovi zahtevi su veći kada je u pitanju kvalitetno slobodno vreme (Raluca-Florentina, 2022). Povećanje vremenske efikasnosti, mogućnost kupovine sa bilo kog mesta i u bilo koje vreme i ekonomičnost neki su od faktora koji mogu povećati zadovoljstvo korisnika usluga i koji imaju najveći uticaj na to (Nain & Awasthi 2021). Zadovoljni turisti ne samo da će ponovo posetiti destinaciju, već će preporučiti i drugima da je posete (Rahman et al., 2019). Lojalnost korisnika turističkih usluga zavisi od stepena zadovoljstva (Allameh et al., 2015), poverenja (Setó-Pamies, 2012) i iskustva (Pekovic Rolland, 2020; Syamsu et al., 2022). Međutim, iskustvo utiče i na lojalnost i zadovoljstvo korisnika (Kim & Brown, 2012). Zadovoljstvo utiče i na želju za ponovnom kupovinom (Ranjbarian & Pool, 2015).

2. Pregled literature

Pravni aspekti su važni kod pružanja usluga, pogotovo kod trgovine na daljinu kod koje se i javljaju dodatni problemi. Na osnovu potrebe da se potrošači zaštite u odnosu na mnogo bogatije trgovce sa kojima zaključuju ugovore, prepoznali smo važnost zaštite potrošača i uspostavljanja pravnih okvira koji predstavljaju implementaciju za obuzdavanje prouzrokovanja štete potrošačima, odnosno korisnicima turističkih usluga. Republika Srbija je ostvarila napredak po pitanju zaštite potrošača u periodu od 2005. godine kada je usvojen prvi Zakon o zaštiti potrošača („Službeni glasnik RS“, broj 79/05) koji se primenjivao do 2011. godine. Zakon je obuhvatao zaštitu najvažnijih prava potrošača deklarisanih u smernicama Rezolucije 39/248 Ujedinjenih nacija iz 1985. godine. Strategijom zaštite potrošača za period 2019–2024. godine („Službeni glasnik RS“, broj 93/2019) Republika Srbija je navela oblasti koje će unapređivati i samim tim sprovoditi aktivnu politiku zaštite potrošača, uključujući veću informisanost i razvoj nevladinih institucija, usklađivanje zakonodavstva o zaštiti potrošača, zaštitu potrošača radi poboljšanja kvaliteta robe široke potrošnje i održavanja odgovarajućih standarda bezbednosti, kao i nadzor nadležnih organa nad sprovođenjem propisa i omogućavanje pristupa pravdi u slučaju spora. Imajući ovo u vidu, evropska potrošačka politika igra relevantnu ulogu u formiranju potrošačke politike u Republici Srbiji u okviru procesa pristupanja, kao instrument za uvođenje i implementaciju visokog nivoa zaštite potrošača. U Republici Srbiji prava i obaveze potrošača regulisane su Zakonom o zaštiti potrošača („Službeni glasnik RS“, br. 88/2021). U nekim slučajevima je došlo do neodgovornog ponašanja, što ukazuje na to da okviri nisu dovoljno zaštitili kupce, odnosno korisnike usluga ili motivisali trgovce, odnosno organizatore u pružanju usluga u kontekstu kulture poštenog tretmana kupca. Promene u trgovini i njen rast dovode do brige o zaštiti potrošača, odnosno korisnika turističkih usluga i do zloupotreba od strane organizatora turističkih usluga, zbog nesavršenih informacija i ugovaranja, kao i njihovih ograničenja u donošenju odluka. Nedovoljna informisanost o uslugama koje mu se pružaju, kao i o proizvodima koje kupuje, potrošača, odnosno korisnika turističkih usluga stavlja u položaj slabije strane u ugovoru. Bolje poznavanje potrošačkih prava moglo bi da donese veće poverenje potrošača. Članom 2 Zakona o zaštiti potrošača propisana su osnovna prava potrošača na zadovoljavanje osnovnih potreba, bezbednost, obaveštenost, izbor, učešće, pravnu zaštitu, edukaciju, zdravu i održivu životnu sredinu. Članom 3 Zakona propisano je da se potrošač ne može odreći svojih prava utvrđenih ovim zakonom. Članom 12 Zakona propisana je dužnost obaveštavanja pre zaključenja ugovora.

Pri zaključivanju ugovora o korištenju turističkih usluga pitanje zaštite potrošača ima sve veći značaj. Zaštitu turista obezbeđuje prevashodno turistička organizacija koja pruža turističku uslugu, a zatim i država putem zakonskih propisa (Nedelea, Bălan, 2010). Uspostavljanjem pravnih okvira omogućeno je da se obuzda prouzrokovanje štete korisnicima turističkih usluga. Potrošača, odnosno korisnika turističkih usluga smatramo licem koje je sposobno da brine o svojim interesima. Zakon o zaštiti potrošača ima za cilj da pruži viši stepen zaštite potrošačima, odnosno korisnicima turističkih usluga. Akademska perspektiva o potencijalnim problemima može rezultirati nedovoljnom edukacijom, slabim informacijama, obmanjujućom praksom, skrivenim cenama, diskriminacijom. Pored faktora kao što su: bezbednost, garancija, informacija, zakon koji reguliše zaštitu potrošača utiče i na poverenje kupca (Chawla & Kumar, 2022). Zaštita potrošača je ključna jer tehnike zaključivanja ugovora često nose rizike. Potrošači često nemaju mogućnost da provere kvalitet proizvoda ili usluga pre kupovine, što može dovesti do nezadovoljstva. Pored toga, trgovci često vrše psihološki pritisak na kupce, što otežava donošenje racionalnih odluka. Zbog toga je važno implementirati mere koje štite prava potrošača i osiguravaju pravedne uslove kupovine.

Na tržištu turističkih usluga zaštita potrošača treba da se odnosi na osnovne komponente turističkog proizvoda (prevoz, smeštaj, hrana, rekreacija) kojima treba dodati, radi praktične korisnosti, informaciju i rezervaciju (Madar & Neacşu, 2015). Satisfakcija je oblik osećanja srećnog ili razočaranog koji proističe iz poređenja performansi dobijenog proizvoda ili usluge i onoga što se očekuje (Wantara & Tambrin, 2019). Zadovoljstvo korisnika predstavlja ključni pojam marketinga, samim tim što igra važnu ulogu u zadovoljavanju potreba i želja kupaca (Martinaityte et al., 2019). Sa aspekta organizacije, važnost zadovoljstva korisnika ogleda su u ključnoj ulozi u postizanju uspeha na tržištu. Svoju konkurentsku prednost na tržištu organizacije grade na bazi kreativnih, inovativnih i efikasnih napora koje ulažu da bi imali lojalne kupce (Radzi et al., 2017). Istraživanje (Gunawan, 2022) je ukazalo da je najbolji model za povećavanje lojalnosti kupaca fokusiranje na povećanje njihovog zadovoljstva. Prema istraživanju (Mohammed et al., 2016), interaktivnost, pouzdanost, efikasnost i privatnost postali su najznačajnije dimenzije koje doprinose e-zadovoljstvu.

Rezultati istraživanja su ukazali na značajnu statističku korelaciju između koncepta društvene odgovornosti i zadovoljstva i lojalnosti kupaca (Marić et al., 2015). Prema rezultatima istraživanja (Bello et al., 2021), pozitivan efekat na kvalitet usluga, na zadovoljstvo korisnika i nameru ponovne kupovine ima percepirano društveno odgovorno poslovanje. Poverenje kupaca igra posredničku ulogu između zadovoljstva i ponovne kupovine (Liang et al., 2018). Zadovoljstvo kupaca ima direktan i značajan uticaj na nameru ponašanja (Jaleel et al., 2021). Poverenje i zadovoljstvo razvijeno tokom interakcije kupac – zaposleni značajno rezultiraju razvojem lojalnosti prema brendu usluge (Bahadur et al., 2020). Istraživanje je pokazalo de se visok nivo zadovoljstva uslugom koju pruža agencija manifestuje u ponovnom vraćanju kupca (Cordova-Buiza, 2022).

3. Metodologija istraživanja

Prikazano istraživanje u radu imalo je za cilj da utvrdi uticaj pravne zaštite potrošača na zadovoljstvo korisnika turističkih usluga. Od avgusta do oktobra 2023. godine sprovođeno je ispitivanje korisnika turističkih usluga i to neposredno – nakon isteka turističkog aranžmana. Stavovi korisnika turističkih usluga prikupljeni su putem metodološki kreiranog i prilagođenog onlajn (*eng*. online) upitnika. Uzorak ispitanika obuhvatio je 500 korisnika turističkih usluga, gde je na zahteve istraživanja u potpunosti odgovorilo 294 ispitanika.

Da bi se ispunio cilj istraživanja i utvrdio uticaj pravne zaštite potrošača na njihovo zadovoljstvo, neophodno je bilo ispitati stavove ispitanika po ovim pitanjima. Shodno tome, jedan deo upitnika sastojao se od ocenjivanja varijabli koje su imale za cilj da utvrde stavove ispitanika po pitanju njihove zaštite kao korisnika turističkih usluga. Drugi deo upitnika obuhvatio je varijable koje su se odnosile na zadovoljstvo korisnika turističkih usluga. Navedene varijable ocenjivane su na osnovu stavova ispitanika prema tvrdnjama koje su opisivale date varijable. Ispitanici su se izjašnjavali u kojoj meri se slažu sa navedenim tvrdnjama, a za te potrebe korištena je Likertova brojčana skala. Ocena 1 značila je da se ispitanici uopšte ne slažu sa navedenom tvrdnjom, dok je ocena 6 imala značenje da se u potpunosti slažu sa navedenom tvrdnjom.

Kao što je već navedeno, Zakonom o zaštiti potrošača definisani su prava i obaveze potrošača, odnosno korisnika turističkih usluga. Na bazi ovih prava i obaveza definisane su varijable zaštite potrošača iz pravne perspektive. Varijabla *Bezbednost korisnika usluga* ima za cilj da garantuje bezbednost korisnika turističkih usluga sa aspekta stavljanja u promet usluga koje su opasne po zdravlje, život, imovinu i životnu sredinu. *Obmanjujuća poslovna praksa* je varijabla kojom se ukazuje na mogućnost da se korisnik turističkih usluga dovede u zabludu i donese ekonomsku odluku koju inače ne bi, kada je u pitanju postojanje ili priroda usluge i to oglašavanjem na zbunjujući način ili uporednim oglašavanjem, ugrožavanjem slobode izbora ili zloupotrebom pozicije moći. Varijabla *Reklamacija i pravna zaštita* ukazuje na pravo korisnika turističkih usluga da podnose zahtev za reklamaciju i dobije naknadu štete ukoliko ima potrebe za tim. *Pristup uslugama* je varijabla koja ukazuje na pravo korisnika turističkih usluga da se unapred upozna sa uslovima korištenja usluga, obračunavanjem cena i održavanjem kvaliteta korišćenja usluge. Varijablom *Edukacija i informisanje* ukazuje se na mogućnost upoznavanja korisnika turističkih usluga sa sopstvenim pravima od strane saveza i udruženja koji to sprovode na nezavisan način. *Odgovornost organizatora turističkih usluga* je varijabla koja ukazuje na društveno odgovorno ponašanje organizacija koje se bave pružanjem usluga u oblasti turizma. Navedenih šest varijabli zaštite potrošača sa pravnog aspekta ocenjene su na osnovu 26 ajtema.

Zadovoljstvo korisnika turističkih usluga od strane ispitanika ocenjeno je na osnovu pet varijabli. *Pouzdanost* je varijabla koja ukazuje na sposobnost organizacije da pruži uslugu u navedenom roku, omogući rešavanje problema, ukoliko do njega dođe, i težnju ka uspostavaljanju poslovanja bez greške. Varijablom *Sigurnost* ukazano je na poverenje i bezbednost korisnika turističkih usluga i spremnost organizacija da odgovore na pitanja i zahteve korisnika. *Empatija* je varijabla kojom se ukazuje na koji način se organizacije prilagođavaju potrebama i zahtevima korisnika i da li se u centru njihovog poslovanja nalazi korisnik. *Poverenje* predstavlja varijablu kojom se ukazuje na odnos zaposlenih u turističkoj organizaciji prema korisnicima po pitanju ulivanja poverenja, da li zaposleni imaju znanje da odgovore na zahteve korisnika i u kojoj meri su ljubazni prema njima. Varijabla *Lojalnost* ukazuje na spremnost korisnika turističkih usluga da podele svoje iskustvo sa drugima i da se ponovo opredele za usluge kod iste agencije. Ispitanici su navedene varijable ocenjivali pomoću 22 ajtema.

Ovim istraživanjem dokazuju se sledeće hipoteze:

H1: Varijable *Zaštita potrošača iz pravne perspektive* pokazuju statistički značajne relacije sa varijablama *Zadovoljstvo korisnika turističkih usluga*.

H2: Varijable *Zaštita potrošača iz pravne perspektive* pokazuju statistički značajne razlike u odnosu na vrstu putovanja.

Prikupljeni podaci obrađeni su pomoću softverskog alata IMB SPSS Statistics 25. Statističkom obradom prikupljenih podataka izvršena je deskriptivna statistika navedenih varijabli, utvrđena je korelacija i regresija između analiziranih varijabli i T-test nezavisnih uzoraka.

4. Rezultati istraživanja

4.1. Uzorak istraživanja

Uzorak je obuhvatio 294 ispitanika, korisnika turističkih usluga neposredno pre sprovođenja istraživanja. Struktura ispitanika obuhvata 150 (51,7%) osoba ženskog i 142 (81%) osobe muškog pola. Sa aspekta statusa ispitanika obuhvaćeno je 238 (81%) zaposlenih, 42 (14,3%) nezaposlena ispitanika i 14 (4,8%) penzionera. Kada je u pitanju vrsta putovanja, 209 (71,1%) ispitanika koristi porodično i 85 (28,9%) individualno putovanje. Na osnovu destinacije putovanja, 171 (58,2%) ispitanik bira inostranstvo a 123 (41,8%) se češće opredeljuje za turističke destinacije u Republici Srbiji. Prema vrstama putovanja koje upražnjavaju, 179 (60,9%) ispitanika se opredelilo za prirodni turizam, 44 (15%) za kulturni turizam, 28 ispitanika (9,5%) je navelo seoski turizam, 25 (8,5%) zdravstveni turizam i 18 (6,1%) poslovni turizam.

4.2. Rezultati deskriptivne statistike

Rezultati deskriptivne statistike varijabli *Zaštita potrošača sa pravnog aspekta* i varijabli *Zadovoljstvo korisnika* prikazani su u Tabeli 1. Tabela 1 sadrži minimalne, maksimalne i srednje vrednosti, standardnu devijaciju, Kronbahov alfa koeficijent i oznake koje će biti korištene u daljem radu.

Tabela 1: Deskriptivna statistika varijabli *Zaštita potrošača sa pravnog aspekta* i varijabli *Zadovoljstvo korisnika*

Varijabla	Oznaka	N	Min	Max	Srednja vrednost	Standardna devijacija	Cronbach's alpha
Bezbednost korisnika usluga	CP1	294	1	6	5,07	,996	,779
Obmanjujuća poslovna praksa	CP2	294	1	6	4,67	1,170	,839
Reklamacija i pravna zaštita	CP3	294	1	6	4,97	1,060	,822
Pritup uslugama	CP4	294	1	6	5,26	1,061	,908
Edukacija i informisanje	CP5	294	1	6	4,61	1,063	,725
Odgovornost	CP6	294	1	6	4,77	1,064	,730
Pouzdanost	ZK1	294	1	6	4,40	1,214	,919
Sigurnost	ZK2	294	1	6	4,53	1,213	,937
Empatija	ZK3	294	1	6	4,31	1,279	,940
Poverenje	ZK4	294	1	6	4,59	1,191	,944
Lojalnost	ZK5	294	1	6	4,53	1,159	916

Izvor: Sopstveno istraživanje

Analizom rezultata deskriptivne statistike posmatranih varijabli uviđa se da su sve analizirane varijable ostvarile srednje vrednosti, znatno iznad prosečne vrednosti koja iznosi 3. *Pristup uslugama* je varijabla zaštite potrošača sa pravnog aspekta koja je najbolje ocenjena i čija srednja vrednost iznosi 5,26. Varijabla *Edukacija i informisanje* je ostvarila srednju vrednost 4,61 i predstavlja najslabije ocenjenu varijablu *Zaštite potrošača sa pravnog aspekta*. Varijable *Zadovoljstva korisnika turističkih usluga* ostvarile su približno slične srednje vrednosti, s tim da je varijabla *Poverenje* najbolje ocenjena sa 4,59, dok je varijabla *Empatija* ostvarila najslabiju ocenu – 4,31.

U Tabeli 1 prikazani su i rezultati Kornbahovog alfa koeficijenta za svaku varijablu. Na osnovu ovog koeficijenta utvrđuje se pouzdanost mernih instrumenata, odnosno ukazuje se na to u kojoj meri su stavke kojima se ocenjuju varijable blisko povezane kao grupa. Dobijeni rezultati ukazuju na visoke vrednosti ovog koeficijenta, čime se potvrđuje odlična povezanost stavki na bazi kojih su ocenjene analizirane varijable.

4.3. **Rezultati korelacione i regresione analize**

Tabela 2 prikazuje osvarene korelacione vrednosti između varijabli *Zaštite potrošača sa pravnog aspekta* i varijabli *Zadovoljstva korisnika turističkih usluga*.

Tabela 2: Korelacione vrednosti između varijabli *Zaštita potrošača sa pravnog aspekta* i varijabli *Zadovoljstvo korisnika turističkih usluga*

	ZP1	ZP2	ZP3	ZP4	ZP5	ZP6
ZK1	,454**	,346**	,446**	,574**	,387**	,500**
ZK2	,551**	,402**	,513**	,642**	,452**	,573**
ZK3	,500**	,375**	,406**	,549**	,427**	,519**
ZK24	,549**	,393**	,465**	,604**	,458**	,534**
ZK5	446**	,339**	,459**	,560**	,368**	,458**

**. Korelacija je značajna na nivou od 0,01 (2-tailed).

Izvor: Sopstveno istraživanje

Analizirajući korelacione vrednosti između posmatranih varijabli *Zaštita potrošača sa pravnog aspekta* i varijabli *Zadovoljstvo korisnika turističkih usluga* ostvarene visoke vrednosti ukazuju na postojanje bitne povezanosti između navedenih varijabli. Ostvarene korelacije imaju pozitivne vrednosti umerenog do jakog intenziteta. Bitnu povezanost ostvarila je varijabla ZP4 – *Pristup uslugama* sa varijablama *Zadovoljstva korisnika* ZK2 – *Sigurnost* i ZK4 – *Poverenje*. Povezanost manjeg intenziteta je ostvarena između varijable ZP2 – *Obmanjujuća poslovna praksa* i varijabli *Zadovoljstva korisnika turističkih usluga*, ZK1 – *Pouzdanost* i ZK5 – *Lojalnost*. Korelacija je ukazala na postojanje bitne povezanosti između analiziranih varijabli. Na osnovu ostvarenih visokih korelacionih vrednosti stvoreni su uslovi da se utvrdi regresioni model pojedinačnog uticaja nezavisnih varijabli *Zaštite potrošača sa pravnog aspekta* na zavisne varijable *Zadovoljstva korisnika turističkih usluga*.

Tabela 3: Regresioni model uticaja nezavisnih varijabli *Zaštite potrošača sa pravnog aspekta* na zavisne varijable *Zadovoljstva korisnika turističkih usluga*

Zavisne	Nezavisne	**B**	T	Sig.	R^2	F	Sig.
ZK1	ZP1	,128	1,614	,108	,355	26,346	,000
	ZP2	-,158	-2,0526	,041			
	ZP3	-,071	-,843	,400			
	ZP4	,484	5,315	,000			
	ZP5	,005	,068	,946			
	ZP6	,206	2,455	,015			
ZK2	ZP1	,238	3,279	,001	,459	40,559	,000
	ZP2	-,200	-2,845	,005			
	ZP3	-,067	-,873	,383			
	ZP4	,464	5,564	,000			
	ZP5	,018	,264	,792			
	ZP6	,239	3,096	,002			

ZK3	ZP1	,258	3,268	,001	,364	27,372	,000
	ZP2	-,136	-1,783	,076			
	ZP3	-,200	-2,397	,017			
	ZP4	,382	4,222	,000			
	ZP5	,050	,691	,490			
	ZP6	,263	3,150	,002			
ZK4	ZP1	,295	3,923	,000	,421	34,791	,000
	ZP2	-,189	-2,596	,010			
	ZP3	-,131	-1,651	,100			
	ZP4	,433	5,023	,000			
	ZP5	,077	1,126	,261			
	ZP6	,182	2,286	,023			
ZK5	ZP1	,125	1,545	,124	,328	23,295	,000
	ZP2	-,147	-1,878	,061			
	ZP3	,023	,273	,785			
	ZP4	,464	4,992	,000			
	ZP5	,015	,208	,835			
	ZP6	,099	1,149	,252			

Izvor: Sopstveno istraživanje

Regresioni model uticaja ukazao je postojanje statističke značajnosti svih vrednosti R^2. Najveću vrednost osvarila je varijabla ZK2 – *Sigurnost* ($R^2 = 0,459$), što ukazuje da je 45,9% varijabiliteta sigurnosti kod korisnika turističkih usluga objašnjeno njihovom adekvatnom zaštitom sa pravnog aspekta. Statistički značajan uticaj na sve posmatrane varijable zadovoljstva korisnika ostvarila je varijabla ZP4 – *Pristup uslugama*. Statistički značaj i pozitivan uticaj na *Sigurnost*, *Empatiju* i *Poverenje korisnika turističkih usluga* ostvarila je varijabla ZP1 – *Bezbednost korisnika usluga*. Odgovornost organizacija koje pružaju turističke usluge ima pozitivan i značajan uticaj na sigurnost i empatiju korisnika turističkih usluga.

4.4. Rezultati t-testa nezavisnih uzoraka zaštite potrošača sa pravnog aspekta

T-testom nezavisnih uzoraka *Zaštite potrošača sa pravnog aspekta* ukazano je na postojanje statistički značajne reazlike između srednjih vrednosti, kada je u pitanju individualno i porodično putovanje.

Tabela 3: Test nezavisnih uzoraka *Zaštite potrošača sa pravnog aspekta* i vrste putovanja (varijable koje su ostvarile statističku značajnost)

		Levenov test za jednakost varijansi		t-test za jednakost sredstava						
		F	Sig	t	df	Sig (2-tailed)	Srednja vred. razlike	Razlika stand. greške	95% interval poverenja razlike	
									donja	gornja
ZP1	Jednake varijanse	,351	,554	-3,986	292	,000	-,49821	,12500	-,744	-,252
	Nejednake varijanse			-3,983	155,541	,000	-,49821	,12510	-,745	-,251
ZP2	Jednake varijanse	,342	,559	-3,391	292	,001	-,50141	,14787	-,792	-,210
	Nejednake varijanse			-3,474	164,325	,001	-,50141	,14432	-,786	-,216
ZP5	Jednake varijanse	,686	,408	-5,233	292	,000	-,68563	,13101	-,943	-,428
	Nejednake varijanse			-5,440	169,758	,000	-,68563	,12604	-,934	-,437
ZP6	Jednake varijanse	,795	,373	-4,164	292	,000	-,55480	,13324	-,817	-,293
	Nejednake varijanse			-4,407	177,028	,000	-,55480	,12588	-,803	-,306

Izvor: Sopstevno istraživanje

Od šest analiziranih varijabli čak kod četiri je potvrđena značajna razlika ($P < 0,005$), dok je kod preostale dve varijable razlika slučajna. Kod varijable ZP1 – *Bezbednost korisnika usluga* ukazano je da postoji značajna razlika kada je u pitanju vrsta putovanja ($t = -3,986$, $df = 292$, $p < 0,00$), dok vrednost eta kvadrata iznosi 0,052 i potvrđuje umeren uticaj *Vrste putovanja* na *Bezbednost korisnika turističkih usluga*. Varijabla ZP2 – *Obmanjujuća poslovna praksa* ostvarila je statistički značajnu razliku između dve grupe ispitanika koji koriste različite vrste putovanja ($t = -3,391$, $df = 292$, $p < 0,01$), a vrednost eta kvadrata od 0,038 ukazuje na mali uticaj *Vrste putovanja*. Statistička značajnost u odnosu na *Vrstu putovanja* ostvarena je i kod varijable ZP5 – *Edukacija i informisanje* ($t = -5,233$, $df = 292$, $p < 0,00$), pri čemu eta kvadrat iznosi 0,086 i ukazuje na umeren uticaj *Vrste putovanja*. Varijabla ZP6 – *Odgovornost* pokazala je postojanje statističke značajnosti između dve grupe ispitanika koji koriste različite vrste putovanja ($t = -4,164$, $df = 292$, $p < 0,00$). Na osnovu eta kvadrata ukazano je da vrsta putovanja objašnjava 5, 6% odgovornog ponašanja organizatora turističkih putovanja.

5. Diskusija o rezultatima

Deskriptivnom statistikom je utvrđeno da je korisnicima turističkih usluga važan adekvatan pristup turističkim uslugama sa aspekta upoznavanja sa uslovima korišćenja usluga i pružanja definisanog kvaliteta, dok su ukazali da se malo pažnje posvećuje njihovoj edukaciji i informisanju po pitanju pružanja pravne pomoći. Korisinici usluga su istakli da im je važno da se prilikom prodaje usluge ne vrši diskriminacija, da se cena usluge obračunava prema utvrđenim propisima i pravilima struke, da organizator turističkog putovanja omogući da budu dostupne sve potrebne informacije i da održi definisan kvalitet usluge. Korisnici turističkih usluga su naveli da nisu u dovoljnoj meri upućeni, kada se radi o edukaciji i informisanju o korišćenju određenih usluga na tržištu, te da nisu spremni da koriste usluge koje se promovišu kao atraktivne.

Korisnici turističkih usluga su istakli da im je od velike važnosti da im zaposleni u turističkoj organizaciji ulivaju poverenje, da su ljubazni i da poseduju adekvatno znanje da odgovore na njihove zahteve, ali i da se osećaju sigurno pri korišćenju turističkih usluga. Nedostatak empatije kod korisnika turističkih usluga ukazuje da se od strane turističke organizacije ne posvećuje dovoljna pažnja svakom korisniku ponaosob, da moraju više da se usredsrede na posebne potrebe svojih korisnika i da im u fokusu poslovanja upravo bude interes korisnika.

Varijabla *Pristup uslugama* ostvarila je najveću srednju vrednost i time je ukazano na značaj ove varijable od strane korisnika turističkih usluga. Unapređivanjem pristupa turističkim uslugama utiče se na povećanje sigurnosti i poverenja kod korisnika ovih usluga. Ukoliko je informacija o prodaji turističke usluge obmanjujuća i ponašanje organizatora usluge takvo da može da ugrozi slobodu izbora, smanjuje se pouzdanost korisnika po pitanju efikasne realizacije usluge i doprinosi se nelojalnom ponašanju korisnika.

Regresionim modelom potvrđen je uticaj nezavisnih varijabli *Zaštite potrošača sa pravnog aspekta* na sve zavisne varijable *Zadovoljstva korisnika turističkih usluga*, pri čemu su najveći uticaj ostvarile na *Sigurnost*, kao varijablu *Zadovoljstva korisnika turističkih usluga*.

Rezultatima regresione i korelacione analize potvrđena je međusobna povezanost između analiziranih varijabli na osnovu ostvarenih statistički značajnih vrednosti. Na osnovu navedenog potvrđena je hipoteza 1, odnosno utvrđeno je da varijable *Zaštite potrošača sa pravnog aspekta* pokazuju statistički značajne relacije sa varijablama *Zadovoljstvoa korisnika turističkih usluga*.

Na osnovu rezultata t-testa nezavisnih uzoraka *Zaštite potrošača sa pravnog aspekta* potvrđeno je postojanje statistički značajnih razlika između dve različite grupe korisnika turističkih usluga, sa aspekta korišćenja individualnog ili porodičnog putovanja. Na bazi ovih rezultata dokazana je hipoteza 2 u ovom radu, odnosno potvrđeno je da varijable *Zaštite potrošača sa pravnog aspekta* pokazuju statistički značajne razlike u odnosu na vrstu putovanja.

6. Zaključak

Na osnovu prikazanih rezultata istraživanja (Allameh et al., 2015; Kim & Brown, 2012; Ranjbarian & Pool, 2015) potvrđen je značaj zadovoljstva u izgradnji lojalnog korisnika koji je spreman da ponovi kupovinu. Rad je ispitao uticaj zaštite potrošača sa pravnog aspekta na zadovoljstvo korisnika. Ova problematika zaokuplja sve veću pažnju, pogotovo u vremenu razvoja digitalizacije koja daje veće mogućnosti u oblasti pružanja turističkih usluga, ali i nosi opasnost od postojanja obmane korisnika. Rezultatima istraživanja (Marić et al., 2015, Bello et al., 2021) ukazano je na postojanje međusobne povezanosti između društveno odgovornog poslovanja i zadovoljstva korisnika.

Istraživanjem prikazanim u radu utvrđeno je da je korisnicima turističkih usluga najvažniji pristup uslugama i bezbednost pri korišćenju usluga, kada je u pitanju njihova pravna zaštita. Ispitanici su istakli značaj poverenja i sigurnosti, kada je u pitanju zadovoljstvo korisnika. Istraživanje je pokazalo da zaštita potrošača sa pravnog aspekta najveći uticaj ima na sigurnost korisnika turističkih usluga. Posmatranjem zaštite potrošača sa pravnog aspekta utvrđeno je da se drugačije percipiraju ove varijable kada korisnik turističkih usluga ide sam na putovanje ili kada ide sa članovima porodice. Navedeni rezultati istraživanja mogu da posluže turističkim organizacijama kako bi unapredile svoj odnos sa korisnicima turističkih usluga. Budući pravci istraživanja mogu biti usmereni na pronalaženje različitih aspekata zaštite potrošača u cilju povećanja njihovog zadovoljstva, što i jeste cilj poslovanja svih organizacija. Zakon o zaštiti potrošača zasniva se na principima koji važe i za potrošača, kao korisnika turističkih usluga, i za trgovca, kao organizatora turističkih usluga. Ova studija otkriva da, iako smo usvojili principe odgovornosti u okviru Zakona o zaštiti potrošača, uočavamo i pristrasnost u tumačenju i sprovođenju zakona. To možemo zaključiti na osnovu činjenice u sprovedenom istraživanju, što dovodi do mogućnosti za promenu odgovornosti po osnovu krivice. Poznavanje prava potrošača, u kombinaciji sa odgovarajućim promocijama, značajno utiče na formiranje i promenu stavova kod korisnika turističkih usluga. Ovi faktori igraju ključnu ulogu u izgradnji i unapređenju imidža na turističkom tržištu. Da bi se postigli željeni efekti, potrebni su dosledno tumačenje i primena zakona, kao i proučavanje specifičnih potreba ciljnih grupa koje koriste turističke usluge. Ove potrebe moraju biti osnova za pružanje turističkih usluga. Dosledna primena zakona, uz kvalitetne promotivne aktivnosti kao integralni deo turističke ponude, doprinosi skladnom, racionalnom i naučno zasnovanom razvoju turizma. Samo kroz doslednu primenu zakona i adekvatne promotivne aktivnosti možemo stvoriti pozitivno iskustvo za potrošače, što će doprineti jačanju imidža turističkog sektora.

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LEGAL ASPECTS OF CONSUMER PROTECTION: IMPACT OF ON THE SATISFACTION OF TOURIST SERVICES` USERS IN THE REPUBLIC OF SERBIA

Abstract: The paper presents research aimed at determining the impact of legal protection on the satisfaction of users of tourist services. The research included a sample of 294 respondents. The results of the correlation analysis confirmed the statistically significant impact of the variable consumer protection from a legal perspective on the variable customer satisfaction. Through regression analysis, the individual influence of the independent variables of consumer protection on the dependent variables of customer satisfaction was determined, with the greatest impact of the variable relating to security, while the variable relating to access to services made its contribution to all analyzed variables. Based on the test of independent samples of legal protection of consumers, it was established that there is a statistically significant difference in users of tourist services when it comes to individual and family travel. The results of this research indicate that by providing adequate legal protection to the users of tourist services can significantly

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contribute to increasing the consumers` satisfaction, and therefore their loyalty and the possibility of returning to the same services.

Keywords: consumer protection, customer satisfaction, tourist services, access to services.

Introduction

Changes in the service market are conditioned by the rapid development of service activities, the trend which has been recorded in both developed and developing countries. In order to meet the demands and needs of consumers of tourist services as effectively as possible, it is necessary to continuously work on adapting tourist services on the basis of understanding changes and events in the environment. There is also a rising need to protect tourist services` users from abuse by the organizers of these services. From a legal perspective, the need of tourism services` users is to be protected against imperfect information and contractions, as well as restrictions in decision-making. In order to ensure greater consumer trust, it is necessary to gain a better knowledge of consumer rights. (Izaguirre, 2020).

The characteristics of modern tourism are mass attendance, diverse offers and continuous growth of demand (Pešutić, 2008). Tourist services must constantly develop in a society where the consumer has everything at one click and his demands are greater when it comes to quality free time (Raluca-Florentina, 2022). Increasing time efficiency, the ability to buy from anywhere at any time and economy are some of the factors that can increase user convenience that has the greatest impact on service customer satisfaction (Nain & Awasthi 2021). Satisfied tourists will not only visit the destination again, but also recommend others to visit it (Rahman et al, 2019). Loyalty of users of tourism services depends on the degree of satisfaction (Allameh et al. 2015), trust (Setó-Pamies, 2012) and experience (Pekovic Rolland, 2020; Syamsu et al., 2022). However, experience also affects customer loyalty and satisfaction (Kim & Brown, 2012). Satisfaction also affects the desire to buy again (Ranjbarian & Pool, 2015).

1. Literature review

When concluding a contract on the use of tourist services, the issue of consumer protection is becoming increasingly important. The protection of tourists is provided primarily by the tourist organization that provides tourist services, and then by the state through legal regulations (Nedelea, Bălan, 2010). The establishment of legal frameworks made it possible to curb the damage caused to the users of tourist services. We consider the consumer, that is, the user of tourist services, as a person who is capable of taking care of his/her own interests. When it comes to the Republic of Serbia, consumer rights and obligations are regulated by the Law on Consumer Protection (Law on Consumer

Protection "Official Gazette of RS" No. 88/2021). The Law on Consumer Protection aims to provide a higher level of protection to consumers, that is, users of tourist services. An academic perspective on potential problems can result in insufficient education, poor information, deceptive practices, hidden prices, discrimination. In addition to factors such as: safety, warranty, information, the law that regulates consumer protection also affects customer trust (Chawla & Kumar, 2022). In the tourist services market, consumer protection should refer to the basic components of the tourist product (transportation, accommodation, food, recreation) to which information and reservation should be added for practical utility (Madar & Neacşu, 2015).

Satisfaction is a form of feeling happy or disappointed, which results from comparing the performance of the product or service received and what is expected (Wantara & Tambrin, 2019). Consumer satisfaction is a key concept of marketing, as it plays an important role in meeting the needs and desires of customers (Martinaityte et al., 2019). From the organizational aspect, the importance of consumer satisfaction is reflected in the key role in achieving success in the market. Organizations build their competitive advantage on the market on the basis of creative, innovative and effective efforts they make to have loyal customers (Radzi et al., 2017). Research (Gunawan, 2022) indicates that the best model for increasing customer loyalty is to focus on increasing customer satisfaction. According to research (Mohammed et al., 2016) interactivity, reliability, efficiency and privacy have become the most significant dimensions that contribute to e-satisfaction.

The research results indicate a significant statistical correlation between the concept of social responsibility and customer satisfaction and loyalty (Marić et al., 2015). According to research results (Bello et al., 2021), perceived socially responsible business has a positive effect on service quality, user satisfaction and repeat purchase intention. Customer trust plays a mediating role between satisfaction and repeat purchase (Liang et al., 2018). Customer satisfaction has a direct and significant impact on behavioral intention (Jaleel et al., 2021). The trust and satisfaction developed during the customer – employee interaction significantly result in the development of service loyalty towards the service brand (Bahadur et al., 2020). The research concluded that if the level of satisfaction with the service provided by the company is high and regular for the customer, it is reflected in the frequent return of customers (Cordova-Buiza, 2022).

2. Research methodology

The research presented in the paper aimed to determine the impact of the legal protection of consumers on the satisfaction of tourist services` users. During the period from August to October 2023, a survey involving tourist services` users was conducted immediately after the use of tourist arrangements. The attitudes of tourist services` users were collected on the basis of a methodologically created and adapted online questionnaire. The sample of respondents included 500 users of tourist services, where 294 respondents fully answered the research requirements.

In order to fulfill the goal of the research and determine the impact of the legal protection of consumers on their satisfaction, it was necessary to examine the attitudes of respondents about these issues. Accordingly, one part of the questionnaire consisted of an assessment of variables that aimed to determine the attitudes of respondents regarding their protection as users of tourist services. The second part of the questionnaire included variables related to the satisfaction of users of tourist services. The mentioned variables were evaluated on the basis of respondents' attitudes towards the statements that described the given variables. Respondents declared to what extent they agree with the stated statements based on a Likert numerical scale from 1 to 6. With a rating of 1, the respondents indicated that they do not agree with the stated statement at all, while with a rating of 6, they completely agree with the examined statements.

As already stated, the Consumer Protection Law defines the rights and obligations of consumers, i.e. users of tourist services. On the basis of these rights and obligations, the variables of consumer protection from a legal perspective are defined. The variable relating to the safety of service users aims to guarantee the protection of tourist services` users from putting into circulation services that are dangerous for health, life, property and the environment. Deceptive business practice would be a variable that indicates that the tourist services` user could be misled and thus make an economic decision that he/she would not otherwise make, when it comes to the existence or nature of the service, by advertising in a confusing way or by advertising comparatively, by endangering the freedom of choice or by misusing positions of power. The variable relating to complaints and legal protection indicates the right of tourist services` users to file a complaint and receive compensation for damage if there is a need for it. Access to services is a variable that indicates the right of tourist services` users to familiarize themselves in advance with the conditions of service use, price calculation and maintaining the quality of service use. The variable relating to education and information refers to the possibility of acquainting tourist services` users with their rights by federations and associations, which implement it in an independent way. The responsibility of the organizers of tourist services is a variable that indicates the socially responsible behavior of organizations engaged in the provision of services in the field of tourism. The aforementioned six variables of consumer protection from a legal perspective were evaluated on the basis of 26 items.

The satisfaction of tourist services` users was evaluated on the basis of five variables tested with respondents. Reliability is a variable that indicates the organization's ability to provide a service within the specified period, enable the resolution of problems if they occur, and tend to establish business without making mistakes. The security variable refers to the trust and safety of tourist services` users and the readiness of organizations to respond to users' questions and requests. Empathy is a variable that indicates how organizations adapt to the needs and demands of users and whether the user is at the center of their operations. Trust is a variable that indicates the attitude of employees in a tourist organization towards users in terms of instilling trust in them, whether employees have the knowledge to respond to their requests and to what extent they are kind to users. The loyalty variable indicates the willingness of users of tourism services to share their experience with others and return to the tourism services of a given organization. Respondents evaluated the mentioned variables of satisfaction of the users of tourist services using 22 items.

The aforementioned research proves the following hypotheses:

H1: Variables relating to consumer protection from a legal perspective show statistically significant relationships with variables relating to the satisfaction of tourist services` users.

H2: Consumer protection variables from a legal perspective show statistically significant differences in relation to the type of travel.

The collected data were processed using the software tool IMB SPSS Statistics 25. Statistical processing of the collected data was used to perform descriptive statistics of the mentioned variables, and to determine the correlation and regression between the analyzed variables and the T-test of independent samples.

3. Research results

3.1. Sample research

The research sample included 294 respondents who were users of tourist services immediately before the survey. The structure of respondents includes 150 (51.7%) women and 142 (81%) men. As for the aspect of the respondents' status, the research encompassed 238 (81%) employed, 42 (14.3%) unemployed people and 14 (4.8%) pensioners. When it comes to the type of travel, 209 (71.1%) respondents go on a family trip and 85 (28.9%) travel individually. Based on the travel destination, 171 (58.2%) respondents choose to travel abroad, and 123 (41.8%) more often choose tourist destinations in the Republic of Serbia. According to the type of travel, 179 (60.9%) of the respondents opted for natural tourism, 44 (15%) for cultural tourism, 28 (9.5%) indicated rural tourism, 25 (8.5%) health tourism and 18 (6.1%) business tourism.

The results of the descriptive statistics of the variables relating to consumer protection from a legal perspective and the variables relating to user satisfaction are shown in table 1. Table 1 contains the minimum, maximum and mean values, standard deviation, Cronbach's alpha coefficient and labels that will be used further in the paper.

Table 1. Descriptive statistics of variables relating to consumer protection from a legal perspective and variables relating to user satisfaction

Variables	Mark	N	Min	Max	Mean	Standard deviation	Cronbach's alpha
Security of service users	CP1	294	1	6	5,07	,996	,779
Deceptive business practices	CP2	294	1	6	4,67	1,170	,839
Complaints and legal protection	CP3	294	1	6	4,97	1,060	,822
Access to services	CP4	294	1	6	5,26	1,061	,908
Education and information	CP5	294	1	6	4,61	1,063	,725
Responsibility	CP6	294	1	6	4,77	1,064	,730
Reliability	US1	294	1	6	4,40	1,214	,919
Security	US2	294	1	6	4,53	1,213	,937
Empathy	US3	294	1	6	4,31	1,279	,940
Trust	US4	294	1	6	4,59	1,191	,944
Loyalty	US5	294	1	6	4,53	1,159	916

Source: Own research

Analyzing the results of the descriptive statistics of the observed variables, it can be seen that all the analyzed variables achieved mean values significantly above the average value of 3. Access to services is the consumer protection variable from a legal perspective that is rated the best and whose mean value is 5.26. The education and information variable achieved a mean value of 4.61 and represents the lowest rated consumer protection variable from a legal perspective. The satisfaction variables of tourist services` users achieved approximately similar mean values, with the trust variable having the best rating of 4.59, while the empathy variable had the lowest rating of 4.31.

Table 1 shows the results of the Cronbach's alpha coefficient for each variable. Based on this coefficient, the reliability of the measuring instruments is determined, that is, it is indicated to what extent the items used to evaluate the variables are closely related as a group. The achieved values of Cronbach's alpha coefficients indicate high values of this coefficient, which confirms the excellent connection of the items on the basis of which the analyzed variables were evaluated.

3.3. Results of correlation and regression analysis

Table 2 shows the achieved correlation values between the variables relating to consumer protection from a legal perspective and the variables relating to the satisfaction of tourist services` users.

Table 2. Correlation values between the variables relating to consumer protection from the legal aspect and the variables relating to the satisfaction of tourist services` users

	CP1	CP2	CP3	CP4	CP5	CP6
US1	,454**	,346**	,446**	,574**	,387**	,500**
US2	,551**	,402**	,513**	,642**	,452**	,573**
US3	,500**	,375**	,406**	,549**	,427**	,519**
US4	,549**	,393**	,465**	,604**	,458**	,534**
US5	446**	,339**	,459**	,560**	,368**	,458**

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

Source: Own research

Analyzing the correlation values between the observed variables relating to consumer protection from a legal perspective and the variables relating to the satisfaction of tourist services` users, the achieved high values indicate the existence of a significant connection between the mentioned variables. The achieved correlations have positive values of moderate to strong intensity. A significant connection was achieved by the variable CP4 - access to services with the user satisfaction variables US2 - security and US4 - trust. A correlation of lesser intensity was realized between the variable CP2 - misleading business practice with the variables relating to the satisfaction of tourist services` users, ZK1 - reliability and US5 - loyalty. The correlation indicated the existence of a significant connection between the analyzed variables. Based on the achieved high correlation values, the conditions were created to determine the regression model of the individual influence of independent variables relating to consumer protection from a legal perspective on the dependent variables relating to the satisfaction of tourist services` users.

Table 3. Regression model of the influence of independent variables relating to consumer protection from a legal perspective on dependent variables relating to the satisfaction of tourist services` users

Dependent	Independent	β	t	Sig.	R^2	F	Sig.
US1	CP1	,128	1,614	,108	,355	26,346	,000
	CP2	-,158	-2,056	,041			
	CP3	-,071	-,843	,400			
	CP4	,484	5,315	,000			
	CP5	,005	,068	,946			
	CP6	,206	2,455	,015			
US2	CP1	,238	3,279	,001	,459	40,559	,000
	CP2	-,200	-2,845	,005			
	CP3	-,067	-,873	,383			
	CP4	,464	5,564	,000			
	CP5	,018	,264	,792			
	CP6	,239	3,096	,002			

US3	CP1	,258	3,268	,001	,364	27,372	,000
	CP2	-,136	-1,783	,076			
	CP3	-,200	-2,397	,017			
	CP4	,382	4,222	,000			
	CP5	,050	,691	,490			
	CP6	,263	3,150	,002			
US4	CP1	,295	3,923	,000	,421	34,791	,000
	CP2	-,189	-2,596	,010			
	CP3	-,131	-1,651	,100			
	CP4	,433	5,023	,000			
	CP5	,077	1,126	,261			
	CP6	,182	2,286	,023			
US5	CP1	,125	1,545	,124	,328	23,295	,000
	CP2	-,147	-1,878	,061			
	CP3	,023	,273	,785			
	CP4	,464	4,992	,000			
	CP5	,015	,208	,835			
	CP6	,099	1,149	,252			

Source: Own research

The regression model of influence indicated the existence of statistical significance of all R^2 values. The highest value was achieved by the variable US2 - security (R^2=0.459), which indicates that 45.9% of the variability relating to security among users of tourist services is explained by their adequate protection from a legal perspective. Statistically significant influence on all the observed variables of user satisfaction was achieved by the variable CP4 - access to services. Statistical significance and positive impact on the safety, empathy and trust of tourist services` users was achieved by the variable CP1 - security of service users. The responsibility of organizations that provide tourist services has a positive and significant impact on the safety and empathy of users of tourist services.

3.4. Independent sample T-test results of consumer protection from a legal perspective

The T-test of independent samples of consumer protection from a legal perspective indicated the existence of a statistically significant difference between the mean values when it comes to individual and family travel.

Table 3. Test of independent samples of consumer protection from a legal perspective from the aspect of the type of travel (variables that achieved statistical significance)

		Levene's test for equality of variances		t-test for equality of means						
		F	Sig	t	df	Sig (2-tailed)	Mean value differen.	standard error variance	95% confidence interval of the difference	
									lower	upper
CP1	Equal variances	,351	,554	-3,986	292	,000	-,49821	,12500	-,744	-,252
	Unequal variances			-3,983	155,541	,000	-,49821	,12510	-,745	-,251
CP2	Equal variances	,342	,559	-3,391	292	,001	-,50141	,14787	-,792	-,210
	Unequal variances			-3,474	164,325	,001	-,50141	,14432	-,786	-,216
CP5	Equal variances	,686	,408	-5,233	292	,000	-,68563	,13101	-,943	-,428
	Unequal variances			-5,440	169,758	,000	-,68563	,12604	-,934	-,437
CP6	Equal variances	,795	,373	-4,164	292	,000	-,55480	,13324	-,817	-,293
	Unequal variances			-4,407	177,028	,000	-,55480	,12588	-,803	-,306

Source: Own research

Of the six analyzed variables, a significant difference was confirmed in four variables ($P<0.005$), while the difference in the remaining two variables was accidental. In the case of the variable CP1 - security of service users, it was indicated that there is a significant difference when it comes to the type of travel ($t=-3.986$, $df=292$, $p<0.00$), while the value of the eta square is 0.052, it and confirms a moderate influence of the type of travel on the safety of tourist services` users. The variable CP2 - misleading business practice achieved a statistically significant difference between two groups of respondents who use different types of travel ($t=-3.391$, $df=292$, $p<0.01$), and the eta square value of 0.038 indicates a small influence of the type of travel. Statistical significance in relation to the type of travel was also achieved with the variable CP5 - education and information ($t=-5.233$, $df=292$, $p<0.00$), where the eta square is 0.086 and indicates a moderate influence of the type of travel. The variable CP6 - responsibility showed the existence of statistical significance between two groups of respondents who use different types of travel ($t=-4.164$, $df=292$, $p<0.00$). Based on the eta square, it was indicated that the type of trip explains 5.6% of the responsible behavior of tour organizers.

4. Discussion of the results

Descriptive statistics show that users of tourist services find it important to have adequate access to tourist services from the aspect of being familiarized with the conditions of using services and providing the defined quality, while statistics also indicate that little attention is paid to educating and informing tourist services` users regarding the right to legal assistance. The users of the services pointed out that it is important for them that there is no discrimination when selling the service, that the price of the service is calculated according to established regulations and rules of the profession, that the organizer of the tourist trip makes available all the necessary information and maintains the defined quality of the service. Users of tourist services indicated that they are not sufficiently informed when it comes to education and information about the use of certain services on the market, nor are they ready to use services that are promoted as attractive.

The users of tourist services pointed out that it is very important that employees in tourist organizations inspire confidence in them, that they are polite and have adequate knowledge to respond to their requests, but it is also important that they feel safe when using tourist services. The lack of empathy among the users of tourist services indicates that the tourist organization does not pay enough attention to each user individually, that they must focus more on the special needs of their users and that the interest of the users should be the focus of their business.

The access to services variable achieved the highest mean value, thus indicating the importance of this variable on the part of users of tourist services. Improving access to tourist services increases security and trust among the users of these services. If the information about the sale of the tourist service is misleading and the behavior of the service organizer is such that it can threaten the freedom of choice, the user's reliability in terms of the efficient implementation of the service is reduced and contributes to the disloyal behavior of the user.

The regression model confirmed the influence of independent variables of consumer protection from a legal perspective on all dependent variables relating to the satisfaction of tourist services` users, with the greatest impact on security as a variable of user satisfaction.

The results of the regression and correlation analysis confirmed mutual relation between the analyzed variables based on the achieved statistically significant values. On the basis of the claims made above, hypothesis 1 was confirmed, that is, it was determined that variables of consumer protection from a legal perspective show statistically significant relations with the variables relating to the satisfaction of tourist services` users.

Based on the results of the T-test of independent samples of consumer protection from a legal perspective, the existence of statistically significant differences between two different groups of tourist services` users, from the aspect of using individual or family travel, was confirmed. On the basis of these results, hypothesis 2 of this paper was proven, that is, it was confirmed that the consumer protection variables from a legal perspective show statistically significant differences in relation to the type of travel.

5. Conclusion

On the basis of the presented research results (Allameh et al. 2015; Kim & Brown, 2012; Ranjbarian & Pool, 2015) the importance of satisfaction in creating a loyal customer who is ready to repeat the purchase has been confirmed. The paper examined the impact of consumer protection from a legal perspective on user satisfaction. This issue is attracting more and more attention, especially at the time of the development of digitalization, which creates greater opportunities in the field of providing tourist services, but also carries the risk of deceiving users. Research results (Marić et al., 2015, Bello et al., 2021) indicated that there is mutual connection between socially responsible business and user satisfaction.

The research presented in the paper showed that the most important issue for users of tourist services is access to services and security when using services, when it comes to their protection from a legal perspective. The respondents emphasized the importance of trust and security when it comes to user satisfaction. The research has shown that consumer protection from a legal perspective has the greatest impact on the safety of tourist services` users. By looking at consumer protection from a legal perspective, it was determined that these variables are perceived differently when a user of tourist services goes on a trip alone or with family members. The mentioned research results can serve tourism organizations in order to improve their relationship with the users of tourism services. Future directions of research can be aimed at finding different aspects of consumer protection in order to increase consumers` satisfaction, which is the goal that all organizations strive for.

The Law on Consumer Protection is based on the principles which apply to both the consumer, as a user of tourist services, and to the salesman, as the organizer of tourist services. This study shows that although we accepted responsibility principles as part of the Law on Consumer Rights, we see bias in the processes of interpreting and applying the law. We can conclude this based on facts in the conducted research, which leads to the possibility for changing responsibility for some guilt. Knowing consumer rights, along with adequate promotions, influences significantly the formation and change of attitudes of tourist services` users. These factors are crucial for the creation and advancement of the image on the tourist market. In order to achieve the wanted effects, it is necessary to interpret and apply the law consistently, as well as to study the specific needs of the target groups which use tourist services. These needs have to be a basis for offering tourist services. Consistent application of the law, with quality promotional activities as an integral part of the tourist offer, contributes to a harmonious, rational and scientifically based development of tourism. Only by applying the law consistently and by organizing adequate promotional activities can we create positive experience for consumers, which will contribute to strengthening the image of the tourist sector.

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PRAVNA REGULACIJA VEŠTAČKE INTELIGENCIJE U SVETU

Apstrakt: Veštačka inteligencija (VI) predstavlja fenomen u centru interesovanja globalne naučne zajednice. Naime, ogroman potencijal VI za korenite promene u svim sektorima društva povezan je i sa mnoštvom rizika koji zahtevaju državni regulatorni odgovor. Stoga je na međunarodnom nivou moguće uočiti svojevrsnu trku u stvaranju pravnog okvira za VI. Ipak, od legislativnih aktivnosti međunarodnih organizacija, preko inicijativa pojedinih država, ne postoji jedinstven stav niti univerzalno prihvaćen instrument za regulaciju VI. U upotrebi su kako zakoni, konvencije, principi, tako i smernice, ukazi, etički standardi itd, kojima se retko sistematski i sveobuhvatno, a češće sektorski i posredno pristupa ovoj materiji. Ipak, pionirski i revolucionarni iskorak izvršen je od strane Evropske unije usvajanjem Uredbe o veštačkoj inteligenciji, popularno poznatoj kao Zakon o veštačkoj inteligenciji. Autorka u radu analizira postojeće pojedinačne legislativne inicijative i sugeriše očekivan veliki uticaj Zakona o VI kao model zakona celoj međunarodnoj zajednici.

Ključne reči: *veštačka inteligencija, Zakon o veštačkoj inteligenciji, pravo Evropske unije, regulacija veštačke inteligencije, model zakon.*

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1. Uvod – određenje pojma i značaja veštačke inteligencije

Veštačka inteligencija (dalje: VI) predstavlja fenomen koji je poslednjih godina svojim implikacijama zaokupio svaki segment naučnog diskursa, pa tako i onaj koji se tiče pravne regulative. Upotreba VI transformiše industrije, poslovne ekosisteme, javnu upravu, oblast bezbednosti, kulture, zdravlja itd. Shodno tome, otvaraju se mnoga pitanja za svaku državu u vezi sa kojima je potrebno obezbediti regulatorni okvir zarad etičkog i pravilnog iskorišćavanja, te uspostavljanja kontrole nad sistemima VI.

Prema procenama američkih konsultantskih kompanija, tržište VI će do 2030. godine dostići vrednost od čak 1,339 billiona dolara, a u SAD je već četvrtina kompanija integrisala VI u svoju rutinu (*MarketsandMarkets, Artificial Intelligence Market Report*, 2024). Automatizacija i transformacija zanimanja postaju deo svakodnevice, a VI menja pravila igre u svim sektorima. Od virtuelnih asistenata (kao što su *Siri, Alexa* ili *Google Assistant*) do sofisticiranih algoritama koji pokreću sisteme preporuka, VI je drastično izmenila način na koji komuniciramo sa tehnologijom. U sisteme VI spadaju i sistemi za preporuke (npr. oni u upotrebi striming servisa kakav je *Netflix*), sistemi za odabir kandidata za zaposlenje, autonomna vozila, uređaji za pametne domove, sistemi za generisanje sadržaja koji prikupljaju tekst, slike ili video-zapise (npr. *GPT–4*) i mnogi drugi. Iz navedenog je jasno da je potencijal VI ogroman, pa i teško saglediv.

Pa ipak, i pored očiglednog značaja VI, ne postoji univerzalno prihvaćena definicija u teoriji (Scherer, 2019, 542). Tako se VI može opisati kao simulacija inteligentnog ponašanja od strane računara i sposobnost mašine da imitira ljudsko ponašanje, u smislu razvijanja sposobnosti tumačenja, učenja novih ponašanja i izvršavanja radnji bez ili sa ograničenom ljudskom intervencijom (Guida, 2022, 315–355). Dakle, VI podrazumeva korišćenje mašina koje uče na osnovu podataka i razvijaju inteligenciju koja je uporediva sa čovekovom. Takođe, Savet za VI pri Organizaciji za ekonomsku saradnju i razvoj (dalje: OECD) definiše VI kao sistem zasnovan na radu mašina koje mogu za dati skup ciljeva definisanih od strane ljudi da daju predviđanja, preporuke ili da donose odluke koje utiču na ne samo virtuelna, već i realna okruženja.

Značaj i karakteristike VI (zasnovanost na podacima, kapacitet samoučenja i autonomija, nepredvidljivost) jasno ukazuju na potrebu za pravnom regulacijom. Kako sistem VI ima elemente autonomnog ponašanja, to znači i da je ono nepredvidivo, te postoji netransparentnost u funkcionisanju zbog tzv. efekta „crne kutije“. Brojna su pravna pitanja koja se u vezi s ovim fenomenom otvaraju, poput preispitivanja tradicionalno shvatanog pojma odgovornosti za štetu (Mijatović, Gajinov, Tomić, 2024). Nadalje, značajni rizici i faktori koji su povezani sa VI takođe zahtevaju društveni oprez i adekvatnu reakciju, npr. u pogledu mogućnosti zlonamerne upotrebe VI, širenja dezinformacija, rizika od gubitka radnih mesta, pitanja deficita stručnjaka za VI i monopola u razvoju i kontroli sektora VI.

Na osnovu svega iznetog, jasno je koji su razlozi usled kojih na globalnom planu trenutno svedočimo svojevrsnoj regulatornoj trci ka formulisanju pravnih okvira za VI. Naravno, svaka država će u skladu sa svojim potrebama odrediti specifičnu legislativnu politiku.[2] U tom pogledu i odabir korišćenih pravnih instrumenata veoma je raznolik. Tu su „klasični“ zakoni i zakonodavne incijative za celovito regulisanje VI materije na nacionalnom nivou. Pa ipak, za sada je u mnogo širem opsegu očigledno donošenje propisa: 1) u obliku strategija, principa, planova, etičkih kodeksa, 2) ili se pak materija VI tek delimično inkorporiše po sektorima u već postojeće zakone srodnih oblasti (kao što je npr. učinjeno na Novom Zelandu). Razlozi za to su različite prirode. Naime, pojedine države još uvek nemaju logističke i finansijske mogućnosti za sprovođenje ambicioznih regulatornih koraka vezanih za VI. Druge države ne žele da striktnim propisima sprečavaju razvoj tržišta VI, dok neke smatraju da će jednom usvojeni zakoni u ovoj oblasti ubrzo postati zastareli usled toga što pravo ne može da isprati brzinu tehnološkog napretka. Ipak, u tom smislu, revolucionarni iskorak u regulaciji učinila je Evropska unija (dalje: EU) usvajanjem Uredbe o veštačkoj inteligenciji (*Artificial Intelligence Act*, 2024, dalje: Zakon o VI).[3] Ovaj propis će,

[2] I Srbija, prema ciljevima koji su predviđeni Strategijom za razvoj veštačke inteligencije u RS za period od 2025. do 2030. godine (dalje: Strategija za VI) predviđa usvajanje legislativnih akata u vezi sa VI.

[3] Iako je instrument kojim je EU regulisala pitanje VI usvojen u vidu uredbe,

smatra autorka, postati obrazac, odnosno regulatorni uzor, te osnovna i obavezna legislativna inspiracija svim zemljama sveta, bez obzira na to u kojoj se meri odluče za doslovno ili modifikovano preuzimanje rešenja iznetih u ovom pionirskom pravnom poduhvatu.

2. Različite legislativne inicijative u oblasti veštačke inteligencije na globalnom nivou

Pojedine međunarodne organizacije već godinama su aktivne na polju pripreme regulatornog pejzaža za VI. U tom pogledu važno je istaći rezultate Organizacije za ekonomsku saradnju i razvoj koja je još 2019. godine izdala prvu verziju Principa o VI, da bi druga verzija bila objavljena 2024. godine. Takođe, Međunarodna organizacija za standardizaciju je objavila velik broj standarda o VI, dok je aktivnošću Saveta Evrope nastala Okvirna konvencija o veštačkoj inteligenciji i ljudskim pravima, demokratiji i vladavini prava 2024. godine koja zasad ima jedanaest potpisnica (uključujući EU i SAD).

Što se pak pojedinih država tiče, uočavaju se različiti pristupi regulaciji VI. U pogledu tri najznačajnija sistema može se reći da je pristup SAD usmeren ka zaštiti vrednosti tržišta VI; u Narodnoj Republici Kini postojeća regulacija u fokus stavlja ulogu same države i njenu kontrolu nad razvojem VI, dok je u EU regulatorni pristup zasnovan i fokusiran na zaštiti ljudskih prava (Bradford, 2023).

Izuzimajući EU, koja je usvojila prvi formalan, sveobuhvatni, sankcionisani propis s direktnom primenom u svih 27 država članica, u većini zemalja regulacija VI tek je u povoju. Naime, neke države još uvek ostavljaju delimično uređenim, neregulisanim ili širokim potezima regulisano polje VI iz prethodno navedenih različitih pobuda. Par država je u tom pogledu ipak ostvarilo izvestan iskorak i posvetilo se izradi sveobuhvatnih zakona o VI. Na primer Južna Koreja je u januaru 2025. godine usvojila Zakon o veštačkoj inteligenciji koji će početi da se primenjuje od januara 2026. godine. Time je ova država postala druga ze-

ipak se već ustalio termin na engleskom „AI Act“. U Srbiji se takođe uobičajio izraz Zakon o VI, kako je evidentno i prema Strategiji za VI, te će ga i autorka koristiti.

mlja na svetu sa usvojenim zakonom u ovoj oblasti. U Brazilu se već nekoliko godina radi na izradi Zakona o VI, čije se usvajanje očekuje do kraja 2025. godine.

Sa druge strane tzv. nezakonskog spektra u pristupu regulaciji VI, npr. Narodna Republika Kina se dugo oslanjala na Plan razvoja sledeće generacije VI koji je usvojen još 2017. godine. Naknadno je 2023. godine usvojen set mera pod nazivom Privremene mere za upravljanje generisanim uslugama veštačke inteligencije. Velika Britanija zasad okleva da usvoji definitivne zakone za VI, tvrdeći da to može smanjiti rast sektora i da bi zakoni mogli postati zastareli usled daljeg tehnološkog napretka. Ipak, to ne znači da ova zemlja ostavlja ovo polje neuređenim, štaviše usvojen je čak 61 akt na temu VI, ali nijedan ne reguliše materiju u potpunosti, niti koherentno putem zakona, već kroz planove i strategije. Poslednja značajna inicijativa u ovoj zemlji odnosi se na belu knjigu Proinovativni pristup regulaciji VI iz 2023. godine.

Specifičan pristup regulaciji VI u SAD određuje par faktora. Naime, SAD su dom najvećih kompanija u ovom polju (poput *OpenAI, Google DeepMind, Microsoft, Meta*) i ulažu se ogromna sredstva u razvoj VI sa ciljem postizanja dominacije na globalnom tržištu. SAD još uvek nema sveobuhvatan zakon o VI; umesto toga, strategiju zasniva na mnoštvu fragmentiranih regulativa – ima ih na ovu temu čak 82, a najzastupljenije su upravljačke politike i smernice (*AIPRM, AI Laws Around the World*, 2024). Neki od najvažnijih akata na federalnom nivou su Zakon o nacionalnoj inicijativi za VI iz 2020. godine, te predsednički ukaz Uklanjanje barijera američkom vođstvu u VI iz januara 2025. godine. Ovim aktom zapravo je izražena politička preferencija za deregulaciju VI, čime se daje primat inovacijama u odnosu na zaštitu od rizika. Na nivou pojedinih federalnih jedinica SAD pionirskom regulativom ističu se države Kolorado, Ilinois i Kalifornija. Na ovom mestu autorka navodi Zakon o VI države Kolorado iz 2024. godine koji je posebno značajan u kontekstu globalne konvergencije VI sistema, jer usvaja u mnogim aspektima pristup revolucionarnog EU Zakona o VI, o kojem će biti više reči u daljem izlaganju.

3.Zakon o veštačkoj inteligenciji – dokaz liderstva Evropske unije u digitalnoj regulaciji

EU je već godinama unazad priznati globalni lider u tzv. digitalnoj regulaciji. Dostignuća komunitarnog prava u pogledu tema poput upravljanja internetom i zaštite podataka postali su osnova i pravna inspiracija legislatorima širom sveta (Greenleaf, Cottier, 2020, 24–26). Kada je u pitanju VI, EU je usvojila Zakon o VI sa eksplicitnim ciljem uspostavljanja globalnog zlatnog standarda za regulaciju ovog pitanja (Almada, 2025a, 1). Kako EU broji više od 400 miliona stanovnika i ima BDP po stanovniku dvostruko veći od globalnog proseka, jedinstveno EU tržište VI je neverovatno privlačno, te je opravdano očekivati da će ovaj propis, kao prvi svoje vrste, biti izuzetno značajan, u smislu modela zakona na globalnom nivou.

3.1. Zakon o veštačkoj inteligenciji – predmet, primena, ciljevi

Nakon dugih pregovora između Evropskog parlamenta i Saveta Evrope o nacrtu propisa, Zakon o VI konačno je stupio na snagu 1. avgusta 2024. godine. Prvi set pravila (u smislu zabrane sistema VI koji predstavljaju neprihvatljive rizike) počeo je da se primenjuje od 2. februara 2025. godine. Za preostale odredbe predviđeno je postepeno, fazno stupanje na snagu sa rokom za određena pitanja i do avgusta 2031. godine. Zakon o VI je obiman propis – zvanični tekst na engleskom jeziku ima 144 stranice, 113 članova i 13 aneksa i direktno se primenjuje u svih 27 država članica.

Zakon o VI određuje VI kao sistem baziran na mašinama koje, zbog eksplicitnih ili implicitnih ciljeva, iz unosa koji dobija, izvodi način kako da generiše izlaze, kao što su predviđanja, sadržaj, preporuke ili odluke, koji mogu uticati na fizičku ili virtuelnu stvarnost. Ovaj propis se oslanja na *ex ante* procenu zakonodavca (Almada, 2025b, 113) i identifikuje četiri nivoa rizika: 1) neprihvatljivi (podrazumevaju zabranu upotrebe VI), 2) visoki (za koje se propisuju striktni sistemi regulisanja), 3) ograničeni (s uspostavljanjem obaveze transparentnosti) i 4) minimalni (koji ne podrazumevaju posebne obaveze). Ovim propisom se, dakle, uspostavljaju pravila ili zabrane za upotrebu pojedinih vrsta sistema VI, kao i mere za podršku inovacijama sa posebnim fokusom na mala i srednja preduzeća. Uređuje se i kaznena politika za nepoštovanje odredbi s mogućnošću određivanja kazne do 35 miliona evra ili 7% godišnjeg globalnog prihoda.

Ovaj propis se primenjuje na širok krug subjekata od provajdera, proizvođača, preko uvoznika i distributera do korisnika sistema VI. Odnosi se kako na privatni, tako i na javni sektor, te, naravno, na subjekte iz EU, ali i one sa sedištem van EU. Naime, ovaj akt se ima primeniti po eksteritorijalnom principu na bilo koje lice koje implementira VI sisteme koji utiču na pojedince unutar EU, bez obzira na to gde je kompanija osnovana.

Zakonom o VI EU je postavila unutrašnje i spoljašnje ciljeve. Interno, Zakonom o VI želi se stvoriti jedinstveno EU tržište VI (rec. 1), te obezbediti pravna sigurnost i usvajanje tehnologija VI uz zaštitu vrednosti, kao što su osnovna ljudska prava, demokratija i vladavina prava (čl. 1, st. 1). Eksterno, očekuje se da Zakon o VI utiče na širenje „pristupa VI koji je usredsređen na čoveka" i na razvoj „pouzdanog VI" (rec. 8). Takođe, ovim aktom je ideja bila da EU parira, barem na regulatorni način, SAD i Kini, kao globalnim liderima u iskorišćavanju VI (Draghi, 2024).

3.2. Zakon o veštačkoj inteligenciji – značaj i perspektiva u vidu model zakona

Zakon o VI već je ušao u istoriju prava kao prvi sveobuhvatni instrument s kaznenom politikom koji je regulisao VI i to s eksplicitnim ciljem da predstavlja zlatni standard i kamen temeljac za regulative VI širom sveta. Svakako, ne može se očekivati puko preuzimanje ovog propisa u nacionalna zakonodavstva bez ekstenzivnog prilagođavanja iz par razloga. Na prvom mestu, ovaj propis je sačinjen imajući u vidu EU institucije, države članice, organe. Nadalje, države će hteti da pokažu i neku specifičnost u regulaciji kao manifestaciju svog „digitalnog suvereniteta", kao što će verovatno slediti i regulatorne modele svojih geopolitičkih saveznika (Almada, 2025a, 13). Ipak, kako je navedeno, EU je lider u digitalnoj regulaciji i već ima, u legislativnom smislu, izvrsnu reputaciju na globalnom nivou. Usvajanjem Zakona o VI učinjen je revolucionaran korak u regulaciji ove materije. Domašaj ovog akta ne odnosi se samo na države članice EU, već i na mnoštvo drugih država – kako onih koje, poput Srbije, imaju tendenciju da postanu deo ove *sui generis* zajednice, tako i na sve države koje, preko svojih subjekata, dolaze u kontakt sa EU pravnim režimom VI. Kombinacija pomenutog efekta eksteritorijalnosti, te očekivanog Brisel efekta dovešće sigurno do preuzimanja obrazaca iz Zakona o VI u mnogim sistemima. Svakako, troškovi rada na ovakvim propisima su ogromni, pa će se svaka država, kao pravnom inspiracijom, rado okoristiti gotovim instrumentom, čiju je primenu u praksi moguće budno pratiti.

4.Zaključak

Veštačka inteligencija je fenomen koji poslednjih godina dominira naučnim diskursom u oblasti prava. Usled ogromnog značaja VI, kako onog već realizovanog, tako i onog koji se tek očekuje, trenutno svedočimo svojevrsnoj regulatornoj trci među pojedinim državama u formulisanju pravnih okvira za VI.

Ipak, u tom pogledu, države zauzimaju različite pristupe zasnovane na različitim percepcijama vodećih interesa u regulaciji i instrumentima koji se u tom smislu imaju koristiti. Naime, primetna je upotreba dijapazona pravnih propisa od uobičajenih zakona (kao u slučaju Južne Koreje i uskoro Brazila), preko strategija, principa, planova, etičkih kodeksa, ili se pak materija VI tek delimično inkorporiše po sektorima u već postojeće zakone srodnih oblasti (u slučaju Novog Zelanda). Razlozi za to su različite prirode. Na prvom mestu pojedine države još uvek nemaju logističke i finansijske mogućnosti za sprovođenje ambicioznih regulatornih koraka u vezi s VI. Druge države ne žele da striktnim propisima sprečavaju razvoj tržišta VI, dok neke smatraju da će jednom usvojeni zakoni u ovoj oblasti ubrzo postati zastareli usled toga što pravo ne može da isprati brzinu tehnološkog napretka (rezon koji zauzima Vlada Velike Britanije).

U ovom momentu čini se najvažnijim ukazati na regulaciju VI u tri vodeća sistema: SAD, Narodnoj Republici Kini i Evropskoj uniji. U SAD postoji pristup zasnovan na interesima tržišta VI, te još uvek ne postoji sveobuhvatni propis koji na federalnom nivou uređuje ovo pitanje, već je takva regulacija na nivou izuzetka pojedinih država poput Kolorada ili Kalifornije. Štaviše, poslednja aktivnost predsedničke adminitracije početkom 2025. godine ticala se usvajanja ukaza kojim se proklamuje namera ukidanja barijera razvoja VI i zauzimanja stava da je deregulacija VI ispravan princip koji podstiče inovacije. U Kini pak centralna vrednost u pristupu uređenja VI tiče se državne kontrole nad sektorom. Poslednji kapitalni preuzet korak uključivao je usvajanje 2023. godine Privremenih mera za upravljanje generisanim uslugama VI. Na kraju, u pokušaju da parira SAD i Kini, kao dominantnim silama u razvoju VI, EU se odlučila za iskorišćavanje svog preimućstva kao lidera u digitalnoj regulaciji i pristup zasnovan pre svega na zaštiti prava. U tom smislu, učinjen je revolucionarni iskorak 2024. godine usvajanjem Uredbe o veštačkoj inteligenciji (popularno nazvanoj Zakon o veštačkoj inteligenciji) koja ima direktnu primenu u svih 27 država članica, kao i eksteritorijalno dejstvo na subjekte van EU pod određenim uslovima. Zakon o VI zasnovan je na proceni rizika i pripadajućim pravnim režimima kojih se adresati moraju pridržavati ukoliko ne žele da budu podvrgnuti strogim kaznenim merama. Ovim propisom već je iskazana eksplicitna namera za ustanovljavanje zlatnog standarda za humanocentrično uređenje VI. S obzirom na prethodne uspehe koje je u ovom polju EU ostvarila, autorka smatra da će Zakon o VI postati obrazac, odnosno regulatorni uzor svim zemljama sveta, bez obzira na to u kojoj se meri odluče za doslovno ili modifikovano preuzimanje rešenja iznetih u ovom pionirskom pravnom poduhvatu.

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LEGAL REGULATION OF ARTIFICIAL INTELLIGENCE WORLDWIDE

Abstract: Artificial Intelligence (AI) represents a phenomenon at the center of global scientific attention. Its immense potential to fundamentally transform all sectors of society is accompanied by numerous risks that require a regulatory response on a country basis. Accordingly, there is a noticeable international momentum toward the creation of legal framework for AI. However, from the legislative activities of international organizations to the initiatives of individual states, there is no unified stance or universally accepted instrument for regulating AI. Numerous regulatory instruments, including laws, conventions, principles, guidelines, decrees, and ethical standards are in use, which are rarely applied systematically and comprehensively, and more often in a sectoral and indirect manner. Nevertheless, a pioneering and revolutionary step has been taken by the European Union with the adoption of the Artificial Intelligence Act, popularly known as the Artificial Intelligence Law. This paper analyzes existing individual legislative initiatives and suggests the anticipated significant influence of the AI Law as a model for legislation across the international community.

Keywords: *artificial intelligence, Artificial Intelligence Act, European Union law, Artificial Intelligence regulation, model law.*

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1. Introduction – Defining the Concept and Importance of Artificial Intelligence

Artificial Intelligence (hereinafter: AI) represents a phenomenon that has captured the attention of every segment of scientific discourse in recent years, including the one concerning legal regulation. The use of AI is transforming industries, business ecosystems, public administration, security, culture, healthcare, etc. Accordingly, numerous questions arise for each country, requiring the establishment of a regulatory framework to ensure the ethical and proper use of AI, as well as the implementation of control over AI systems.

According to estimates by American consulting firms, the AI market is expected to reach a value of as much as $1.339 trillion by 2030, and in the United States, one in four companies has already integrated AI into their daily operations (*MarketsandMarkets, Artificial Intelligence Market Report*, 2024). The automation and the evolution of professional roles have become everyday realities, as AI continues to redefine norms across all sectors. From virtual assistants (such as Siri, Alexa, or Google Assistant) to sophisticated algorithms that power recommendation systems, AI has drastically changed the way we interact with technology. AI systems also include recommendation engines (e.g., those used by streaming services like Netflix), applicant selection systems, autonomous vehicles, smart home devices, and content generation tools that process and create text, images, or video (e.g., *GPT-4), among many others.* All of this clearly illustrates that the potential of AI is vast, perhaps even difficult to fully comprehend.

Nevertheless, despite the evident importance of AI, there is no universally accepted definition in existing literature (Scherer, 2019, p. 542). AI is often described as the simulation of intelligent behavior by computers and the ability of machines to imitate human behavior, in terms of developing the capacity to interpret, learn new behaviors, and perform tasks with little or no human intervention (Guida, 2022, pp. 315–355). In this sense, AI involves the use of machines that learn from data and develop intelligence comparable to that of humans. Additionally, The Council on AI at the Organization for Economic Cooperation and Development (hereinafter: OECD) defines AI as a system based on machine operations which, for a given set of goals defined by humans, can generate predictions, recommendations, or decisions that influence not only virtual but also real-world environments.

The importance and characteristics of AI, including its reliance on data, capacity for self-learning and autonomy, as well as inherent unpredictability, clearly point to the need for legal regulation. Since AI systems exhibit elements of autonomous behavior, they are by nature unpredictable, and their functioning often lacks transparency due to the so-called "black box" effect. Numerous legal questions arise in connection with this phenomenon, such as the need to reconsider the traditionally understood concept of liability for damage (Mijatović, Gajinov, Tomić, 2024). In addition, the significant risks and factors associated with AI call for public caution and an adequate regulatory response. These include the potential for malicious use, the spread of disinformation, the risk of job loss, the shortage of AI specialists, and the risk of monopolization in the development and control of the AI sector.

These considerations help explain the current global momentum toward the formulation of legal frameworks for AI. Naturally, each country will define its specific legislative policy in accordance with its own needs. In this context, the selection of legal instruments is also highly diverse. [2] There are traditional laws and legislative initiatives aimed at comprehensively regulating AI at the national level. However, in most cases, regulations are currently being adopted in two main forms: (1) through strategies, principles, action plans, and ethical codes, or (2) by partially incorporating AI-related matters into existing laws within relevant sectors, as has been done, for example, in New Zealand. The reasons for this approach vary in nature. Some countries still lack the logistical and financial capacity to implement ambitious regulatory measures related to AI. Other countries are reluctant to impose strict regulations that might hinder the development of the AI market, while some believe that laws adopted in this area will soon become obsolete due to the inability of legal systems to keep pace with rapid technological advance-

[2] Serbia, according to the objectives set forth in the Strategy for the Development of Artificial Intelligence in the Republic of Serbia for the period 2025 to 2030 (hereinafter: the AI Strategy), anticipates the adoption of legislative acts related to AI.

ment. Nevertheless, in this regard, the European Union (hereinafter: EU) has made a groundbreaking step by adopting the Artificial Intelligence Act (2024, hereinafter: AI Act). This regulation is expected to become a model, serving as a regulatory benchmark and fundamental legislative inspiration for countries worldwide, irrespective of whether the provisions of this unprecedented legal initiative are adopted verbatim or amended.[3]

2. Global Legislative Initiatives on Artificial Intelligence

Certain international organizations have been actively working for years to shape the regulatory landscape for AI. In this regard, it is important to highlight the achievements of the Organization for Economic Co-operation and Development, which issued the first version of the AI Principles in 2019, followed by a second version published. Additionally, the International Organization for Standardization has released a large number of AI standards, while the Council of Europe's efforts led to the adoption of the 2024 Framework Convention on Artificial Intelligence, Human Rights, Democracy, and the Rule of Law, which currently has eleven signatories, including the EU and the United States.

As for individual countries, different approaches to AI regulation can be observed. When it comes to the three most prominent systems, it may be said that the United States focuses on protecting the values of the AI market; in the People's Republic of China, the existing regulatory framework emphasizes the role of the state and its control over AI development, whereas in the European Union, the regulatory approach is based on and centered around the protection of human rights (Bradford, 2023).

With the exception of the European Union, which has adopted the first formal, comprehensive, and sanction-backed regulation with direct

[3] Although the instrument by which the EU regulates the issue of artificial intelligence was adopted in the form of a regulation, the English term "AI Act" has already become established. In Serbia, the term "Law on AI" is also commonly used, as is evident from the AI Strategy, and the author will use this term accordingly.

applicability across all 27 Member States, AI regulation is still in its early stages in most countries. In fact, many countries continue to leave the AI field only partially regulated, unregulated, or governed by broad legislative strokes due to different reasons mentioned earlier. Nevertheless, a few countries have taken more decisive steps and committed to drafting comprehensive AI legislation. For instance, in January 2025, South Korea adopted the Artificial Intelligence Act, which is set to enter into force in January, thus becoming the second country in the world to pass such a law. In Brazil, legislative efforts toward an AI Act have been underway for several years, with its adoption anticipated by the end of .

Conversely, on the so-called non-legislative end of the AI regulation spectrum, The People's Republic of China long relied on its Next Generation AI Development Plan, adopted as early as 2017 . Subsequently, in 2023, it adopted a set of regulations entitled the Interim Measures for the Management of Generative Artificial Intelligence Services. The United Kingdom has so far hesitated to adopt definitive AI legislation, arguing that such laws could hinder sector growth and quickly become outdated due to ongoing technological advancements. However, this does not mean that the country has left the field unregulated. In fact, as many as 61 AI-related instruments have been adopted, though none comprehensively or coherently regulate the matter through legislation; instead, regulation is approached through plans and strategies. The most recent significant initiative is the 2023 White Paper titled A Pro-Innovation Approach to AI Regulation .

The United States' approach to AI regulation is shaped by several factors. Notably, the U.S. is home to some of the largest companies in this field, such as OpenAI, Google DeepMind, Microsoft, and Meta, and significant investments are made to develop AI with the goal of achieving dominance in the global market. The U.S. still lacks a comprehensive AI law; instead, its strategy relies on a multitude of fragmented regulations – currently amounting to 82, with governance policies and guidelines being the most prevalent (*AIPRM, AI Laws Around the World*, 2024). Some of the most important federal acts include the National Artificial Intelligence Initiative Act of 2020 and the January 2025 presidential executive order titled Removing Barriers to American Leadership in AI . This executive order expresses a political preference for deregulation of

AI, prioritizing innovation over risk mitigation. At the level of individual U.S. states, pioneering regulations have been introduced by Colorado, Illinois, and California. In this context, Colorado's AI Act of 2024 is highlighted as particularly significant within the global convergence of AI regulatory systems, as it adopts many aspects of the groundbreaking EU Artificial Intelligence Act, which will be examined further below.

3. The Artificial Intelligence Act – Proof of the European Union's Leadership in Digital Regulation

The European Union has long been recognized as a global leader in digital regulation. Achievements in EU law concerning issues such as internet governance and data protection have become foundational and legally inspirational for legislators worldwide (Greenleaf, Cottier, 2020, 24–26). With regard to AI, the EU has adopted the Artificial Intelligence Act with the explicit goal of establishing a global gold standard for regulating this area (Almada, 2025a, 1). With a population exceeding 400 million and a GDP per capita twice the global average, the EU's single AI market is highly attractive. It is therefore reasonable to expect that this regulation, as the first of its kind, will hold exceptional significance as a legislative model on a global scale.

3.1. The Artificial Intelligence Act – Scope, Application, and Objectives

After lengthy negotiations between the European Parliament and the Council of Europe regarding the draft regulation, the Artificial Intelligence Act finally entered into force on August 1, 2024 . The first set of rules, concerning the prohibition of AI systems deemed to pose unacceptable risks, went into effect on February 2, 2025 . The remaining provisions are set to come into effect gradually and in phases, with deadlines for certain matters extending up to August 2031. The AI Act is a comprehensive regulation – the official English text spans 144 pages, contains 113 articles and 13 annexes, and is directly applicable in all 27 Member States.

The AI Act defines artificial intelligence as a system based on machines that, due to explicit or implicit objectives, derive methods from the input they receive to generate outputs such as predictions, content, recommendations, or decisions, which may affect physical or virtual reality. This regulation relies on an ex-ante assessment by the legislator (Almada, 2025b, 113) and identifies four levels of risk: 1) unacceptable (involving a prohibition on the use of AI), 2) high (subject to strict regulatory systems), 3) limited (requiring transparency obligations), and 4) minimal (which entail no special obligations). Accordingly, this regulation establishes rules or prohibitions on the use of certain types of AI systems, as well as measures to support innovation, with particular focus on small and medium-sized enterprises. It also regulates penalties for non-compliance, with fines of up to 35 million euros or 7% of annual global turnover.

This regulation applies to a wide range of entities, including providers, manufacturers, importers, distributors, and users of AI systems. It covers both the private and public sectors, and applies to entities based within the EU as well as those headquartered outside the EU. Specifically, this act is to be applied on an extraterritorial basis to any individual or organization implementing AI systems that affect individuals within the EU, regardless of where the company is established.

Through the AI Act, the EU has set both internal and external objectives. Internally, the AI Act aims to create a unified EU market for AI (Recital 1) and to ensure legal certainty and the adoption of AI technologies while safeguarding values such as fundamental human rights, democracy, and the rule of law (Article 1 1). Externally, the Act is expected to promote the spread of a "human-centric approach to AI" and the development of "trustworthy AI" (Recital 8). Additionally, the Act reflects the EU's intention to compete (at least on a regulatory level) with the United States and China, the global leaders in harnessing AI (Draghi, 2024).

3.2. The Artificial Intelligence Act – Significance and Prospects as a Model Law

The Artificial Intelligence Act has already entered legal history as the first comprehensive instrument regulating AI with an explicit sanctioning policy, designed to serve as the gold standard and cornerstone for AI regulations worldwide. Naturally, mere adoption of this regulation into national legislations without extensive adaptations cannot be expected for several reasons. Firstly, this regulation was drafted with the specific context of EU institutions, member states, and agencies in mind. Furthermore, individual countries will seek to assert their own regulatory particularities as an expression of their "digital sovereignty," and will likely follow the regulatory models of their geopolitical allies (Almada, 2025a, 13). As noted, the EU is nonetheless a leader in digital regulation and already enjoys an excellent global reputation in legislative matters. The adoption of the AI Act marks a revolutionary step in the regulation of this field. The scope of this Act extends beyond the EU member states to include numerous other countries – such as Serbia, which aspire to become part of this *sui generis* community, as well as all states whose entities come into contact with the EU's AI legal regime. The combination of this extraterritorial effect and the anticipated Brussels effect will undoubtedly lead to the adoption of patterns from the AI Act in many legal systems. Given the substantial costs of developing such legislation, every country will likely welcome this Act as a legal inspiration and readily utilize a ready-made instrument whose practical application can be closely monitored.

4. Conclusion

Artificial intelligence has become a dominant phenomenon in recent years within the scientific discourse of the legal domain. Due to the immense significance of AI, both realized and anticipated, we are currently witnessing global momentum toward the formulation of legal frameworks for AI.

However, in this regard, countries adopt different approaches based on varying perceptions of their primary regulatory interests and the instruments to be employed. Notably, there is a wide range of legal measures in use, ranging from conventional laws (as exemplified by South Korea and soon Brazil) to strategies, principles, plans, and ethical codes, or, alternatively, the partial sectoral incorporation of AI-related matters into existing laws of related fields (as is the case in New Zealand). The reasons for this approach vary in nature. First and foremost, some countries still lack the logistical and financial capacity to implement ambitious regulatory measures regarding AI. Other countries are reluctant to impose strict regulations that might hinder the growth of the AI market, while some believe that any laws adopted in this area will soon become obsolete due to the inability of legal frameworks to keep pace with rapid technological advancement (a rationale embraced by the UK government).

At this point, it seems most important to highlight AI regulation in the three leading systems: the United States, the People's Republic of China, and the European Union. In the U.S., the approach is market-driven, and there is still no comprehensive federal legislation governing this matter; such regulation exists only as exceptions in certain states like Colorado and California. Moreover, the most recent action by the presidential administration in early 2025 involved issuing an executive order proclaiming the intention to remove barriers to AI development and endorsing deregulation as the correct principle to encourage innovation. In China, the central focus of AI regulation is state control over the sector. The latest major step taken was the adoption of the 2023 Interim Measures for the Administration of AI-Generated Services. Finally, in an effort to match the United States and China as dominant powers in AI development, the European Union has chosen to leverage its advantage as a leader in digital regulation, adopting an approach primarily based on the protection of rights. In this context, a revolutionary step was taken in 2024 with the adoption of the Artificial Intelligence Regulation (commonly referred to as the Artificial Intelligence Act), which has direct application across all 27 member states, as well as extraterritorial effect on entities outside the EU under certain conditions. The AI Act is founded on risk assessment and corresponding legal regimes that addressees must comply with to avoid severe penalties. This regulation explicitly expresses the intention to establish a global gold standard for human-centric AI governance. Considering the EU's previous successes in this field, the AI Act is expected to become a model and regulatory benchmark for countries worldwide, irrespective of whether the provisions of this unprecedented legal endeavor are adopted verbatim or amended.

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UNIVERZALNO LJUDSKO PRAVO NA NOĆNO NEBO KAO OSNOV ZAŠTITE OD SVETLOSNOG ZAGAĐENJA

Rezime: Iako u savremenim uslovima života emisije prekomerne svetlosti postaju sve značajniji ekološki problem sa brojnim negativnim uticajima na metaboličke, reproduktivne i migracione procese većine živih bića, još uvek nisu dobile adekvatan pravni okvir kako na međunarodnom, tako ni na evropskom planu, a ni unutar većine država. Uzimajući ovo u obzir, središte pažnje u radu stavljeno je na zaštitu noćnog neba, kao univerzalne vrednosti čovečanstva, koja se i dalje pruža neobavezujućim, nezvaničnim, parapravnim *soft law* izvorima prava. Autor skreće pažnju na brojne potencijale očuvanja noćnog neba i potrebu njegove zaštite putem tradicionalnih izvora prava na svim nivoima, što bi pozitivno uticalo na razvoj ekosistema, smanjenje emisija gasova sa efektom staklene bašte, očuvanje uslova za adekvatan naučnoistraživački rad, kao i novih grana održivog turizma u određenim oblastima.

Ključne reči: *svetlosno zagađenje, zaštita noćnog neba, međunarodni soft law izvori prava za zaštitu noćnog neba i svetlosti zvezda*.

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1. Uvodne napomene

Savremeni uslovi života i rada, kao posledica suburbanizacije, tehnološkog napretka, produžetka radnih sati, razvoj marketinga i industrije zabave postepeno menjaju prirodni svetlosni režim. Kao prekomerna i pogrešno usmerena emisija, svetlost stvara uslove koji značajno utiču na metaboličke, reproduktivne i migracione procese većine živih bića, a dovodi se u vezu i sa brojnim oboljenjima čoveka. Uz to, odbijanje veštačke svetlosti o donje slojeve atmosfere onemogućava posmatranje nebeskih tela i time remeti astronomska istraživanja. Neadekvatno osvetljenje može da izazove delimično zaslepljenje učesnika u saobraćaju i brojne nezgode. Uz to, najnovije studije pokazuju da se čak 50 odsto rasvete uzaludno troši, te da ona predstavlja najznačajnijeg proizvođača gasova sa efektom staklene bašte (Drndarski, 2015). Danas je jasno da svetlosno zagađenje mora biti prepoznato kao ozbiljan ekološki problem u sklopu različitih studija o globalnim klimatskim promenama kao i politika održivog razvoja, koje ujedno, kao i drugi vidovi štetnih uticaja na životnu sredinu zaslužuje zaseban pravni okvir na svim nivoima, mimo onoga koji se, šire gledano, odnosi na tehnološku, energetsku, odnosno ekonomsku optimizaciju resursa i zaštitu prirode (Gajinov, Mijatović, Uzelac, 2022). Zaštita noćnog neba, kao univerzalne vrednosti čovečanstva, na međunarodnom nivou još uvek se pruža isključivo neobavezujućim, *soft law* izvorima, a zanemarljiv je broj država koje su do danas usvojile posebne zakone koji se odnose na ovu oblast. Budući da su potrebe za pravnim regulisanjem svetlosnog zagađenja, kao i za uvođenjem obavezujućih pravila za granične vrednosti emisija svetlosti, kao i zakonskim uređenjem ovog pitanja kod nas bile predmet nekih ranijih radova autorke (Gajinov, Mijatović, Uzelac, 2022; Gajinov, 2024), na ovom mestu biće ukazano na sadržaj, smisao, značaj i domašaj novoustanovljenog univerzalnog ljudskog prava na nezagađeno ili noćno nebo (*night sky*) i svetlost zvezda (*star light*) koje danas sasvim ravnopravno stoji uz mnoga druga ekološka, socijalna i kulturna prava, zbog svog značaja za očuvanje biodiverziteta, za ostvarivanje veće energetske efikasnosti, za naučnoistraživački razvoj, ali i zbog potencijala održivih i novih vidova turizma.

2. Međunarodne inicijative i izvori prava na nezagađeno (noćno) nebo

Svetlosno, odnosno foto-zagađenje identifikovano je kao problem pre više od pola veka kada su u SAD otpočele prve kampanje sa ciljem zaštite astronomskih istraživanja i podizanja svesti javnosti o značaju zaštite neba kao univerzalne ljudske vrednosti. Zbog porasta broja stanovnika u pojedinim mestima na američkom jugozapadu došlo je i do naglog povećanja emisija svetlosti, što je otežavalo rad najvećih opservatorija u toj oblasti. U SAD je 1988. godine osnovana Međunarodna organizacija za tamno nebo (*International Dark-Sky Association*, u daljem tekstu: *IDA*) koja okuplja organizacije civilnog društva iz preko šezdeset država sveta sa ciljem borbe protiv foto-zagađenja, zaštite astronomskih istraživanja i racionalnijeg korišćenja energije na globalnom nivou (Fonović, 2008). Zalaganjem Međunarodne astronomske unije (*International Astronomical Union*, u daljem tekstu: MAU) usvojena je Rezolucija o zaštiti noćnog neba (*Resolution No. A1 Protection of the Night Sky*) na generalnoj skupštini u Kjotu 1997. godine, koja, iako nema obavezujući karakter, predstavlja značajan iskorak u prepoznavanju noćnog neba kao univerzalnog nasleđa čovečanstva i jačanju svesti o potrebi njegove zaštite. IDA je 2001. godine pokrenula poseban program zaštite noćnog neba i životne sredine i podizanja svesti javnosti o značaju prirodnog mraka kako bi se obezbedila adekvatna edukacija i dale potrebne smernice radi uspostavljanja kvalitetnog osvetljenja na otvorenom. Uprkos očiglednim vrednostima koje mračno nebo ima za ljudsku civilizaciju i uticaju na razvoj umetnosti, književnosti, filozofije i religije, ali i prirodnih nauka, ono se ne može podvesti pod kulturno dobro, prema članu 1 Konvencije o očuvanju svetske kulturne i prirodne baštine (*Convention Concerning the Protection of the World Cultural and Natural Heritage*) usvojene 1972. godine u Parizu. Takođe, noćno nebo ne predstavlja ni prirodni lokalitet, u skladu sa članom 2 ovog dokumenta. Ni prema smernicama za primenu Konvencije iz 2021. godine (*The Guidelines No. WHC 21/01*), kojima je predviđena i zaštita mešovitog kulturnog i prirodnog nasleđa pod uslovom da su ispunjeni neki ili svi uslovi predviđeni članovima 1 i 2, tamno nebo ne možemo smatrati zaštićenom kategorijom. Budući da teritorijalno ne može isključivo pripadati ni jednoj državi, ne može se, u pravnom smislu, kvalifikovati kao „vlasništvo“ koje se odnosi na sve druge lokalitete sa UNESKO liste. Sve ovo svakako ne znači da tamno nebo ne može biti zaštićeno kao svojevrsni atribut nekog mesta ili objekta, gde se, pre svega, misli na observatorije kao svojevrsnih „prozora u svemir“ sa prirodnim preduslovima čija se vrednost ogleda u brojnim nematerijalnim naučnim, kulturnim i religijskim vrednostima (Szlachetko, 2022). Kriterijumi koje treba da ispuni određeni lokalitet da bi bio uvršten na UNESCO listu u ovom slučaju podrazumevaju tri elementa: samo tamno nebo kao objekat posmatranja, određeno mesto u stalnom geografskom, arhitektonskom, atmosferskom, pejzažnom ili prirodnom kontekstu i na kraju činjenicu da lokalitet, kao mesto posmatranja, koristi društvo.

Evropska konvencija o predelu (*The European Landscape Convention*) iz 2000. godine sadrži sveobuhvatnu, jednostavnu definiciju predela kao područja kakvim ga ljudi vide, odnosno doživе, koje je rezultat delovanja i interakcije prirodnih i/ili ljudskih faktora. To podrazumeva prirodna, ruralna, urbana, prigradska područja, odnosno kopnenene, vodene i morske oblasti. Konvencijom su obuhvaćeni kako predeli koji se mogu smatrati izuzetnim, tako i oni obični ili degradirani. Ipak, kasnije dodatno sužavanje pojma predela, na osnovu člana 15 stava 1, koji se odnosi na teritorijalnost, onemogućava primenu Konvencije na noćni predeo tamnog neba, kao poseban samostalan objekt zaštite. Kroz Preporuke CM/Rec 2008 (3) Komiteta ministara zemalja članica Konvencije (*Recommendation CM/Rec (2008)3 of the Committee of Ministers to member states on the guidelines for the implementation of the European Landscape Convention*) fokus je stavljen na kontinuirano upravljanje predelom kao celinom u okviru sistema prostornog planiranja, sa akcentom na održivost. Konvencijom je data sloboda državama potpisnicama u pogledu njenog sprovođenja, a u skladu sa važećim nacionalnim zakonodavstvom, poštujući princip supsidijarnosti. Ovo praktično znači da zaštita noćnog neba u okviru predeone celine ostaje deo unutrašnje pravne regulative država potpisnica.

Na regionalnom sastanku organizacije IDA u Veneciji 2002. godine usvojena je Deklaracija za spas noćnog neba (*Light pollution and the protection of the night environment Venice: Let's save the night*) uz zahtev da organizacija UN za obrazovanje i kulturu (UNESCO) noćno nebo proglasi za deo svetske baštine. Ovakvo mišljenje deli i novonastali pokret „Prava prirode“ (*The Rigts of Nature*), koji se, svestan ograničenih dometa javnih politika i pravne regulative usmerene na sprečavanje degradacije životne sredine, zalaže za uspostavljanje novog pravnog odnosa između čoveka i njegovog prirodnog okruženja. Zbog toga se u svetu sve intenzivnije zastupa shvatanje o potrebi tretiranja prirodnog mraka kao javnog dobra (Barentine, 2020). Svako ko ugrožava njegovu univerzalnu vrednost i značaj dužan je da za to snosi određene posledice. Sva prirodna dobra, pa samim tim i tamno nebo, prema stavu pristalica pomenutog pokreta, predstavljaju dobro za sebe kojim se zajednički upravlja, potpuno slobodno od bilo kakvog ljudskog delovanja koje nije sposobno da im obezbedi stvarnu i trajnu zaštitu. Kako se u literaturi ističe, sva prirodna dobra imaju pravo da postoje u svom nepromenjenom obliku, da se očuvaju u takvom stanju, te, ukoliko su na bilo koji način ugrožena ili oštećena, imaju pravo na obnovu. Ovi principi vezuju se za univerzalni koncept ljudskih prava, odnosno dostojanstva, prema kojem ona pripadaju svim ljudima po osnovu činjenice da su ljudi, bez obzira na slabe mehanizme nadzora i kontrole njihovog poštovanja (Budak, 2018). Samim tim, sasvim je opravdano gledište prema kojem se istinska održivost ljudi na Zemlji postiže samo priznanjem i proaktivnim prihvatanjem da je opstanak čovečanstva u potpunoj korelaciji sa prirodom. Iz tog razloga je potrebno napraviti suštinski zaokret i posmatrati je kao resurs koji se u potpunosti deli i kojim se kolektivno upravlja, sa dodelom statusa koji je sličan pravnom licu i u čiju korist može biti podneta tužba. To se sasvim sigurno može odnositi i na tamno nebo, pod pretpostavkom da ima značaj za dobrobit brojnih vrsta u ruralnim i urbanim ekosistemima, kvalitet čovekovog zdravlja, te predstavlja zajedničko dobro u pogledu kojeg svi pojedinci imaju pravo korišćenja, uživanja i obavezu očuvanja.

Prekomerna veštačka svetlost remeti, pa čak i potpuno onemogućava astronomska posmatranja zvezda i drugih nebeskih tela, čime se ograničava pravo na obrazovanje i naučna istraživanja važna za napredak čitavog društva. Uz to postoji značajan negativan uticaj na turističku valorizaciju pojedinih krajolika u kojem se može uživati u zvezdanim noćima, sa svim svojim lepotama i vrednostima, što onemogućava afirmaciju posebnog i održivog oblika astroturizma (Krajnović, 2020).

Naravno, nezavisno od pitanja zaštite noćnog neba kao univerzalne vrednosti, treba uzeti u obzir i činjenicu da bi racionalnije i primerenije korišćenje rasvete imalo ogroman ekonomski značaj, naročito u periodu velike ekonomske i energetske krize koja poslednjih godina potresa Evropu i svet. Zato su sve češće preporuke vlasti za gašenje dekorativne rasvete na zgradama državnih institucija, parkinzima i drugim objektima kada ona nije neophodna.

Sve pomenute okolnosti rezultirale su time da na I Međunarodnoj konferenciji za zaštitu zvezdanog neba, održanoj 2007. godine, zahvaljujući zalaganju UNESCO-a, Međunarodne astronomske unije i brojnih drugih međunarodnih organizacija, bude doneta La Palma deklaracija o zaštiti zvezdanog neba i pravu na svetlost zvezda (*La Palma Declaration*, *Declaration in Defence of the Night sky and the Right to Starlight*) (u daljem tekstu: La Palma deklaracija). Ovom deklaracijom se pravo na nezagađeno noćno nebo proglašava neotuđivim pravom čovečanstva, potpuno ravnopravnim sa drugim ekološkim, socijalnim i kulturnim pravima zbog svog značaja za razvoj čovečanstva i očuvanje biodiverziteta. Takođe, prema drugom principu La Palma deklaracije, progresivna degradacija vrednosti noćnog neba predstavlja neposredan rizik sa kojim se čovečanstvo mora suočiti, te zaslužuje isti tretman kao i mnogi drugi ekološki problemi. Očuvanje, zaštita i revalorizacija prirodnog i kulturnog nasleđa povezanog sa noćnim oblastima i posmatranjem nebeskog svoda predstavljaju glavnu priliku za međunarodnu saradnju i očuvanje kvaliteta života. Iako nema obavezujuć karakter, ciljevi postavljeni La Palma deklaracijom predstavljaju istinski izazov i stalni napor za sve donosioce odluka i industriju rasvete kako bi noćno nebo, kao deo nasleđa čovečanstva, ostalo svima na raspolaganju. Uz to se u ovom dokumentu ukazuje i na potrebu iskorišćavanja prednosti noćnog neba za generisanje novih turističkih proizvoda baziranih na posmatranju nebeskog svoda i fenomena noći, što otvara brojne mogućnosti za saradnju turističkih aktera, lokalnih zajednica i naučnih institucija, ali predstavlja i preduslov za vršenje astronomskih istraživanja, pa time i za naučno-tehnološki razvoj. U La Palma deklaraciji se nadalje ističe da je čisto nebo značajan segment održivog razvoja koji je nedeljiv od prirode, ali i celog čovečanstva, te da je ujedno i resurs koji ima veliki uticaj na očuvanje kulturnih različitosti, biološke raznolikosti krajolika, ali i konzervacije kulturne baštine, kao i značajnu ulogu u borbi protiv klimatskih promena. Zbog toga kontrola emisije veštačkog svetla mora predstavljati jedan od osnovnih elemenata javnih politika očuvanja prirode, implementirana u planove upravljanja različitim tipovima zaštićenih područja.

Kao odgovor na inicijative i ciljeve postavljene La Palma deklaracijom, Međunarodna astronomska unija je na svojoj XXVII generalnoj skupštini, održanoj u Rio de Žaneiru 2009. godine, usvojila još jedan dokument – Rezoluciju o odbrani noćnog neba i prava na svetlost zvezda (*Resolution B5 in Defense of the Night Skies and the Right to Starlight*). U ovom dokumentu noćno nebo se tretira kao izvor inspiracije pri čemu je istaknut njegov kulturni i naučni značaj. Prema Rezoluciji, uživanje u nebeskom svodu i kontemplacija treba da predstavljaju osnovno sociokulturno i ekološko pravo, a njegova progresivna degradacija fundamentalni gubitak za čitavo čovečanstvo. Kontrola prekomerne svetlosti koja pojačava sjaj neba treba da postane osnovni element politike očuvanja prirode, jer ima štetan uticaj na ljude, floru i faunu, ekosisteme i predele. Takođe, potrebno je ohrabriti razvoj turizma u njegovim različitim oblicima, koristeći noćno nebo kao resurs sa ciljem zaštite njegove vrednosti na svim destinacijama. Na kraju, Rezolucijom su članovi MAU pozvani na preduzimanje neophodnih mera za uključivanje svih aktera na nacionalnom, regionalnom i međunarodnom nivou u borbu za spas noćnog neba i prava na posmatranje zvezda.

Svi pomenuti doukumenti su interno obavezujućeg karaktera, bazirani su na dobrovoljnoj posvećenosti ciljevima zaštite prirode i nasleđa tamnog neba od strane njihovih donosilaca. No, bez obzira na odsustvo obaveznosti, ovi *soft law* akti igraju važnu ulogu u strukturiranju i uspostavljanju ciljeva koji su značajni za čitavo čovečanstvo, biljni i životinjski svet, te se očekuje njihovo poštovanje sve dok ne budu zamenjeni tradicionalnim *hard law* izvorima (Mijatović, 2024).

Do danas je tek nekoliko država regulisalo oblast svetlosnog zagađenja donošenjem posebnih pravnih akata na nacionalnom nivou. Izuzeci su: Hrvatska, Slovenija, Češka, Francuska i van Evrope Čile, Južna Koreja i Meksiko. U nekim državama je ova materija sastavni deo zakona koji se šire odnose na energetsku efikasnost, zaštitu životne sredine, odnosno prirode, kao u Finskoj ili Nemačkoj, dok je u značajnom broju država pitanje svetlosnog zagađenja regulisano na federalnom (u SAD), regionalnom (u Italiji i Španiji), odnosno lokalnom nivou. U mnogim zemljama i dalje izostaje bilo kakva regulativa vezana za pitanje prekomerne veštačke svetlosti. Takav je slučaj u Republici Srbiji, Estoniji, Rumuniji, Norveškoj, Lihtenštajnu, na Islandu, Kipru i brojnim drugim zemljama (Szlachetko, 2022; Vidmar et al., 2022).

3. Zaštita prava na noćno nebo i njegove perspektive

Prodiranje svetlosti na nečiji posed u večernjim časovima remeti privatnost, miran i komforan život u sopstvenom stanu. Time se utiče na kvalitet sna što trajno stvara umor, a dugoročno narušava zdravlje pojedinca, dokazano izazivajući pojavu kancera i brojnih drugih oboljenja. Svetlost može poticati od spoljne rasvete, koja je postavljena preblizu ili na uličnim stubovima koji su previsoki, i/ili od dekorativnog osvetljenja zgrade, potom od obližnjih sportskih objekata kakvi su najčešće stadioni, reklamni bilbordi ili pak od različite loše projektovane sigurnosne rasvete. Ukoliko se uz to radi o posebnom živopisnom, trepćućem i dinamičnom dekorativnom osvetljenju štetni uticaji ne utiču samo na kvalitet života i zdravlje pojedinca, već mogu potpuno da naruše izgled, ambijent i atmosferu njegovog životnog prostora (Zielinska-Dabkowska et al., 2020). U kontinentalnom pravnom sistemu ovakvi štetni uticaji tradicionalno se označavaju kao imisije u susedskim odnosima, odnosno emisije, kao ispuštanje bilo čega štetnog u životnu sredinu, izvan i preko granica susedne nepokretnosti. U anglosaksonskom pravnom sistemu smatraju se javnim ometanjem (*public nuisanse*), ličnim uznemiravanjem (*private nuisance*), ređe i kao direktno smetanje (*trespass*) (Gajinov, 2016).

Sudska praksa vezana za svetlosno zagađenje u svetu je veoma skromna. Značajniji broj sporova srećemo u SAD, dok je primetno da je počev od devedesetih godina prošlog veka taj broj u porastu sa jačanjem svesti javnosti o potrebi zaštite životne sredine. Ipak, jedna opsežna studija koja je obuhvatila čak 180 različitih slučajeva vezanih za smetanje prekomernom svetlošću ili obratno – za postojanje nedovoljne i neadekvatne rasvete, koja je sprovedena 2018. godine u 50 američkih saveznih država, pokazala je da su građani retko dobijali sporove protiv lokalnih organa vlasti (Zhou, 2018). Od svih pomenutih sporova zabeležena su svega tri koja se isključivo odnose na zaštitu noćnog neba kao univerzalne vrednosti čovečanstva. U prvom slučaju - Lebenštajn protiv kompanije *Bode toranj* (*Laubenstein v. Bode Tower*), tužilac je, kao amaterski astronom, nastojao da oko svog poseda maksimalno smanji nivo svetlosti, očuva netaknutu prirodu isključivanjem sigurnosne rasvete, a na slične aktivnosti je podstakao i svoje susede. Kompanija Bode u Oklahomi uspela je da nakon pribavljanja neophodne dokumentacije i odobrenja izgradi telekomunikacijski toranj kako bi poboljšala pokrivenost mobilnom mrežom. Tužbom za uznemiravanje Lebenštajn je poseban akcenat stavio na trepćuća svetla tornja koja se reflektuju o obližnju vodenu površinu narušavajući vizuelni identitet njegovog doma i pravo na mirno uživanje u nepokretnosti, sa ciljem da zadrži sve karakteristike prilagođene daljim naučnim istraživanjima. Na kraju je prvostepena presuda kojom je naloženo uklanjanje tornja preinačena iz razloga što je interes uspostavljanja signala mobilne mreže nadvladao činjenice nečijeg estetskog doživljaja. Razlog za ovakvu odluku bio je i taj da tužba nije potkrepljena nikakvim dodatnim činjenicama koje bi ukazivale da prisutnost tornja mobilne telefonije predstavlja pretnju po zdravlje, odnosno da se narušava pravo na miran i komforan život u njegovoj blizini, te zaklanja pogled ka nebu. U drugom slučaju, sa drugačijim ishodom, grupacija specijalizovana za obnovljive izvore energije (EDF) uložila je žalbu na odluku Odbora za zoniranje opštine Foster, u okrugu Luzern u Pensilvaniji, kojom je odbijen zahtev za poseban izuzetak koji omogućava izgradnju vetrogeneratora (*EDF Renewable Energy v. Foster Township Zoning Hearing Board*) u toj oblasti. Stanovnici opštine, uključujući i predsednika lokalnog astronomskog društva, smatrali su da bi vetroturbine zaklonile pogled na nebo i povećale svetlosno zagađenje. Ne ulazeći u detalje spora, kao bitna ostaje činjenica da je žalba odbijena od strane suda okruga Luzern iz razloga što pomenuta kompanija nije obezbedila dovoljno informacija i dokaza da planirani vetrogeneratori neće ugroziti interese lokalne zajednice i njenu imovinu, u skladu sa lokalnim propisima o zoniranju. U poslednjem sporu (*In re Stokes Communications Corp)* nije usvojena žalba kompanije za telekomunikacije na odluku Odbora za životnu sredinu iz razloga prekoračenja ovlašćenja. Ovaj organ je zahtevao od kompanije da postavi svetlosne štitove na radio-prenosnom tornju. Kao argument istaknuta je zabrinutost za kvalitet noćnog neba koji bi mogao biti ugrožen, što ohrabruje kada je u pitanju odnos prema ovoj univerzalnoj prirodnoj vrednosti.

4. Zaključak

U odnosu na druge izvore štetnih uticaja, koje je daleko zahtevnije otkloniti ili ograničiti, uz često velika infrastrukturna ulaganja, svetlost, kao zagađivač, iziskuje isključivo pametno upravljanje i racionalnu potrošnju, što momentalno daje rezultate. To podrazumeva kombinaciju različitih metoda, od minimiziranja količine plave svetlosti, korišćenja adekvatnog nivoa osvetljenosti sa ograničenim brojem izvora, upotrebe zaštićenog osvetljenja, gašenje svetla koje trenutno nema funkciju, do ugradnje pametnih senzora. Primena ovih mera zahteva edukaciju lokalnih organa i zajednice o pravilnom načinu korišćenja veštačkog osvetljenja i racionalnijoj potrošnji kroz primere dobre prakse, obuke i vodiče, što bi bio deo lokalnih planova delovanja u ovoj oblasti. Sa pravne tačke gledišta neophodno je što pre tradicionalnom, obavezujućom, *hard law* regulativom uspostaviti sistem zaštite noćnog neba kao univerzalnog dobra čovečanstva na međunarodnom nivou. To bi bio osnov i za usvajanje nacionalnih pravnih mehanizama namenjenih zaštiti od svetlosnog zagađenja u što većem broja država, čime bi bila regulisana i pitanja koja se odnose na: period upotrebe; maksimalni nivo osvetljenja; neophodnu zaštitu izvora; temperaturu boje svetlosti; pitanje direktnih smetanja izazvanih svetlosnim snopovima; karakteristike svetlosnih signala; i raspored zona sa određenim nivoom osvetljenosti prema njihovim različitim funkcijama (Feathers, 2022). Na ovaj način bi se uspostavila pravno obavezujuća pravila o ograničenju upotrebe veštačke svetlosti koja ugrožava zdravlje ljudi i čitave ekosisteme, uticalo bi se na smanjenje emisije gasova sa efektom staklene bašte, što bi bio doprinos ublažavanju klimatskih promena, ali bi se omogućilo i posmatranje noćnog neba koje je kao deo životne sredine trenutno nepravedno zapostavljeno.

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UNIVERSAL HUMAN RIGHT TO NIGHT SKY: GROUNDS FOR PROTECTION AGAINST LIGHT POLLUTION

Abstract: Excessive light emissions have become an increasingly significant environmental concern in modern living conditions, adversely affecting the metabolic, reproductive, and migratory processes of most living organisms. However, the legal regulation of this issue at the international, European, and national levels is still lacking. The paper focuses on the protection of the night sky as a universal value of humanity, which remains governed primarily by non-binding, unofficial, and para-legal *soft law* instruments. The author highlights many opportunities for preserving the night sky and emphasizes the need to incorporate its protection into formal legal sources at all levels. Such a shift would positively impact ecosystem development, reduce greenhouse gas emissions, safeguard the conditions necessary for scientific research, and foster new branches of sustainable tourism in specific regions.

Keywords: light pollution, night sky protection, international soft law instruments on the protection of the night sky and starlight

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1. Introduction

Modern living and working conditions, shaped by suburbanization, technological advancement, extended working hours, and the development of marketing and the entertainment industry, are gradually altering the natural light regime. As an excessive and misdirected emission, artificial light creates environmental conditions that significantly affect the metabolic, reproductive, and migratory processes of most living organisms and has been linked to various human health issues. Additionally, the reflection of artificial light off the lower layers of the atmosphere impedes the observation of celestial bodies, thereby disrupting astronomical research. Inadequate lighting can also cause partial blinding of road users, resulting in numerous accidents. Recent studies indicate that up to 50 percent of lighting is wasted and that lighting is among the leading contributors to greenhouse gas emissions (Drndarski, 2015). It is now evident that light pollution must be recognized as a serious ecological issue within the broader context of global climate change studies and sustainable development policies. Like other forms of environmental degradation, it deserves a distinct legal framework at all levels—beyond the broader considerations of technological, energy, or economic resource optimization and nature conservation (Gajinov, Mijatović, Uzelac, 2022).

The protection of the night sky as a universal value of humanity is still grounded solely in non-binding soft law instruments at the international level, and only a negligible number of states have adopted specific legislation in this domain. Since the need for legal regulation of light pollution, the introduction of binding emission threshold limits, and the establishment of a domestic legal framework have already been addressed in the author's earlier works (Gajinov, Mijatović, Uzelac, 2022; Gajinov, 2024), this paper will explore the scope, significance, and implications of the newly established universal human right to an unpolluted night sky and starlight. This right now stands alongside many other ecological, social, and cultural rights, due to its relevance for biodiversity conservation, improved energy efficiency, scientific research, and the development of sustainable and novel forms of tourism.

2. Global Initiatives and Legal Grounds for the Right to Unpolluted Night Sky

Light pollution, or photopollution, was identified as a problem more than 50 years ago, when the first campaigns were launched in the United States to protect astronomical research and raise public awareness about the importance of preserving the night sky as a universal human value. The rapid population growth in certain areas of the American Southwest led to a sharp increase in light emissions, hindering the operation of the region's major observatories. In response, the International Dark-Sky Association (IDA) was established in the U.S. in 1988, bringing together civil society organizations from more than 60 countries worldwide, with the goal of combating photopollution, protecting astronomical research, and promoting more efficient energy use on a global scale (Fonović, 2008). Through the efforts of the International Astronomical Union (IAU), the Resolution on the Protection of the Night Skywas adopted at the 1997 General Assembly in Kyoto. Although not legally binding, the resolution represents a significant step toward recognizing the night sky as a universal heritage of humankind and strengthening awareness of the need for its protection. In 2001, the IDA launched a specialized program focused on preserving the night sky and the environment, as well as raising public awareness about the value of natural darkness. The aim was to provide adequate education and issue guidelines for the implementation of quality outdoor lighting.

Despite the evident value that a dark sky holds for human civilization and its influence on the development of art, literature, philosophy, religion, and the natural sciences, it cannot be classified as cultural heritage under Article 1 of the Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted in Paris in 1972. Nor does the night sky qualify as a natural site in accordance with Article 2 of the same document. Even under the 2021 Operational Guidelines for the implementation of the Convention (Guidelines No. WHC 21/01), which allow for the protection of mixed cultural and natural heritage provided that one or more criteria from Articles 1 and 2 are fulfilled, the dark sky cannot be considered a protected category. Since it cannot be territorially attributed exclusively to any one state, it cannot, from a legal standpoint, be classified as "property" in the sense applied to other UNESCO-listed sites. Nevertheless, this does not preclude the dark sky from being protected as a distinctive attribute of a particular location or site—particularly in the case of observatories, which serve as "windows to the universe" and whose value lies in a range of intangible scientific, cultural, and religious dimensions (Szlachetko, 2022). For a site to be inscribed on the UNESCO World Heritage List in this context, it must meet three criteria: the dark sky itself as an object of observation; a specific location with a consistent geographical, architectural, atmospheric, landscape, or natural context; and finally, the fact that the site is used by society for the purpose of observation.

The 2000 European Landscape Convention provides a comprehensive yet straightforward definition of landscape as an area, as perceived or experienced by people, that results from the action and interaction of natural and/or human factors. This encompasses natural, rural, urban, and peri-urban environments, including terrestrial, aquatic, and marine areas. The Convention covers not only exceptional landscapes, but also ordinary and even degraded ones. However, a subsequent narrowing of the concept under Article 15(1), which addresses territorial scope, prevents the application of the Convention to the nocturnal landscape of the dark sky as a distinct and independent object of protection. In Recommendation CM/Rec(2008)3 of the Committee of Ministers to member states on the guidelines for the implementation of the European Landscape Convention, the focus is placed on the continuous management of landscape as a whole within the framework of spatial planning, with an emphasis on sustainability. The Convention also grants signatory states the freedom to implement its provisions in line with their national legislation, in accordance with the principle of subsidiarity. In practice, this means that the protection of the night sky as part of a broader landscape remains within the domain of domestic legal regulation by each signatory state.

At the regional IDA meeting held in Venice in 2002, the *Declaration for the Protection of the Night Environment* ("Light Pollution and the Protection of the Night Environment Venice: Let's Save the Night") was adopted, accompanied by a call for UNESCO to designate the night sky as part of the world's cultural and natural heritage. This view is shared by the emerging *Rights of Nature* movement, which—aware of the limited reach of public policy and legal regulation in preventing environmental degradation—advocates for establishing a new legal relationship between humanity and its natural surroundings. As a result, there is growing international support for the recognition of natural darkness as a public good (Barentine, 2020). Anyone who threatens its universal value and significance should bear corresponding consequences. According to proponents of this movement, all elements of nature, including the dark sky, constitute intrinsic goods, to be collectively managed and wholly shielded from any human activity incapable of providing them with real and lasting protection. All natural assets have the right to exist in their original form, to be preserved in such a state, and the right to be restored, if endangered or damaged in any way. These principles are linked to the universal concept of human rights and dignity, which belong to all people by virtue of their humanity, regardless of the weak enforcement or oversight mechanisms ensuring their protection (Budak, 2018). Accordingly, it is fully justified to argue that genuine human sustainability on Earth can only be achieved by recognizing and proactively embracing the fact that humanity's survival is intrinsically connected to nature. For this reason, we need a fundamental paradigm shift: one that sees nature as a resource that is wholly shared and collectively managed, with a legal status akin to that of a legal entity, on whose behalf legal action may be initiated. This concept can undoubtedly be extended to the dark sky, assuming its importance for the well-being of numerous species in both rural and urban ecosystems, for human health, and as a shared good to which all individuals hold the right of access, enjoyment, and the duty of preservation.

Excessive artificial lighting disrupts and in some cases entirely prevents astronomical observations of stars and other celestial bodies, thereby limiting the right to education and scientific research vital to the progress of society as a whole. In addition, light pollution has a markedly negative impact on the touristic value of certain landscapes, where starlit nights and their aesthetic and cultural richness contribute to the development of a distinct and sustainable form of tourism known as astrotourism (Krajnović, 2020). Beyond the imperative of protecting the night sky as a universal value, it is also important to recognize that more rational and context-appropriate use of lighting would carry significant economic benefits, particularly in an era marked by a profound economic and energy crisis that has shaken Europe and the wider world in recent years. Consequently, public authorities increasingly recommend switching off decorative lighting on government buildings, parking lots, and other facilities when it is not functionally necessary.

Thanks to the efforts of UNESCO, the International Astronomical Union, and numerous other international organizations, the *La Palma Declaration on the Defence of the Night Sky and the Right to Starlight* (hereinafter: La Palma Declaration) was adopted at the First International Conference on the Protection of the Night Sky in 2007. The Declaration proclaims the right to an unpolluted night sky as an inalienable right of humanity, on equal footing with other ecological, social, and cultural rights, given its importance for the advancement of human civilization and the preservation of biodiversity. According to the Declaration's second principle, the progressive degradation of the night sky's value constitutes an immediate risk that humanity must confront, warranting treatment equal to that of other pressing environmental issues. The conservation, protection, and revalorization of natural and cultural heritage related to nocturnal environments and celestial observation represents a key opportunity for international cooperation and the safeguarding of quality of life. Although not legally binding, the goals set forth in this document pose a genuine challenge and ongoing responsibility for policymakers and the lighting industry alike, ensuring that the night sky, as part of humankind's shared heritage, remains accessible to all. The La Palma Declaration also highlights the importance of leveraging the night sky's value for the development of new tourism products based on the observation of celestial phenomena and nocturnal environments. This opens numerous opportunities for collaboration among tourism stakeholders, local communities, and scientific institutions, while also serving as a prerequisite for conducting astronomical research and promoting scientific and technological advancement. Furthermore, the Declaration emphasizes that an unpolluted night sky constitutes a vital component of sustainable development—one that is inseparable from nature and shared by all of humanity. It is regarded as a resource that significantly contributes to the preservation of cultural diversity, the biological richness of landscapes, the conservation of cultural heritage, and plays an important role in the fight against climate change. Consequently, the control of artificial light emissions must be recognized as a fundamental element of public environmental policy and incorporated into the management plans of various types of protected areas.

In response to the initiatives and goals set forth in the La Palma Declaration, the International Astronomical Union adopted a further resolution—*Resolution B5 in Defense of the Night Skies and the Right to Starlight*—at its XXVII General Assembly held in Rio de Janeiro in 2009. This document frames the night sky as a source of inspiration, emphasizing its cultural and scientific significance. According to the resolution, the enjoyment and contemplation of the starry sky should be regarded as a fundamental socio-cultural and ecological right, and its progressive degradation as a profound loss for all humankind. The resolution calls for the control of excessive lighting—which amplifies skyglow—to become a central element of nature conservation policy, given its harmful effects on humans, flora and fauna, ecosystems, and landscapes. It also encourages the development of diverse forms of tourism that utilize the night sky as a resource, in order to safeguard its value across all destinations. Finally, the IAU resolution urges members to take necessary measures to involve all stakeholders—at national, regional, and international levels—in the collective effort to protect the night sky and the right to observe the stars.

All the aforementioned documents are of an internally binding nature only, grounded in the voluntary commitment of their drafters to the objectives of protecting nature and the heritage of the dark sky. Nevertheless, despite their non-binding character, these soft law instruments play an important role in structuring and articulating goals of significance for all of humanity, as well as for plant and animal life. Therefore, they should be observed, at least until they are replaced by traditional hard law sources (Mijatović, 2024).

To date, only several countries have adopted specific legal instruments regulating the issue of light pollution at the national level. Notable exceptions include Croatia, Slovenia, the Czech Republic, France, and, outside Europe, Chile, South Korea, and Mexico. In some states, this issue is addressed as part of broader legislation on energy efficiency, environmental protection, or nature conservation, as seen in Finland and Germany. In many others, light pollution is regulated at the federal level (e.g. the United States), at the regional level, (e.g., Italy and Spain), or at the local level. Still, in many countries, including Serbia, Estonia, Romania, Norway, Liechtenstein, Iceland, Cyprus, and others, there is still no legislation concerning excessive artificial lighting (Szlachetko, 2022; Vidmar et al., 2022).

3. Right to Night Sky Protection and Perspectives

The intrusion of light onto a person's property during evening hours disrupts privacy and undermines a peaceful and comfortable life within one's own home. It negatively affects sleep quality, leading to chronic fatigue and, over time, deterioration of individual health, proven to be linked to the occurrence of cancer and various other illnesses. Such light may originate from exterior lighting installed too close to residential properties, from overly tall streetlamps, decorative building illumination, nearby sports facilities—most commonly stadiums—advertising billboards, or poorly designed security lighting. When the lighting in question is particularly vibrant, flashing, or dynamic in character, its adverse effects not only compromise individual health and quality of life, but can also entirely distort the appearance, ambiance, and atmosphere of one's living environment (Zielinska-Dabkowska et al., 2020). In the continental legal system, such harmful effects are traditionally defined as "immissions" in the context of neighboring property relations—i.e., emissions involving the release of harmful substances or effects into the environment across the boundaries of adjacent properties. In common law jurisdictions, they are typically classified as *public nuisance*, *private nuisance*, and less frequently, as *trespass*—direct and unlawful interference (Gajinov, 2016).

Case law concerning light pollution remains limited worldwide. The highest concentration of such disputes is found in the United States, where, since the 1990s, there has been a noticeable increase in litigation, reflecting growing public awareness of the need for environmental protection. Nevertheless, a comprehensive 2018 study examining 180 different legal cases across all 50 U.S. states involving either excessive illumination or insufficient and inadequate lighting revealed that citizens rarely prevailed in disputes against local authorities (Zhou, 2018). Of all recorded cases, only three specifically concerned the protection of the night sky as a universal value of humankind. In the first—*Laubenstein v. Bode Tower*—the plaintiff, an amateur astronomer, sought to minimize light levels around his property by deactivating security lighting and encouraging his neighbors to do the same, in order to preserve the natural environment. The Bode company in Oklahoma, however, successfully obtained all necessary permits and proceeded to construct a telecommunications tower to improve mobile network coverage. In his nuisance claim, Laubenstein emphasized the impact of the tower's flashing lights, which reflected off a nearby water surface and disrupted both the visual character of his home and his right to peaceful enjoyment of his property—particularly in light of his efforts to maintain conditions conducive to scientific observation. While the lower court initially ordered the tower's removal, the decision was overturned on appeal, with the court finding that the public interest in improved network coverage outweighed the plaintiff's aesthetic preferences. The ruling was further justified by the absence of additional evidence indicating that the presence of the tower posed a health risk or otherwise infringed upon the right to a quiet and comfortable living environment by obstructing the view of the night sky. The second case had a different outcome: a company specializing in renewable energy sources (EDF) filed an appeal against the decision of the Foster Township Zoning Hearing Board in Luzerne County, Pennsylvania, which had denied their request for a special exception to construct wind turbines in the area (*EDF Renewable Energy v. Foster Township Zoning Hearing Board*). Local residents, including the president of the local astronomical society, argued that the wind turbines would obstruct views of the sky and contribute to increased light pollution. Without delving into the full details of the dispute, it is significant that the appeal was dismissed by the Luzerne County Court on the grounds that the company had failed to provide sufficient information and evidence that the planned wind turbines would not jeopardize the interests and property of the local community, in accordance with local zoning regulations. In the most recent case (*In re Stokes Communications Corp.*), an appeal filed by a telecommunications company was also rejected. The Environmental Board had requested the company to install light shields on a radio transmission tower. The rationale put forward was concern over the quality of the night sky, which could be compromised—an encouraging signal in terms of growing recognition for this universal natural value.

4. Conclusion

U odnosu na druge izvore štetnih uticaja koje je daleko zahtevnije otkloniti ili ograničiti, uz često velika infrastrukturna ulaganja, svetlost kao zagađivač iziskuje isključivo pametno upravljanje i racionalnu potrošnju, što momentalno daje rezultate. To podrazumeva kombinaciju različitih metoda, od minimiziranja količine plave svetlosti, korišćenja adekvatnog nivoa osvetljenosti sa ograničenim brojem izvora, upotrebe zaštićenog osvetljenja, gašenje svetla, koje trenutno nema funkciju, do ugradnje pametnih senzora. Primena ovih mera zahteva edukaciju lokalnih organa i zajednice o pravilnom načinu korićenja veštačkog osvetljenja i racionalnijoj potrošnji, kroz primere dobre prakse, obuke i vodiče, kao deo lokalnih planova delovanja u ovoj oblasti. Sa pravne tačke gledišta neophodno je što pre tradicionalnom, obavezujućom *hard law* regulativom uspostaviti sistem zaštite noćnog neba kao univerzalnog dobra čovečanstva na međunarodnom nivou. To bi predstavljalo osnov i za usvajanje nacionalnih pravnih mehanizama namenjenih zaštiti od svetlosnog zagađenja u što većem broja država kojom bi bila regulisana pitanja koja se odnose na period upotrebe, maksimalni nivo osvetljenja, neophodnu zaštitu izvora, temperaturu boje svetlosti, pitanje direktnih smetanja izazvanih svetlosnim snopovima, karakteristike svetlosnih signala, kao i raspored zona sa određenim nivoom osvetljenosti prema njihovim različitim funkcijama (Feathers, 2022). Na ovaj način bi se uspostavila pravno obavezujuća pravila o ograničenju upotrebe veštačke svetlosti koje ugrožava zdravlje ljudi i čitave ekosisteme, uticalo na smanjenje emisije gasova sa efektom staklene bašte kao doprinos ublažavanju klimatskih promena, ali i omogućilo posmatranje noćnog neba koje je kao deo životne sredine trenutno nepravedno zapostavljeno.

Compared to other sources of harmful environmental impact, which are often far more difficult to eliminate or mitigate and frequently require extensive infrastructural investments, light, as a pollutant, demands only smart management and rational consumption to yield immediate results. This involves a combination of measures such as reducing the amount of blue light, using appropriate levels of illumination with a limited number of sources, employing shielded lighting fixtures, turning off lights when they are not functionally necessary, and installing intelligent sensor systems. The implementation of these measures requires the education of local authorities and communities on the proper use of artificial lighting and more efficient consumption practices, through examples of good practice, training programs, and instructional guides, all embedded within local action plans. From a legal standpoint, it is essential to promptly establish a system for the protection of the night sky as a universal common good of humanity through traditional, binding hard law instruments at the international level. This would serve as the foundation for the adoption of national legal mechanisms aimed at combating light pollution, regulating issues such as permitted usage periods, maximum brightness levels, the protection of light sources, light color temperature, direct interference from light beams, signal characteristics, and designated zones with differentiated levels of illumination based on functional use (Feathers, 2022). In this way, legally binding rules would be introduced to limit artificial lighting that threatens human health and entire ecosystems, contribute to reducing greenhouse gas emissions as part of climate change mitigation efforts, and enable the observation of the night sky, a vital but unjustly neglected component of the environment.

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POTENCIJALNI RAZLOZI I MOTIVI ZA DONOŠENJE PROPISA O LOBIRANJU

Rezime: Lobiranje, kao tema, sve više dobija na značaju kod kreatora javne politike u savremenom društvu. Bilo nakon skandala ili zbog sve većih zahteva civilnog društva i međunarodnih organizacija u vezi sa transparentnošću i odgovornošću, debata o lobiranju je otvorena ne samo u zemljama sa formalnim pravilima za regulisanje ove veoma uobičajene političke prakse, već i u zemljama koje ih nemaju. Regulativa koja je viđena u normativnopravnom okviru ostavlja prostor za pitanje: zašto se države opredeljuju za lobiranje i koji im je motiv? S tim u vezi, autor pokušava da na temelju empirijskih podataka i sadržajnog proučavanja teorijskog pristupa regulisanju lobiranja kroz posmatrane varijable, poput političkih skandala i eksterne promocije međunarodnih organizacija, ukaže na motiv koji je privukao pažnju, ali i podstakao vladu da na njih reaguje. Iako posmatrane varijable ne predstavljaju čvrst dokaz o suštini načina uređenja, ipak se u nekim slučajevima može reći da politički skandali motivišu vlade na predstavljanje predloga propisa o lobiranju, ali ne i na njihovo usvajanje, a da zapravo međunarodne organizacije i njihove preporuke kroz politiku difuzije u određenoj meri mogu pospešiti usvajanje zakona**.**

Ključne reči: *lobiranje, zakonska regulativa, korupcija, politički skandali, difuzija politike, međunarodne organizacije, Srbija.*

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1. Uvod

Početkom 90-ih godina lobiranje postaje sve aktuelnije na prostoru Evrope zbog evropskih integracija i promena u društvu i u načinima upravljanja. Ovom aktivnošću ne bave se samo ekonomske interesne grupe, već i veliki broj aktera, udruženja, društvenih pokreta i drugi koji je vrše na različite načine. Međutim, najupečatljivija činjenica jeste da ova aktivnost u savremenom društvu postaje bezgranično aktuelna i legitimna kao način učešća u političkom odlučivanju.

Doprinos povećanom učešću lobiranja u donošenju odluka i političkim procesima predstavlja važan zadatak demokratskih država da ovu aktivnost sprovedu pod okriljem zakonske regulative. Upravo odgovarajući pravni mehanizmi treba da obezbede održavanje ravnoteže, što će, s jedne strane, olakšati funkcionisanje pomenutog mehanizma izražavanja i zastupanja interesa članova društva, a sa druge strane obezbediti zaštitu javnog interesa u odlučivanju političke javnosti.

Do 2000. godine pojedine zemlje, poput SAD, Kanade i Nemačke, imale su već propise o lobiranju. Međutim, počev od 2001. godine sve više zemalja je lobiranje regulisalo u normativnopravnom formatu, poput Litvanije, Poljske, Mađarske, Izraela, Francuske, Meksika, Slovenije, Austrije, Australije, Holandije, Čilea, Ujedinjenog Kraljevstva i Irske (OECD, 2016). Od bivših jugoslovenskih republika među prvima su to uradile Severna Makedonija, zatim Crna Gora i Srbija. Međutim, suštinsko pitanje je zašto su se ove države opredelile ili, tačnije, šta ih je podstaklo da ovu oblast zakonski uokvire? Ovo pitanje je podstaklo najnovija istraživanja, čiji je diskurs viđen u delu pretpostavke oko motiva ili razloga „zašto je lobiranje regulisano u ovim političkim sistemima“? Oslanjajući se na razna istraživanja upotpunjena odgovarajućom stručnom literaturom sa fokusom na teorijskim argumentima izvedenim iz iste, pre svega o političkim skandalima (Thomas, 1998; Newmark, 2005; Ozymy, 2013), kao i procesima difuzije politike učenja (Rosenson, 2005; Greenvood & Dreger, 2013; Crepaz & Chari, 2014), nastojaćemo da izanaliziramo posmatranu tezu o propisu lobiranja regulisanu u normativnopravnom formatu.

Stavove koji podržavaju postojeću literaturu koja pokazuje da međunarodne organizacije podstiču širenje politike u svojim državama članicama nalazimo u delima Dolovica i Marša (2000) (*David P. Dolowitz & David Marsh*); True i Mintroma (2001) (*True Jacqui & Mintrom Michael*). Sa druge strane, erupcija političkih korupcijskih skandala obično povezana sa usvajanjem zakona o lobiranju i drugih oblika etičke politike (Witko, 2007) najčešće ne utiče na usvajanje propisa (Crepaz, 2017). Ovo podržava argument koji se nalazi u literaturi a to je da skandali često predstavljaju prilike za „simboličku politiku" **i vežbe puke retorike, a ne za uvođenje politike (Lowery & Grey, 1997;** Blühdorn, 2007). Ono što možemo dodati jeste da takvi skandali u nekim situacijama ipak mogu postati okidači za regulaciju lobiranja u pravnim propisima, pre svega zbog aktuelnosti – mediji takvim skandalima daju publicitet, tematizujući njihovu ulogu u društvu.

Nadalje, delimo mišljenja većine autora koji ukazuju na to da zapravo međunarodne organizacije, poput **O**rganizacije za ekonomsku saradnju i razvoj *(Organisation for Economic Co-operation and Development – OECD*) i Evropske unije (*European Union-EU*), kod svojih članica podstiču širenje zakona o lobiranja kroz objavljivanje preporuka i dokumenata o politici lobiranja (Crepaz, 2017). No ono što nam se čini jeste i to da ovo nije slučaj samo sa njihovim članicama, nego i sa onima koji dele njihovu ekonomsku, političku, ali i kulturnu vrednost ili podržavaju njihove izgrađene političke sisteme. Pretpostavka je da je to za pojedine države iz bivše Jugoslavije koje još uvek nisu postale članice EU a koje **žele da postanu**, poput Severne Makedonije, Crne Gore i Srbije, bio dodatni razlog za usvajanje zakona o lobiranju (Bosna i Hercegovina još uvek nije regulisala ovu oblast). Treba napomenuti da je u Bosni i Hercegovini usvajanje zakona o lobiranju pokrenuto i da je uvršteno u Strategiju za borbu protiv korupcije 2015–2019, kao i prateći Akcioni plan za sprovođenje ove strategije, gde se očekuje da ova oblast bude uokvirena zakonskom regulativom (APIK, 2014). S obzirom na činjenicu da institucije EU podržavaju i priznaju pravni legitimitet lobiranja, Zakon o lobiranju, povezan sa borbom protiv korupcije, u suštini predstavlja jednu od obaveza koje prethode svakoj pristupnoj proceduri neke zemlje pre prijema u ovu organizaciju.

No, ono što u radu želimo da istražimo jesu zbivanja koja su pratila potrebu regulisanja lobiranja u pravnozakonskoj formi, poput raznih koruptivnih afera koje su u središtu imale lobističku konotaciju, te preporuke različitih međunarodnih tela kojima su podstakli svoje članice, ali i druge da lobiranje na nacionalnom nivou ozakone i dali povod za uređenje ove oblasti.

2. Različiti motivi u vezi sa načinom regulacije lobiranja (od korupcionih skandala do difuzije politike)

2.1. Efekat korupcionih skandala kao načina za regulisanje lobiranja

Neumoljiva konstanta o poimanju lobiranja, kao pojave sa negativnom konotacijom, još uvek se širi i postaje važna tema u savremenom društvu. Jedan od duboko ukorenjenih uzroka, koji leži u osnovi negativne percepcije javnosti o lobiranju, jeste to što se u ekstremnim slučajevima smatra da lobističke aktivnosti zadovoljavaju kriterijume dela zabranjenih zakonom, kao što su podmićivanje, plaćena zaštita, trgovina uticajem ili pak doprinose zloupotrebi javnih ovlašćenja. Mnoge afere, počev od onih u SAD koje se smatraju „kolevkom" lobiranja, a kasnije i u Evropi, doprinele su uvreženom mišljenju o lobiranju kao negativnoj pojavi.

Međutim, ove afere su u uređenim državama doprinele unapređenju i poboljšanju propisa o lobiranju zbog bojazni da se i njima ne desi slično, a kod ostalih su „probudile" potrebu za njegovim regulisanjem. Naširoko poznati lobistički skandal iz 2006. godine koji je pogodio SAD umnogome je otvorio pitanje preispitivanja zakona koji je regulisao ovu oblast. Razlog za to bio je pravnik Džek Abramof (*Jack Allan Abramoff*) koji je u kratkom vremenskom razdoblju postao najuticajniji lobista u Vašingtonu. Među mnogobrojnim tužbama protiv Abramofa, koje su bile brojne i iz različitih krivičnih predmeta, jedna je izazvala najveću pažnju. To je bila primarna tužba koja ga je teretila za prikupljanje miliona dolara kroz tzv. naduvavanja lobističke kampanje. Naime, pomenuti lobista je novcem prikupljenim uz pomoć darova i političkih donacija uticao na kongresmene (Abramoff, 2011). Ovaj skandal je ukazao na brojne propuste, što je dovelo do većih potreba za dodatnom regulacijom koja bi za rezultat imala veću transparentnost u lobiranju i kod lobista, a to je posledično rezultiralo donošenjem Zakona o pristojnom i otvorenom upravljanju (*Honest Leadership and Open Government Act – HLOGA*), koji je najveći akcenat stavljao na regulaciju pitanja u vezi sa „ponašenjem lobista" (GovInfo, 2007). Naposletku, ono što ostavlja utisak jeste činjenica da je ovaj lobistički skandal „ogulio" nedostatke zakonske regulative u delu transparentnosti i odgovornosti, što zapravo predstavlja srž normativnog lobizma.

U slučaju Poljske čini se da je politički kontekst bio odlučujući faktor za uspon propisa o lobiranju i za njegovo zakonsko usvajanje. Kada je poljska socijaldemokratska vlada Lešeka Milera (*Leszek Cezary Miller*) dala prioritet regulaciji lobiranja 2003. godine, to je bilo snažno povezano sa slabljenjem javne podrške njegovoj vladi, koalicionom krizom i diskreditacijom visokih vladinih zvaničnika u aferi Rivin (*Rywin*), skandalu koji je doveo do poziva premijera na saslušanje u parlamentarnom anketnom odboru. Skandal je izašao na videlo decembra 2002. godine kada je poljski list *Gazeta Viborča* (*Gazeta Wyborcza*) objavio odlomke transkripta razgovora u kojem je filmski producent Leh Rivin (*Lech Rywin*) predložio glavnom uredniku pomenutog lista da mu list plati 17,5 miliona dolara u zamenu za njegovu pomoć – uticanje na planiranu izmenu zakona o medijima kako bi ona bila u korist novinske izdavačke kuće *Agora*. Ovaj skandal je ubrzao rad političke agende na regulativi lobiranja i skrenuo pažnju premijeru koji je zatim dao zeleno svetlo da se što pre iznese nacrt zakona pred savet ministara. Rad na predlogu zakona u ministarskim resorima je zauzvrat omogućen institucionalizacijom antikorupcijskih politika u vidu stvaranja specijalizovanih odeljenja za borbu protiv korupcije, pod uticajem pristupanja EU (Vargovčíková, 2017).

Kada je reč o lobiranju u Srbiji, ova aktivnost nije zaobilazila društvo ni pre uvođenja u zakonske okvire. Prema nekim izvorima, prva naznaka lobiranja jeste slučaj tzv. duvanskih amandmana na akcize u Skupštini, u kojem je jedna članica tadašnjeg vladajućeg „aparata" ukazala na jednu neuobičajenu pojavu. Naime, izvesni „ugledni" biznismen je za vreme glasanja o ovom predlogu gostovao u poslaničkim klubovima (Miloradović, 2018), što je dovelo do izbijanja političkog skandala (2009) koji je bio u vezi sa donošenjem Zakona o akcizama. Isti je pokazao koliko je tanka i na prvi pogled nedefinisana granica shvatanja odnosa korupcije i lobiranja, što je ukazivalo na nepostojanje pravila i principa legalne aktivnosti ove profesije. Ni drugi svojevrsni skandal iz 2014. godine kada se u medijima pojavila priča da je britanska lobistička agencija BP (*Bell Pottinger*) radila za tadašnju vladu Srbije, a koja je negirala svaku povezanost sa ovom firmom (Nenandić, 2017), nije doveo do toga da se pitanje usvajanja pravila o lobiranju stavi na dnevni red. No, čini nam se da je preporuka organizacije Grupe država protiv korupcije (*The Group of States against Corruption – GRECO*) imala najviše odziva kod kreatora javne politike da se Zakon o lobiranju napokon donese i usvoji, što je i učinjeno. Zakon o lobiranju je izglasan 2018. godine, a njegova primena počela je 2019. godine (Službeni glasnik RS, 2019).

2.2. **Efekat difuzija politike pojedinih međunarodnih organizacija na regulaciju lobiranja**

Na osnovu pojedinih navedenih slučajeva vidi se kako izneti argumenti u vezi sa pojavljivanjem skandala predstavljaju razloge za regulisanje lobiranja u pomenutim zemljama, ali ne uvek i jak razlog da ih kreatori javne politike uvrste u dnevni red rasprave. Skandali su pomogli da se podstakne percepcija lobiranja, kao trgovine uticajem, u kojoj subjekti koji služe sebi imaju veći uticaj od normalnog na rezultate politike (Veksler, 2015). Kao rezultat toga, političari reaguju na medijske signale o korupcijskim skandalima odabirom političke strategije za borbu protiv korupcije. U ovoj situaciji propisi o lobiranju daju zakonodavcu regulatorne alate za smanjenje rizika od korupcije, što je bilo slučaj sa Poljskom. Međutim, osim skandala koji su bili i povod za regulisanje lobiranja, pojedine međunarodne organizacije, poput OECD i EU, odigrale su značajnu ulogu u uvođenju zakona o lobiranju kroz difuziju politike, pogotovo kod svojih zemalja članica.

OECD je posebnu pažnju posvetila temi regulacije lobiranja u kontekstu političkog cilja borbe protiv korupcije u javnom sektoru. Počev od 2008. godine ove organizacije nastoje da objavljuju godišnje izveštaje o aktivnostima u sferi lobiranja i regulativi svake države članice, fokusirajući se na pravne okvire zakona o lobiranju „koji ispunjavaju očekivanja javnosti u pogledu transparentnosti i odgovornosti“ (OECD, 2009, str. 1). Godine 2010. OECD je objavila Preporuku o principima transparentnosti i integriteta u lobiranju (*Recommendation of the Council on Principles for Transparency and Integrity in Lobbying, OECD/LEGAL/0379*) (OECD, 2010) u kojoj svedoči da su članice OECD sve više ohrabrivane da nakon ovoga usvoje pravila lobiranja. Većina zemalja koje su članice OECD istovremeno su i članice Evropske unije, pri čemu su im ovakvi sporazumi umnogome olakšali datu situaciju. Naime, od trenutno 38 zemalja koje su članice OECD njih 22 od 27 (Austrija, Belgija, Češka Republika, Danska, Estonija, Finska, Francuska, Nemačka, Grčka, Mađarska, Irska, Italija, Litvanija, Letonija, Luksemburg, Holandija, Poljska, Portugalija, Slovačka, Slovenija, Španija, Švedska) ujedno su i članice EU. Na osnovu odluke Saveta od 25. januara 2022. odlučeno je da se za šest zemalja među kojima su tri države iz EU – Bugarska, Hrvatska i Rumunija (ostale tri su Argentina, Brazil i Peru) preduzmu prvi koraci o njihovim pristupnim razgovorima za članstvo u OECD (OECD, n.g).

Evropska komisija (*European Commission – EC*), kao izvršni organ EU, zajedno sa Savetom Evrope (*Council of Europe – COE*) obavezala se 2005. godine na uvođenje seta političkih mera transparentnosti u institucijama EU. Inicijativa pod nazivom *Evropska inicijativa za transparentnost* (*European Transparency Initiative – ETI*) imala je za cilj da rasvetli proces kreiranja politike kroz usvajanje sistema otkrivanja korisnika sredstava EU između interesnih grupa i Komisije posredstvom regulisanog lobiranja. Jedna od dimenzija ETI bila je predloženo stvaranje registra lobista čiji je cilj bio da rasvetli procese donošenja odluka u EU (EC, n.g). Nakon pokretanja ETI, zemlje članice EU u procesima političke integracije mogle su biti ohrabrene da prenesu odredbe inicijative i na domaćem nivou. U tom kontekstu možemo posmatrati predstavljanje difuzije politike kao vertikalni proces preusmeren sa nadnacionalnog na domaći nivo (Radaelli, 2000; Stone, 2004).

Još jedna preporuka u vezi sa ovom oblašću dolazi od strane Saveta Evrope. Naime, 2017. godine ova organizacija je usvojila Preporuku CM/Rec(2017)2 o pravnom uređenju lobističkih aktivnosti u kontekstu donošenja javnih odluka (*Recommendation CM/Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision making*) (COE, 2017). Čini se da regulativa o lobiranju ulazi u političke programe lakše nego ikada ranije, svuda je izgrađena uz pomoć manje-više istih instrumenata politike (odredbe o transparentnosti zasnovane na registrima lobista i obavezama izveštavanja), bez obzira na razlike u nacionalnim kontekstima.

2.2.1. Slučaj Srbije

Pomenuti programi međunarodnih organizacija, koji su se odnosili na regulisano lobiranje kroz politiku širenja, podstakli su ne samo zemlje članice EU, nego i zemlje kandidate da u svom političkom sistemu normativnopravno regulišu ovu oblast. Za Srbiju, kao kandidata za članstvo, u pogledu preporuke, kao i važeće regulative o ovoj temi, poput Rezolucije Evropskog parlamenta iz maja 2008. godine o utvrđivanju okvira za aktivnosti zastupnika interesa u EU institucijama (Obradović, 2019), difuzija politike o regulaciji lobiranja bila je ohrabrujuća. Srbija se strateški opredelila za članstvo u Evropskoj uniji, što je potvrđeno pregovaračkim procesom o pristupanju toj zajednici koji je formalno započeo 2014. godine u Briselu. Na prvi pogled se može razumeti da jedno od objašnjenja za preku potrebu donošenja zakona o lobiranju zapravo leži u preuzetim međunarodnim obavezama u postupku pridruživanja Srbije Evropskoj uniji. No, smatramo da se, pored ovoga, kod kreatora javne politike uporedo javila i potreba za davanjem legitimiteta ovoj aktivnosti kroz pravne regulative koje će dovesti do opšteprihvaćene uloge lobiranja u demokratskom društvu, što stvara bolju i razumljiviju sliku lobiranja i njegovog mesta u političkom sistemu Srbije.

Nacionalna strategija za borbu protiv korupcije u Republici Srbiji najpre je krenula 2005. godine zajedno sa Akcionim planom u kojem je preporučena mera bila „usvajanje zakona o lobiranju i obezbeđivanje njegove transparentnosti“ i imala je rok da tokom 2010. godine bude ispunjena. Međutim, ova mera nije doneta, te je to zahtevalo pisanje nove strategije (završena 2013. godine) u čijem sastavu je i dalje ostala mera koja je u poglavlju „Političke aktivnosti“ uputila na stavku 3.1.3.2. „Usvojiti zakon kojim se reguliše lobiranje i pristup javnosti svim informacijama o lobiranju u organima javne vlasti“ (Službeni glasnik RS, 57/13; Službeni glasnik RS, 79/2013 i 61/2016). Sa donošenjem i usvajanjem zakona o lobiranju se dosta kasnilo. Iako su se tokom 2014. godine (radna grupa je na predlog Ministarstva spoljne i unutrašnje trgovine i telekomunikacija osnovana 28. marta 2013. godine) održavali sastanci u vezi sa izradom koncepta zakona, do isteka roka zakon nije bio usaglašen (Nenadić, 2018, str. 8). Pomaka u izradi zakona nije bilo ni tokom 2016. ni tokom 2017. godine. Razlog zašto je ova tema već u 2018. godini postala ponovo aktuelna jeste „iznenadni“ negativni publicitet koji je Srbija dobila saopštenjem GRECO organizacije (COE, 2018) da nije ispunila sve obaveze, te je zbog toga „pokrenut postupak“ (Ministarstvo pravde Republike Srbije, 2018), što je dovelo do ponovnog rada na zakonu o lobiranju. Zbog nemile situacije Vlada je u maju iste godine (2018) formirala posebno telo zaduženo za koordinaciju ispunjavanja preporuka GRECO (TS, n.g), što je naposletku rezultiralo usvajanjem zakona o lobiranju.

Razlog za sve ovo možemo pronaći u činjenici da je zapravo „negativni“ publicitet pokrenuo aktivnosti za uvođenje zakona o lobiranju. Međutim, utisak u svemu ovome ostaje takav da je prvobitno viđen efekat difuzije politike koji je u određenoj meri postao dobra strategija za propise o lobiranju, nakon što je EU počela da promoviše usvajanje zakona o lobiranju i za države koje žele da joj se pridruže. Ipak, istini na volju, mora se podvući da su „neki jači i delotvorniji kontrolni mehanizmi“ morali da učestvuju u pronalaženju rešenja.

3. Umesto zaključka

Uprkos potezima vlada mnogih zemalja da regulišu lobiranje kroz posebne zakone o lobiranju, većina jurisdikcija u svetu danas veruje da će i profesionalna udruženja ili agencije, koji se bave lobističkim aktivnostima, uspostaviti dobre i visokomoralne standarde u pogledu etičkog kodeksa ponašanja lobista, ali i donekle poboljšati fragmentiranu regulativu. Moramo, međutim, ukazati i na činjenicu da nisu sve zemlje saglasne sa stavljanjem lobističke aktivnosti u normativnopravne okvire. To otvara prostor za šire razumevanje postavljene teze u vezi sa normativnopravnim regulisanjem ove oblasti i njenog delokruga u kome postojanja opšteprihvaćenih pravila i propisa baziranih samo na moralnim principima, kao što su kodeks ponašanja ili vođenje registra lobista na neobaveznoj osnovi, mogu u određenoj meri postati delotvorni za njeno legitimno funkcionisanje. To nadalje traži „održiv“ odgovor na „kontradiktorno“ pitanje: zašto regulisati lobiranje? Ako se lobiranje posmatra u smislu u kojem se određeni deo javnosti slaže sa konstatacijom da je „sastavni deo zdrave demokratije“ i „usko povezan sa univerzalnim vrednostima kao što su sloboda govora i pravo na peticiju vlasti“ (Mulcahy, 2015, str. 6), da li se onda to regulisanje može smatrati „nepoželjnim“ ili možda čak i nepravedno ograničavajućim? Ipak, smatramo da su razlozi za regulisanje lobiranja mnogobrojni. Prvi i najočigledniji je da se lobiranje lako može pretvoriti u korupciju. Čini se da je ovo primarni razlog za regulativu lobiranja koji nudi Transparensi Internešenel (*Transparency International*) u čijem se nedavnom izveštaju tvrdi kako su u evropskim zemljama, gde su propisi o lobiranju slabi, sukobi interesa rašireni, „određene grupe uživaju privilegovan pristup donosioca odluka“ i „uticaj ostaje skriven i neformalan (Ibid). Sve ovo budi sumnje i zvuči kao korupcija. Transparensi, u suštini, veruje da će lobisti i kreatori politike, prepušteni sami sebi, razviti bliske odnose koji vode do nepoželjnih i, možda, koruptivnih aktivnosti. Ovo dalje vodi ka tome da će se loše ponašanje među lobistima i vladinim zvaničnicima gotovo neizbežno dogoditi ukoliko vlada ne preduzme korake da to spreči. Jedan od takvih koraka bi trebalo da bude regulativa o lobiranju kako bi građani znali ko pokušava da utiče na odluke vlade, šta lobisti žele i kako vlada reaguje na lobističke napore (OECD, 2009, str. 127). Ovakvo obrazloženje je bilo inspiracija za propise koji zahtevaju od lobista da se registruju u javnom telu i javnosti otkriju svoje aktivnosti (Nownes, 2017). Takođe, važno je napomenuti da studije pokazuju kako građani veruju da su propisi o lobiranju važni posebno oni koji su prikazani na transparentan način (McGrath, 2008). Naravno, ima i onih koji smatraju da propisi o lobiranju nisu potrebni niti da su od pomoći. Naime, pojedini autori smatraju da propisi o lobiranju, pogotovo u korporativnim zemljama u kojima interesne grupe zvanično učestvuju i deo su procesa kreiranja politike, mogu da „dolaze u sukob sa osnovnim pravom o demokratiji zbog uticaja na organe vlasti“ (Lumi, 2014, str. 305). Na primer u skandinavskim zemljama ideju da lobiranje treba regulisati mnogi vladini zvaničnici i građani smatraju

„neprirodnom“ pošto se korupcija kod njih ne smatra problemom. Po svim pokazateljima korupcija u ovim zemljama je procentualno najniža (TI, n.g), a interesne grupe se smatraju važnim izvorima vrednih informacija za kreatore politike (Lumi, 2014), dok se propisi posmatraju kao nepotrebna ograničenja slobodnog protoka informacija tokom procesa kreiranja politike (Slingerland, 2010). Stoga i nije čudno što ove zemlje, barem dosad, nisu bile pristalice prihvatanja lobiranja u bilo kakvoj formalno-zakonskoj regulativi. Ovakav pristup lobiranju, posmatran s aspekta skandinavskih zemalja, najverovatnije bi bio veoma štetan za druge zemlje, posebno za zemlje postkomunističkog regiona u kojima dominiraju drugi socijalni, kulturni, ali i istorijski faktori.

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ADOPTING REGULATIONS ON LOBBYING: POTENTIAL REASONS AND MOTIVES

Abstract: Lobbying is increasingly gaining significance among public policy makers in contemporary society. Whether triggered by scandals or driven by growing demands from civil society and international organizations for transparency and accountability, the debate on lobbying has been initiated not only in countries with formal rules regulating this widespread political practice, but also in those without such frameworks. The regulatory approach observed within normative legal systems raises the question of why states choose to regulate lobbying and what motivates them. In this regard, the author draws on empirical data and a substantive analysis of theoretical approaches to lobbying regulation—focusing on variables such as political scandals and external promotion by international organizations—to explore the factors that have both captured public attention and prompted governmental responses. Although these variables do not provide conclusive evidence of a definitive regulatory model, it can be argued that, in certain cases, political scandals motivate governments to propose lobbying legislation without necessarily leading to its adoption. Meanwhile, the recommendations of international organizations, disseminated through policy diffusion, may in some instances facilitate the enactment of such laws.

Keywords: lobbying, legal regulation, corruption, political scandals, policy diffusion, international organizations, Serbia

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1. Introduction

At the beginning of the 1990s, lobbying became increasingly relevant in Europe as a result of European integration and changes in society and management methods. This activity is no longer carried out solely by economic interest groups, but also by a wide range of participants, associations, social movements, and others who engage in it in various ways. However, the most notable fact is that in modern society, this activity is becoming ever more current and legitimate as a form of participation in political decision-making. Enhancing the role of lobbying in decision-making and political processes represents an important task for democratic states, which must bring this activity under legal regulation. Specifically, appropriate legal mechanisms should ensure the maintenance of balance—facilitating, on the one hand, the functioning of this mechanism for expressing and representing the interests of members of society, and on the other, safeguarding the public interest in political decision-making. By promoting the interests of various groups, lobbying can influence the outcomes of public policy. However, differing attitudes toward lobbying and its occasional association with negative phenomena such as corruption scandals pose significant challenges to its legal regulation in modern democratic systems.

Despite the above, lobbying has found its place on the public agenda. From supporters who advocate for this field to be placed within a legal framework, to opponents who point to the potentially high level of corruption associated with lobbying practices, many countries have found it appropriate to devote greater attention to the issue by acknowledging and exploring the depth of the profession's challenges. In some cases, where lobbying is more closely associated with corruption, these challenges have served as a clear and compelling impetus to take action—encouraging and promoting regulated lobbying as a potential mechanism in the fight against corruption.

By the year 2000, certain countries such as the USA, Canada, and Germany had already introduced regulations on lobbying. However, since 2001, an increasing number of countries have adopted legal frameworks for regulating lobbying, including Lithuania, Poland, Hungary, Israel, France, Mexico, Slovenia, Austria, Australia, the Netherlands, Chile, the United Kingdom, and Ireland (OECD, 2016). Among the former Yugoslav republics, North Macedonia was among the first to do so, followed by Montenegro and Serbia. However, the essential question remains: why did these countries decide—or, more precisely, what motivated them—to legally regulate this field? This question has prompted recent research, particularly focused on exploring the underlying assumptions and motives behind the attempt to understand "why lobbying is regulated in these political systems." Relying on various studies complemented by relevant professional literature—particularly focusing on theoretical arguments related to political scandals (Thomas, 1998; Newmark, 2005; Ozymy, 2013) and policy diffusion and learning processes (Rosenson, 2005; Greenwood & Dreger, 2013; Crepaz & Chari, 2014)—we seek to analyze the thesis concerning the regulation of lobbying in a normative-legal format. Furthermore, we share the view of most scholars who argue that international organizations, such as the OECD and the EU, promote the dissemination of lobbying legislation among their members through the publication of recommendations and policy documents (Crepaz, 2017). However, in our view, this influence extends beyond member states to include countries that share their economic, political, and cultural values or support their institutional models. It is assumed that for some countries of the former Yugoslavia that are not yet EU members—but aspire to join, such as North Macedonia, Montenegro, and Serbia (except for Bosnia and Herzegovina, which has not yet regulated this area)—this aspiration served as an additional incentive to adopt laws on lobbying. It should be noted that in Bosnia and Herzegovina, the adoption of the Law on Lobbying was initiated and incorporated into the Anti-Corruption Strategy 2015–2019, as well as the accompanying Action Plan for its implementation. Within these documents, it is anticipated that this area will eventually be regulated by legislation (Agency for the Prevention of Corruption and Coordination of the Fight against Corruption, Bosnia and Herzegovina, 2014). Given that EU institutions support and recognize the legal legitimacy of lobbying, the Law on Lobbying—particularly in the context of anti-corruption efforts—essentially constitutes one of the obligations that precede any accession procedure for a country seeking membership in this organization.

Support for the view that international organizations promote policy diffusion among their member states can be found in the works of Dolowitz and Marsh (2000), and True and Mintrom (2001). Conversely, the eruption of political corruption scandals—typically associated with the adoption of lobbying laws and other ethics-related policies—does not necessarily lead to regulatory change, a view also supported by Crepaz (2017). Specifically, the author notes that while scandals often coincide with the introduction of legislative proposals to regulate lobbying, such proposals are not always enacted into law. The literature suggests that scandals frequently serve as catalysts for "symbolic politics" and rhetorical gestures, rather than substantive policy implementation (Lowery & Gray, 1997; Blühdorn, 2007). Nonetheless, in certain cases, scandals may still result in lobbying being formally regulated through legal frameworks. This is largely attributable to the topical nature of such incidents—when media attention amplifies a scandal's societal impact, it can prompt public debate and generate pressure that ultimately leads to legislative reform.

This paper aims to examine the sequence of events that followed the recognized need to regulate lobbying within a legal framework. These include various corruption scandals with lobbying implications at their core, as well as recommendations issued by international organizations that encouraged both their own members and others to introduce national legislation on lobbying. Such developments have contributed to the emergence of lobbying regulation and form the central subject of this analysis.

2. Introduction of the Law on Lobbying

Theorists and practitioners view lobbying as a form of political participation that goes beyond voting and abstention, aiming to influence actions, policies, or decisions. The foundation for this perspective lies in the assertion that the core value driving lobbying regulation is the need to "prevent undue influence on government action and promote a level playing field, as opposed to unfair or unequal opportunities that may influence government action" (Briffault, 2014, p.163). Public attitudes toward the term lobbying are often negative, with many perceiving it as a pejorative expression associated with "corruption" and "unethical practices" (McGrath, 2008; Bitonti & Harris, 2017). In many countries, this negative perception has contributed to growing demands for specific regulations governing lobbying practices and the activities of lobbyists (Keeling, Feeney & Hogan, 2017). Governments have responded by introducing lobbying laws aimed at reducing the potential for corruption and supporting a level playing field in the policy-making process for interest groups (Holman & Luneburg, 2012; Chari et al., 2019). Thus, from a theoretical standpoint, the justification for regulating lobbying lies in ensuring transparency and accountability within the political system and decision-making processes. Transparency allows the public to hold policymakers accountable for their decisions—or their absence (Etzioni, 2010). When policy-making becomes more transparent, the public not only gains insight into how decisions are made, but the entire process also benefits from more thoughtful deliberation and reflection. Accordingly, lobbying laws aim to regulate the actions of private actors seeking to influence public institutions (Chari et al., 2019). As Brinig et al. observe, lobbying legislation "takes more account of the general welfare and less of private interests" (Brinig et al., 1993, p. 377). In this sense, lobbying regulations can be viewed as an integral component of the broader movement toward open government policies that have been implemented globally in recent decades.

Globally, the number of countries regulating lobbying through dedicated legislation continues to grow. In Europe, the post-2000 period has seen what some describe as a "boom" in lobbying legislation—a trend already discussed in the earlier part of this paper and one that remains ongoing. However, the current landscape of lobbying regulation is best described as a "motley" patchwork. On the one hand, a deregulatory approach dominates, often accompanied by soft forms of regulation. On the other hand, there is limited proactive engagement in this area, often reflected in narrow definitions—not only of lobbying as a term but also of its broader structure. Countries such as Austria, France, Lithuania, Ireland, Poland, and Slovenia have embedded lobbying within a formal legal framework. In contrast, states like Belgium, Germany, Italy, and Romania have implemented more limited or “soft” regulatory approaches. Others, such as Croatia, Sweden, the Czech Republic, Denmark, and Latvia, have adopted ethical codes of conduct and established professional associations to self-regulate lobbying activities. Meanwhile, several EU member states—including Bulgaria, Estonia, Malta, Portugal, and Slovakia—still lack any lobbying regulation, though some are currently considering how to approach this issue (Bauer et al., 2019). Among the former Yugoslav republics, several countries have adopted dedicated lobbying laws since 2000. North Macedonia was the first, enacting its Law on Lobbying in 2008, followed by Montenegro in 2011, and Serbia, where the law entered into force in 2019.

3. Various Motives Related to the Regulation of Lobbying (from Corruption Scandals to Policy Diffusion)

3.1. The Effect of Corruption Scandals on Lobbying Regulation

The persistent perception of lobbying as a phenomenon with negative connotations continues to spread and remains a prominent topic in contemporary society. This is partly due to extreme cases in which lobbying activities meet the criteria of legally prohibited acts—such as bribery, paid protection, or influence peddling—and may contribute to the abuse of public authority. In public discourse, lobbying is often perceived as a morally unacceptable attempt by professional lobbyists to influence decision-making within public institutions. Simply put, this negative perception was shaped by numerous scandals—first in the United States, widely regarded as the “cradle” of lobbying, and later in Europe. However, in countries where lobbying is already regulated, such scandals have prompted precautionary measures—motivated by the desire to prevent similar developments. In such contexts, these affairs spurred the promotion and improvement of lobbying regulations. In other countries, they served as a wake-up call, bringing awareness to the need for legal regulation in this field. The widely known lobbying scandal that hit the United States in 2006 raised serious questions about the need to revise existing lobbying legislation. At the center of the scandal was attorney Jack Allan Abramoff, who quickly became one of the most influential lobbyists in Washington. Among the numerous lawsuits filed against him, one received particular attention—the primary charge accused him of collecting millions of dollars by artificially inflating lobbying campaigns. Specifically, Abramoff was found to have influenced members of Congress through the use of gifts and political donations (Abramoff, 2011). This scandal revealed numerous deficiencies in lobbying regulation and led to the adoption of the Honest Leadership and Open Government Act (HLOGA), which placed particular emphasis on regulating the "behavior of lobbyists" (GovInfo, 2007). The United States has had lobbying legislation in place for decades, with the first attempt to regulate the practice introduced through the Foreign Agents Registration Act (FARA) in 1938 (Department of Justice/NSD FARA Unit). The impetus for FARA arose from a scandal involving a senator from Connecticut who placed lobbyist Charles Eyanson, representing the Producers Association of Connecticut, on the institution's payroll—an action the Senate condemned as morally and ethically inappropriate (Barić & Acinger, 2018). At the federal level, a significant step forward in the regulation of lobbying was taken with the passage of the Federal Regulation of Lobbying Act in 1946 by Congress. This legislation was later amended with the adoption of the Lobbying Disclosure Act (LDA) in 1995 (Lobbying Disclosure House, 1995), and again in 2007. The 2007 amendment is widely regarded as a direct response to the lobbying scandal that preceded its enactment. Notably, the scandal laid bare the deficiencies in existing legal frameworks—particularly in relation to transparency and accountability—which are, in fact, the foundational principles of normative lobbying.

In the case of Poland, the political context appears to have played a crucial role in advancing lobbying regulation and its legal adoption. When the Polish Social Democratic government, led by Leszek Cezary Miller, prioritized this issue in 2003, it was closely tied to declining public support, a coalition crisis, and the discrediting of senior government officials during the Rywin affair. The scandal came to light in December 2002, when the Polish newspaper *Gazeta Wyborcza* published excerpts of a transcript in which film producer Lech Rywin proposed that the newspaper pay him $17.5 million in exchange for influencing a planned amendment to the media law—an amendment that would benefit the *Agora* publishing house. This affair accelerated progress on the political agenda to regulate lobbying. It also drew the attention of the Prime Minister, who authorized an expedited drafting of the law and its prompt submission to the Council of Ministers. The drafting process was facilitated by the institutionalization of anti-corruption policies, including the creation of specialized departments to combat corruption—reforms implemented under the influence of EU accession efforts (Vargovčíková, 2017).

In Serbia, lobbying activities were present even before being formally introduced into the legal framework. According to some sources, the first indication of lobbying in Serbia emerged during the so-called tobacco amendments to excise tax legislation in Parliament. At the time, a member of the ruling apparatus highlighted an unusual circumstance during the vote on this proposal—namely, the presence of a certain "reputable" businessman as a guest in parliamentary clubs (Miloradović, 2018). This event triggered a political scandal in 2009 surrounding the adoption of the Excise Law and underscored the blurred line between corruption and lobbying, exposing the absence of clear rules and principles for the lawful conduct of this profession. In 2014, a media story revealed that the British lobbying firm Bell Pottinger had worked for the Serbian government, although the government denied any affiliation with the company (Nenandić, 2017). Despite this scandal, the issue of lobbying regulation remained absent from the political agenda. It appears that the recommendation made by the Group of States against Corruption (GRECO) to adopt a Law on Lobbying received the most serious attention from public policy makers. Ultimately, the Law on Lobbying was adopted in 2018, with its implementation following the next year (Official Gazette of the RS, 2019).

3.2. The Effect of Policy Diffusion by International Organizations on the Regulation of Lobbying

Based on specific cases, it is evident that arguments concerning the occurrence of scandals can serve as justification for regulating lobbying in certain countries. However, such arguments do not always offer a compelling reason for policymakers to prioritize the issue or integrate it into their agendas. The perception of lobbying as a form of influence peddling—where self-interested actors exert disproportionate influence over policy outcomes—has been reinforced by scandals (Veksler, 2015). As a result, politicians frequently respond to media coverage of corruption scandals by adopting political strategies aimed at combating corruption. In these contexts, lobbying regulations offer lawmakers a set of tools to mitigate corruption risks, as illustrated by the case of Poland.

However, beyond the scandals that prompted lobbying regulation, international organizations have played a crucial role in promoting such regulations through policy diffusion, particularly among their member states. In this context, Dolowitz and Marsh observe that international organizations "are increasingly playing a role in the spread of ideas, programs and institutions around the globe. These organizations influence national policy-makers directly, through their policies and loan conditions, and indirectly, through the information and policies spread at their conferences and reports" (Dolowitz & Marsh, 2000, p. 11). Among the organizations most frequently advocating for the adoption of lobbying legislation are the Organization for Economic Co-operation and Development (OECD) and the European Union, with the assumption that membership in these institutions acts as a motivating factor for the implementation of such regulations (Crepaz, 2017).

The OECD has paid particular attention to the regulation of lobbying in the context of its broader political goal of combating corruption in the public sector. Since 2008, the organization has published annual reports on lobbying activities and their regulation in each member state, with a focus on legal frameworks designed "to meet expectations of transparency and accountability in the public decision-making process" (OECD, 2009, p. 1). In 2010, the OECD issued the *Recommendation of the Council on Principles for Transparency and Integrity* *in Lobbying* (OECD/LEGAL/0379), noting an increase in the adoption of lobbying regulations among its member states (OECD, 2010). Most OECD member countries are also members of the European Union, which has facilitated alignment in this policy area. Currently, the OECD comprises 38 member states, 22 of which are among the 27 EU member countries—namely Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Latvia, Luxembourg, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain, and Sweden. On January 25, 2022, the OECD Council decided to initiate accession talks with six additional countries, including three EU member states—Bulgaria, Croatia, and Romania—as well as Argentina, Brazil, and Peru.

In 2005, the European Commission (EC), as the executive body of the EU, and the Council (COE) jointly launched a set of political transparency measures within EU institutions under the name of the European Transparency Initiative (ETI). The primary aim of the ETI was to enhance transparency in the policy-making process by introducing a system to identify beneficiaries of EU funds and clarify the relationship between interest groups and the Commission through the regulation of lobbying. One of the key dimensions of the ETI was the proposed creation of a lobbyist register to increase transparency in EU decision-making processes. A major concern highlighted in the European Commission's initial Green Paper on the Transparency Initiative centered on "the lack of information about the lobbyists active at EU level, including the financial resources which they have at their disposal" (European Commission, 2006, p. 6). The launch of the ETI in 2006–2007 sparked a debate that raised numerous important questions, particularly regarding the scope and content of the proposed register—namely, who and what should be included. In response, the European Parliament and the Commission established a joint working group in 2008 to develop an inter-institutional agreement on lobbying regulation and to create a register. Initially known as the Register of Interest Representatives, it was renamed the Transparency Register in 2011, and it formally united both institutions. Following the introduction of the ETI, EU member states engaged in political integration were encouraged to implement the initiative's provisions at the national level. In this sense, the process exemplifies policy diffusion as a vertical mechanism transmitted from the supranational to the domestic level (Radaelli, 2000; Stone, 2004).

Another relevant contribution in this field comes from the Council of Europe. In 2017, the organization adopted Recommendation CM/Rec(2017)2 of the Committee of Ministers to member States on the legal regulation of lobbying activities in the context of public decision-making (Council of Europe, 2017). It appears that lobbying regulation is becoming an increasingly prominent topic in political discourse across the globe, with similar policy tools—such as transparency requirements through lobbyist registries and reporting obligations—being adopted in various countries, despite differences in their national contexts.

3.2.1. The case of Serbia

The programs initiated by international organizations promoting the regulation of lobbying through policy diffusion have motivated not only EU member states but also candidate countries to introduce legislative frameworks within their political systems. Notable among these are specific recommendations and binding regulations, such as the Resolution of the European Parliament from May 2008 on establishing a framework for the activities of interest representatives in EU institutions (Obradović, 2019), which served as an encouragement for Serbia in its capacity as a membership candidate. Serbia has strategically chosen to pursue European Union membership, a decision formalized with the launch of accession negotiations in Brussels in 2014. One of the perceived drivers behind the urgency to adopt a lobbying law appears to be Serbia's international obligations tied to the accession process. However, it is also likely that domestic policymakers recognized the importance of legitimizing lobbying through legal regulation as a means to establish its generally accepted role within a democratic society. Such recognition may contribute to fostering a broader understanding of lobbying and clarifying its place within Serbia's political system.

The national strategy for combating corruption in the Republic of Serbia was initially introduced in 2005. Together with the accompanying Action Plan, which recommended the adoption of a law on lobbying and the establishment of transparency in this area, it was expected to be implemented by 2010. However, this measure was not adopted, necessitating the development of a new strategy, completed in 2013. The revised strategy retained the same measure, outlined in paragraph 3.1.3.2 of the "Political Activities" chapter: "Adopt a law regulating lobbying and public access to all information about lobbying in public authorities" (Official Gazette of the RS, 57/13; Official Gazette of the RS, 79/2013 and 61/2016). This provision brought lobbying regulation back into political focus in 2018. Following the opportunity to begin EU accession negotiations—specifically under Chapter 23, which addresses the fight against corruption—key elements of the National Action Plan were transferred to the new Action Plan for Chapter 23, as instructed by the European Commission. Within this new framework, the adoption of a Law on Lobbying was explicitly recommended and remained a consistent objective until its eventual passage (Ministry of Justice of the Republic of Serbia, Action Plan for Chapter 23 – Draft).

There were significant delays in the passage and adoption of the law. Although initial discussions were held in 2014, and a Working Group was formed at the initiative of the Ministry of Foreign and Internal Trade and Telecommunications on March 28, 2013—including representatives from the General Secretariat of the Government, the Faculty of Law in Belgrade, the Association of Serbian Lobbyists, the Ministry of Justice and State Administration, and the Agency for the Fight against Corruption—the law was not harmonized within the established deadline (Nenadić, 2018, p. 8). No meaningful progress was made in drafting the Law on Lobbying during 2016 and 2017. However, the "unexpected" negative publicity following GRECO's announcement in 2018, which criticized Serbia's failure to fulfill its obligations and consequently initiated proceedings (Council of Europe, 2018; Ministry of Justice of the Republic of Serbia, 2018), triggered a renewed review of the legislation. In response to the unfavorable situation, the Government established a special body in May 2018 tasked with coordinating the implementation of GRECO recommendations (Transparency Serbia). This ultimately led to the adoption of the Law on Lobbying. The adverse publicity surrounding the issue served as a key catalyst for the law's introduction. That said, this outcome does not detract from the significance of the development—indeed, it must be acknowledged that "stronger and more effective control mechanisms" played an essential role in moving the process forward.

It appears that the initially perceived effect of policy diffusion has, to some extent, evolved into a deliberate strategy for advancing lobbying regulations, particularly since the European Union began actively promoting the adoption of lobbying laws among candidate states seeking membership.

4. Instead of a conclusion

Although many countries have adopted laws to regulate lobbying activities, there remains a widespread belief that professional associations or oversight agencies engaged in lobbying will uphold high moral standards and enforce ethical codes of conduct among lobbyists. Such self-regulation may also contribute to improving otherwise fragmented legal frameworks. Nonetheless, regulations enacted by neighboring jurisdictions or international institutions can serve as persuasive models, prompting governments to introduce their own lobbying laws (Crepaz, 2017). In addition, political scandals involving lobbyists often act as catalysts, bringing the issue of lobbying regulation onto domestic political agendas.

Finally, it must be acknowledged that not all countries support the legal regulation of lobbying activities. This divergence opens up space for a broader interpretation of the thesis concerning the normative legal regulation of lobbying and its scope. In certain contexts, the existence of generally accepted ethical standards—such as voluntary lobbyist registration or codes of conduct—may be considered sufficiently effective in ensuring the legitimate functioning of lobbying practices. This divergence also raises a "sustainable" response to a seemingly "contradictory" question: Why regulate lobbying? If lobbying is viewed—as some members of the public believe—as "an integral part of a healthy democracy closely related to universal values such as freedom of speech and the right to petition government" (Mulcahy, 2015, p. 6), then can such regulation be regarded as "undesirable," or even unfairly restrictive? Despite these concerns, there are several compelling reasons for regulating lobbying. The most prominent among them is its potential to foster corruption. This concern is highlighted by Transparency International, whose recent report emphasizes that, in European countries where lobbying regulations are weak, conflicts of interest are prevalent, "certain groups can enjoy privileged access to decision-makers," and "influence remains hidden and informal" (Mulcahy, 2015, p. 6).

All of this gives rise to suspicions of corruption. Transparency advocates argue that, when left unregulated, relationships between lobbyists and policymakers may develop in ways that lead to improper or potentially corrupt behavior. In this view, misconduct between lobbyists and government officials becomes almost inevitable unless preventive mechanisms are enacted. One such mechanism is the legal regulation of lobbying, which allows citizens to be informed about who is attempting to influence public decisions, what objectives lobbyists are pursuing, and how the government responds to those efforts (OECD, 2009, p. 127). This rationale underpins many legal frameworks requiring lobbyists to register and publicly disclose their activities (Nownes, 2017). Public opinion also supports the view that transparent lobbying regulations are essential for democratic accountability (McGrath, 2008). Still, not all perspectives converge on this point. Some scholars argue that lobbying regulations—particularly in highly institutionalized democracies where interest groups are formally integrated into policy-making processes—may "come into conflict with the fundamental right to democracy due to the influence on authorities" (Lumi, 2014, p. 305).

In Scandinavian countries, the idea of regulating lobbying through formal legal frameworks is often considered "unnatural" by both government officials and citizens, as corruption is not widely perceived as a pressing concern. According to all major indicators, these countries consistently report the lowest levels of corruption (Transparency International), and interest groups are regarded as valuable sources of information for policymakers (Lumi, 2014). In this context, formal regulations are often seen as unnecessary constraints on the free exchange of information within the policy-making process (Slingerland, 2010).

It is therefore unsurprising that many countries—particularly within Scandinavia—do not support comprehensive legal regulation of lobbying. Moreover, such countries often argue that formal legal approaches to lobbying could be counterproductive, especially in post-communist states where historical, cultural, and social conditions differ significantly. In the newer democracies of Central and Eastern Europe, the transition toward fully consolidated liberal democracy remains relatively "fragile" and "fresh." Consequently, values such as trust, community, and concern for the public good are often emphasized and interpreted differently than in Western or Northern European contexts.

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INSTRUMENTI ODVRAĆANjA U POSTHLADNORATOVSKOM PERIODU

Apstrakt: Oslanjanje država u odvraćanju[1] samo na konvencionalne i/ili nuklearne oružane snage jedne ili više država predstavlja već od pedesetih godina prošlog veka pogrešno razmišljanje u sprovođenju spoljne politike. Na Zapadu je još u periodu posle II svetskog rata zauzeta zvanična politika (Huverova) u spoljnopolitičkim odnosima da je nophodno „igrati prljavo", dok na Istoku čuvena izjava generala Gerasimova da tek završni čin sukoba predstavlja angažovanje oružanih

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Odvraćanje, prema Vojnom rečniku i sličnim terminima oružanih snaga SAD, ima sledeće značenje: „sprečavanje delovanja postojanjem verodostojne pretnje od neprihvatljivog protivljenja i/ili uverenje da su troškovi akcije veći od percipirane koristi". Dok je u istom rečniku odvraćanje *(deterrence)* izjednačeno sa terminom strateškog efekta kada se definišu zadaci, misije (odvraćanje, stabilizacija itd.), gde je „lista pojmova strateškog efekta: unaprediti, osigurati, prisiliti, takmičiti se, primorati, sadržati, obmanuti, poraziti, degradirati, odložiti, delegitimizirati, poreći, uništiti, odvratiti, diskreditovati, onemogućiti, obeshrabriti, poremetiti, preusmeriti, angažovati, poboljšati, integrisati, izolovati, ubiti, održavati, upravljati, neutralisati, sprečiti, zaštititi, stabilizovati, potisnuti, sinhronizovati" (DoD Dictionary of Military and Associated Terms, 2021, p. 2, 63). Odvraćanje koje postoji više od tri četvrtine veka (u ovom određenju), evoluiralo je zajedno sa promenama strateških uslova koji diktiraju način suprotstavljanja savremenim pretnjama.

snaga ukazuje da postoje neki sukobi koji traju u miru i da su oni bitniji, delotvorniji od oružanih. Postupanja državnih organa u odvraćanju sa ovakvim i sličnim usmerenjima najviših državnih rukovodilaca su obuhvatala prelazak sa „tvrde moći“ na „meku moć“ kao dominantnu u realizaciji spoljnopolitičkih sukoba. Kulminacija praktične primene nove „pametne moći“ je registrovana u posthladnoratovskom periodu primenom koncepta odvraćanja, gde su nove tehnologije diktirale modifikaciju odvraćanja i njegov novi tok prilagođavanja informaciono-tehnološkim vrtoglavim promenama u ***životu*** i radu ljudi, pa samim tim i država u kojima ***žive*** (borave).

KLJUČNE REČI: *odvraćanje, instrumenti, službe bezbednosti, sajber odvraćanje, koncept Izraela.*

1. Uvod

Istraživanje započinjemo njegovim predmetom što predstavlja ispitivanje uslova koji su doveli u posthladnoratovskom periodu do novog koncepta odvraćanja država danas, sa posebnim osvrtom na Izrael, a sa ciljem naučnog opisa odvraćanja kako kroz analizu istraživanja sprovedenih od strane dela teoretičara koji se bave ovom problematikom na Zapadu, tako i kroz prvi javno obelodanjeni i prevedeni najbitniji strateški dokument u Izraelu koji uređuje ovu oblast i određuje državi dostupne instrumente za ovu vrstu angažovanja.

Da odvraćanje nije samo svedeno na upotrebu oružane sile jedne države sagledavamo već u početnim konstatacijama Džozefa S. Naja (*Joseph S. Nye*) u prvom poglavlju rada gde se sa pozicije moći sagledava mogući koncept odvraćanja jedne države. Pomeranjem „centra gravitacije“ odvraćanja od isključive veze i oslanjanja na oružane snage, odnosno vojne moći jedne ili više država, tzv. *tvrde* moći sve brže prema *mekoj*, pa *pametnoj* moći konstatujemo da savremene pretnje, čiji je prostor delovanja pomeren u informaciono-telekomunikacionu sferu, sajber prostor, svemir, ne predstavljaju budućnost, već sadašnjost u odvraćanju država. Prinuda, odnosno instrumenti koje koriste države u odvraćanju su se iz „tenkova, aviona, oklopljenih oruđa i drugih borbenih sredstava" težišno prvenstveno preselile u sukob dronovima (bespilotnim letelicama), putem računara, medija, u virtuelni svet, gde informacione operacije čine jedan od bitnijih instrumenata prinude. Obmane, dezinformacije, laži postale su instrumenti koji se svakodnevno koriste u realizaciji ciljeva velikih sila. Sajber odvraćanje je nešto što mora biti jedan od instrumenata odvraćanja, ali tromost glomaznih bezbednosno-obaveštajnih sistema država dovodi do toga da je pitanje koliko brzo mogu ove promene (odnosno nove pretnje) koje se odvijaju (koje nastaju) neverovatnim brzinama da budu implementirane u organizaciju. Strukture koje treba da se suprotstavljaju ovim nevidljivim (tajnim) pretnjama su prvenstveno *službe bezbednosti*[2] države, odnosno trebalo bi to da budu. Kada govorimo o odvraćanju i angažovanju državnog sektora, tada se misli na nosioce određenih angažovanja, dok je nedržavni sektor izuzetno prisutan u ovoj sferi sa obavezama koje bi trebalo da budu predviđene najvišim strateškim dokumentima države. Kada govorimo o tajnim pretnjama, tada prvenstveno mislimo na preduzimanje visokog stepena tajnosti tokom priprema, zatim tokom same realizacije određene akcije – operacije, gde se tajnost odnosi i na prikrivanje stvarnog nosioca, odnosno vrlo često i na sprovođenje obmane kako bi stvarni učinioci ostali nepoznati. Službe bezbednosti predstavljaju „produženu ruku" politike i, pored pružanja informacija (preduzimanjem obaveštajnih, kontraobaveštajnih, bezbednosnih aktivnosti) političkom rukovodstvu u vezi sa nacionalnom bezbednosti države, predstavljaju kako defanzivni, tako i ofanzivni instrument (pored navedenih aktivnosti, preduzimanjem neobaveštajnih aktivnosti službi bezbednosti, kao i angažovanjem velikog broja drugih entiteta, institucija, firmi, kompanija i sl.) pre svega velikih sila u primeni prinu-

[2] *Službe bezbednosti*, kao pojam u ovom istraživanju, odnosiće se na sve državne službe koje se bave kontraobaveštajnim, obaveštajnim, neobaveštajnim i bezbednosnim aktivnostima koje predstavljaju najčešće preduzimanje tajnih delatnosti. Službe bezbednosti predstavljaju deo jedinstvenog bezbednosno-obaveštajnog sistema jedne države. U Republici Srbiji je Zakonom o osnovama uređenja službi bezbednosti Republike Srbije određeno šta sve spada u službe bezbednosti, dok u drugim državama iste ili slične organizacije i službe nose nazive elementi, kancelarije, uprave, agencije, državne službi i sl. Radi izbegavanja različitih terminoloških određenja, za sve ove celine koristimo jedinstven termin – službe bezbednosti.

de u odvraćanju. Sagledavanjem pretnji na dnevnom nivou (radi brzine njihovih promena) jedino je moguće primeniti kvalitetno odvraćanje i preventivno delovati na određenu pretnju.

2. Instrumenti odvraćanja u posthladnoratovskom periodu

Američki teoretičar, tvorac pojma „meka" moć u spoljnoj politici, Džozef S. Naj, ukazuje na izmenjeno razumevanje prirode moći u savremenom svetu, razmatrajući sposobnost države da utiče na druge, da nameće svoju volju primenom demokratije (unutrašnje i spoljne politike) ili masovne kulture itd. a ne vojnom i ekonomskom silom (što bi predstavljalo „tvrdu" moć).

Iz tog razloga, u teoriju međunarodnih odnosa uvodi još jedan termin – „pametnu" moć koji kombinuje prinudu, ekonomski pritisak i ubeđivanje. Naj navodi da je informacija uvek značila moć, a da savremena informaciona tehnologija širi informacije šire i brže nego ikada ranije u istoriji. Zbog toga je značaj informacije kao elementa moći porastao. Naj ističe da se priroda moći promenila u poslednjih pedeset godina, posebno nakon poslednje informacione revolucije koja je učinila računare i internet neophodnim u svim oblastima života. Naj ističe da će nuklearno odvraćanje, oružane snage u zemlji i stacioniranje trupa u inostranstvu biti važni čak i u informacionom dobu, ali neće biti dovoljni da obezbede nacionalnu bezbednost (Putnik, 2012). Ovde napominjemo da je Naj još 1990. godine nagovestio transformaciju strategije odvraćanja koja bi se danas mogla uporediti sa strategijom sajber odvraćanja i najavom potrage za drugim instrumentima odvraćanja.

U svom istraživanju, Sten Rining (*Sten Rynning*) navodi obnovljenu stratešku konkurenciju između Ruske Federacije (RF) i NATO-a, što je dovelo do razvoja strategija odvraćanja u svetlu raznolikosti strateških perspektiva između država NATO-a. NATO percipira i reaguje na ratovanje nove generacije od strane Ruske Federacije, što u suštini predstavlja strategiju prinude, često usmerenu na informacioni prostor protivnika. Sukobi nove generacije koriste niz alata za ubeđivanje i odvraćanje neželjene politike, a što je najvažnije, u ovoj vrsti sukoba se ne pravi razlika između rata i mira. NATO je primetio nekoliko novih načina razmišljanja koje je Ruska Federacija primenila o brojnim političkim aspektima, naime o otpornosti društva, poboljšanju saradnje bezbednosnih službi, sajber bezbednosti i potrebi za brzim donošenjem odluka. Zajedničko odeljenje za obaveštajne i bezbednosne aktivnosti osnovano je u NATO-u 2014. godine i predstavlja jedan od instrumenata za rano otkrivanje namera Ruske Federacije. Međutim, nedostatak je što političko-vojni štab NATO-a ne okuplja bezbednosne službe država članica, već samo koordinira, a ono što države članice nude integriše se u kolektivni pregled politike i delovanja Ruske Federacije. Što se tiče hibridnih pretnji, ova koordinacija je posebno sporna, jer seje seme konfuzije u savezničkim informacionim prostorima. NATO je poboljšao svoju sajber odbranu i koordinaciju bezbednosnih službi, a koordinacija sa Evropskom unijom u vezi sa hibridnim pretnjama je posebno poboljšana od 2016. godine kada je doneta zajednička deklaracija, što je dovelo do zajedničkog programa rada sa Centrom za odlučno suprotstavljanje hibridnim pretnjama koji se nalazi u Helsinkiju (*Centre of Excellence for Countering Hybrid Threats, located in Helsinki*). NATO uvodi kombinaciju odvraćanja poricanjem (sukob u sivoj zoni, društvena otpornost, reakcija i raspoređivanje raspoređenih snaga za suprotstavljanje ograničenom otimanju teritorije) i odvraćanja kažnjavanjem (pun lanac reakcija i snaga koje se mogu rasporediti, od konvencionalnih do nuklearnih) kao odgovor na aneksiju Krima od strane Ruske Federacije 2014. godine. NATO je u velikoj meri posvećen odvraćanju Ruske Federacije kažnjavanjem. U Hladnom ratu, strategija fleksibilnog odgovora NATO-a odražavala je politički kompromis (Rynning, 2021).

Nacionalna bezbednost može biti ugrožena ne samo od strane oružanih snaga, već i od strane vlada, grupa, pojedinaca i drugih nedržavnih aktera ili onih koji se predstavljaju kao nedržavni akteri.

Naime, u eri razvoja novih tehnologija, primat dimenzije sukoba više nije kopno, vazduh ili more. Umesto toga, pre nekoliko godina je to postala dimenzija sajber prostora. Velike sile (Sjedinjene Američke Države, Ruska Federacija i druge zemlje) odavno su formirale snage i centre koji se bave zaštitom, kao i sukobima u sajber prostoru. Generalni sekretar NATO-a, Jens Stoltenberg, dao je 2018. godine izjavu u kojoj je izneo svoje mišljenje o načinu tumačenja člana 5 Osnivačkog ugovora NATO-a o pitanjima sajber napada sa teritorije Ruske Federacije. Generalni sekretar NATO-a, alijanse za koju se zna da je predvode SAD, tumači napade u sajber prostoru kao napade na članice NATO-a.

U zavisnosti od prirode sajber napada, NATO namerava da koristi član 5 i da o tome obavesti sve zemlje, što podrazumeva da se ovaj član neće automatski primenjivati za svaki sajber napad. Međutim, generalni sekretar nije želeo da objavi konkretne uslove pod kojima će se ovaj član koristiti. Ono što je pratilo sve sajber napade u poslednjih nekoliko godina bile su optužbe uglavnom od strane najviših zvaničnika SAD, Francuske i Velike Britanije o počiniocima sajber napada za koje se pretpostavljalo da su iz Ruske Federacije, kao i demanti iz Ruske Federacije (već dugi niz godina u etru, potpuno kontradiktorne izjave i na Zapadu i na Istoku). Samo nekoliko godina kasnije, 2021. godine, pored pomenute četvrte dimenzije sukoba (sajber prostor), NATO je dodao i petu dimenziju sukoba (u svemiru), što bi moglo biti proširenje člana 5 za njegovu aktivaciju. U njemu se navodi da bi članice Alijanse bile spremne da odgovore i na napade u svemiru i iz svemira (Stoltenberg, 2018; 2021).

Soesanto i Smits (Stefan Soesanto & Max Smeets) posmatraju sajber odvraćanje u vojnom konceptu, i prema njima, ono ima najmanje tri različita značenja. Može se odnositi na odvraćanje od (vojnog) napada, zatim na upotrebu (vojnih) sredstava za odvraćanje (vojnih) sajber napada i upotrebu (vojnih) sajber sredstava za odvraćanje kao (vojni) sajber napad. Naučnici se trenutno ne slažu oko stepena u kojem je generalno moguće odvratiti neprijateljski sajber napad, što verovatno proizilazi iz zapažanja da sajber prostor sadrži mnoštvo aktera sa pristupom ofanzivnom sajber oružju. Neki veruju da je strateška vrednost štete koju uzrokuju sajber napadi generalno ograničena. Pretnje od sajber napada, stoga, nemaju dovoljno mogućnosti za efikasno odvraćanje. Zagovornici sajber odvraćanja generalno govore o sledeće četiri logike odvraćanja: *odvraćanje uskraćivanjem* (što je sinonim za sajber bezbednost), *odvraćanje kažnjavanjem* (troškovi će nadmašiti koristi), *odvraćanje isprepletavanjem* (međuzavisnost može obeshrabriti države da pokrenu sajber napade) i *odvraćanje delegitimizacijom* (smanjenje bojnog polja samo na vojne borce). Sajber prostor može biti prepoznat kao novi domen ratovanja, ali van vojske, korisnost sajber napada i sajber odbrane u podršci odvraćanju je još uvek neizvesna. Politički motivisanih sajber napada sa strateškim uticajem je malo, većina dokumenata je zaista visoko poverljiva, ali postoji mali pristup sajber operaterima, a postojeće vojne sajber organizacije su još uvek u razvoju. Stoga, Soesanto i Smits navode četiri buduća pravca istraživanja sajber odvraćanja: sajber odvraćanje u sveobuhvatnijim pozicijama odvraćanja u kontekstu konkurencije u više domena, veći fokus na tehničke aspekte na operativnom i taktičkom nivou, veći naglasak na kompetenciji i na kraju, obuzdavanje i ublažavanje neprijateljske agresije u sajber prostoru (Soesanto & Smeets, 2021). Ne postoji konsenzus među naučnim istraživačima u ovoj oblasti.

Od napada 11. septembra 2001. godine, studije o borbi protiv terorizma fokusirale su se na pitanje da li nedržavni akteri mogu da odvrate. Šamir (Eitan Shamir) pronalazi vezu između odvraćanja i nasilnih nedržavnih aktera u kontekstu sprečavanja terorističkih pretnji. Šamir navodi da je Izrael razvio koncept odvraćanja od nasilnih nedržavnih aktera. On uključuje aspekte odvraćanja usmerene na obuzdavanje sposobnosti protivnika. Pored obuzdavanja, Šamir navodi da je cilj obrazovanja pristup zasnovan na procesima koji predviđaju kontinuirani odnos između odvraćajućeg i odvraćenog. Stavovi da je terorističke grupe (posebno verski motivisane) teško odvratiti, sadržani su uglavnom u sledećim faktorima: zato što često nisu monolitne organizacije, sastoje se od skrivene mreže, autonomnih ćelija, ne postoji obavezujući vođa, šef, rukovodilac, osoba sa kojom bi predstavnik države komunicirao ili mogao da komunicira; takođe, kada govorimo o ideologijama, one isključuju normalne diplomatske pregovore i sl. Dakle, Šamir smatra da se odvraćanje nasilnih nedržavnih učesnika ne može postići u potpunosti i da je restriktivan pristup ovoj vrsti odvraćanja pre potreban.

Ovo implicira da se ne očekuje da efekat odvraćanja države proizilazi iz simboličkih napada na nasilne nedržavne učesnike, već iz ponovljenih protesta, odgovora, kad god se neka norma prekrši (prema Šamiru, tzv. pristup košenja trave). Restriktivno i kumulativno odvraćanje nasilja od strane nedržavnih aktera više je inspirisano kriminološkim shvatanjima pojma, nego hladnoratovskim konceptima apsolutnog odvraćanja (Shamir, 2021). Kao i u velikom broju životnih primera, za ovaj oblik odvraćanja možemo reći da se strateško iskustvo i kultura neće samo kopirati iz jednog entiteta u drugi (kako je naglasio Šamir), dok bismo ovome mogli dodati i kompletne ekonomske, vojne, političke i druge sile koje imaju važan uticaj na koncepte odvraćanja i važno je znati da se odvraćanje neće samo kopirati iz jedne države u drugu ili iz jedne kulture u drugu, već da se mogu koristiti neka pozitivna rešenja. Praktično, pretnja sankcijama neće dati iste rezultate prema ekonomski nezavisnoj državi i državama koje nisu nezavisne, i prema određenoj definiciji, nikada neće biti korišćena samo jedna vrsta aktivnosti u odvraćanju, već niz aktivnosti u koje su uključene ili njima upravljaju službe bezbednosti kako bi se ostvarili politički ciljevi jednog društva, u jednom trenutku države, u drugom možda isključivo samo takozvanih elita određenog društva. Neki teoretičari definišu hibridno ratovanje kao brak između konvencionalnog odvraćanja i pobunjeničke taktike. Pitanje uopšte je da li je to novi oblik ratovanja ili strategija koju države koriste da bi ostvarile prvenstveno političke ciljeve i u miru i u ratu, a najčešće primenom subverzivnih aktivnosti (neobaveštajnih aktivnosti). Hibridni rat eksploatiše nacionalističke identitete, čime se prikriva odgovornost izvršilaca i čak dobija politička podršku među stranim posmatračima.

Strategija Ruske Federacije ima za cilj da oslabi spremnost NATO-a da se nosi sa sopstvenim pretnjama odvraćanja (i obrnuto). Vojni stratezi su odavno svesni da bi, kako bi se postigla pobeda, strana u sukobu trebalo da se pobuni kako bi lakše savladala tog protivnika. Direktne vojne sukobe države izbegavaju, a oni bi koristili samo velikim silama. Shodno tome, suptilnije i indirektne tehnike rešavanja problema su prikladnije. Ove tehnike uključuju upotrebu propagande za mobilizaciju podrške pobunjenika i demoralizaciju neprijateljskih snaga, kao i napad na slabe tačke suprotstavljenih snaga. Krizne situacije u zemlji ili na planeti (kao što su epidemije, pandemije) dovode do pojave nove vrste pretnje koja, bez obzira na prioritetno angažovanje, npr. zdravstvenog aparata u zemlji, zahteva angažovanje službi bezbednosti, počev od registrovanja pretnji, nabavke sredstava, opreme, uređaja širom planete, sprečavanja dezinformacija, sprečavanja defetizma i panike, kao i drugih aktivnosti (Marjanović i Mićović, 2022).

Kao jedan od važnijih instrumenata odvraćanja navodimo „kopnenu moć“, koja u svetlu ekonomske nezavisnosti, kako energetske tako i poljoprivredne, i u pogledu drugih resursa neophodnih za funkcionisanje preduzeća, organizacija, stanovništva, vojske i države, predstavlja moć koja anulira sve instrumente odvraćanja vezane za prinudu u ekonomskoj sferi i sankcije u ovoj oblasti (Marjanović i Mićović, 2023). Dakle, ekonomske aktivnosti (sankcije) primenjene na Saveznu Republiku Jugoslaviju 1999. godine i one korišćene protiv Ruske Federacije u 21. veku, kao energetski nezavisne zemlje, ne mogu imati isti efekat na rukovodstvo zemlje i narod uopšte.

Postoje različiti instrumenti koji se mogu primeniti u hibridnom ratovanju. *Propaganda* – predstavlja uticaj na stavove članova ciljanog društva i služi da ometa sposobnost ciljane grupe da se osloni na podršku javnosti u sprovođenju svojih politika i mobilizaciji svojih resursa. Sledeća je *špijunaža* putem koje agenti tajno prikupljaju obaveštajne podatke kako bi sukobljenoj strani dali prednost u prinudnim pregovorima. Zatim, upotreba agenata u ciljanom, namernom *širenju lažnih informacija* među nesumnjivo članovima javnosti u vezi sa stvarnim namerama određenih organizacija ili stvaranjem nesporazuma i razdora (koji još uvek ne postoji) unutar ciljanog društva. Sledeći instrument je kriminalno ometanje, pri čemu agenti strana u sukobu učestvuju u napadima, sajber napadima, sabotažama ili otmicama i drugim vrstama subverzije. Stvaranje, obuka i korišćenje *pete kolone*[3] (pojedinci, grupe, koji obično deluju tajno i koji su ugrađeni u mnogo veću populaciju protiv koje deluju), u ulozi „neobeleženih vojnika" omogućavaju posedovanje kontrolnih punktova, zauzimanje vladinih zgrada i drugih objekata, osoba itd. od strateškog značaja (do određenog trenutka). Strana u sukobu može pokrenuti granične sukobe kako bi uznemirila drugu stranu i testirala njene slabosti, a zatim nastaviti sa iscrpljivanjem snaga i resursa i povlačenjem iz centra akcije upotrebom gerilaca. SSSR je primenio ove tehnike odmah nakon Drugog svetskog rata, sponzorišući komunističke pokrete u Evropi i na drugim lokacijama kako bi potkopao kapitalistički poredak. Moderna vojna doktrina Ruske Federacije naglašava potrebu da se odgovori i na spoljne i na unutrašnje pretnje, ne samo od drugih velikih sila, već i od subverzivnih organizacija koje

[3] Izraz *peta kolona* potiče još iz španskog građanskog rata kada je 1936. godine španski general Emilio Mola u radio-proglasu stanovnicima Madrida objavio da se prema glavnom gradu kreću četiri nacionalističke kolone, ali da u gradu postoji i *peta* koja će im udariti u leđa. Ovaj termin se zatim u II svetskom ratu koristio mnogo u opisu svih saradnika neprijatelja koji su tajno delovali u njihovu korist, pa i decenijama nakon ovog rata.

deluju u oblastima koje kontroliše Ruska Federacija. Vojni teoretičari su decenijama unazad bili svesni da su SAD stekle prednost u preciznim udarima i informaciono-komunikacionim tehnologijama i da države mogu postati predmet informacionog rata. Početne faze rata uključivale bi kampanje dezinformisanja. Informaciona superiornost je postala neophodna u savremenom ratovanju (Lanoszka, 2016). S obzirom na to da teorijska definicija hibridnog rata još uvek „luta“ i da ne postoji sveobuhvatna definicija ovog fenomena, razlog je taj što mnogi koriste ovaj termin u neskladu sa onim što žele da kažu, tj. da je hibridni rat u toku, a nije isključeno da postoji i tekući deo tajnih operacija ili neobaveštajnih aktivnosti službi bezbednosti. Kada se gore navedeno dešava, trebalo bi da to nazovemo pravim imenom, obaveštajnim, kontraobaveštajnim ili neobaveštajnim aktivnostima službi bezbednosti koje su manje-više prisutne od postojanja službi bezbednosti, osim tehnika prilagođenih napretku novih tehnologija. Kada koristimo konceptualnu definiciju rata, trebalo bi da pođemo od njegove teorijske definicije, kao i pravne, normativne, i da vidimo da li je ovaj koncept hibridnog rata adekvatno definisan (Lanoszka, 2016).

Profesor Ilija Kajtez je izneo[4] podatak da su još posle Drugog svetskog rata počele pripreme za špijuniranje širom planete od strane SAD i da su 1970. godine službe bezbednosti SAD CIA, NSA i Nemačke BND zaključile tajni sporazum o ilegalnom globalnom prisluškivanju velikog dela planete (tačnije 130 zemalja i UN). Operacija je nazvana *Rubicon* (kodni naziv za BND, prelazak na Rubikon znači, još od vremena Julija Cezara, preduzimanje nepovratnog koraka koji počinje u određenom kursu. Naziv je simboličan, iako je operacija prvobitno imala drugi kodni naziv – *Teazaurus*), dok je ista ova operacija u CIA delovala pod kodnim imenom *Minerva*. Većina ovih aktivnosti službi bezbednosti sprovedena je preko kompanije u Švajcarskoj *Kripto AG*, koju je navodno osnovao Hagelajn (*Boris Hagelajn*), koji se bavio šifrovanjem. Ova kompanija je u svom radu ostvarivala veliki profit, a novac je navodno usmeravan u crne fondove službi bezbednosti SAD i Nemačke, odnosno korišćen je za potrebe ekonomskih aktivnosti ovih službi, koje su najve-

[4] Ilija Kajtez, profesor, penzionisani pukovnik Ministarstva odbrane Republike Srbije, gostujući u TV emisiji u Beogradu 21. 08. 2022. godine izneo je navedene podatke.

rovatnije osnovale CIA i BND.

BND je navodno prodao svoju imovinu tek u septembru 1993. nakon hapšenja Hansa Bilera (*Hans Biler*) u Teheranu, gde je proveo devet meseci kada je BND izgubio podršku nemačke vlade za ovu operaciju, dok su SAD navodno nastavile ove ilegalne aktivnosti do 2018. Početkom 2020. Miler (*Peter Miler*) je snimio dokumentarni film o ovoj operaciji za drugi program televizije u Nemačkoj, gde se SFRJ takođe pominje kao zemlja koja je bila kupac uređaja za šifrovanje još 1957. i 1978. godine, kao i nemački i švajcarski javni servisi ZDF i SRF i američki Vašington post. Neke zemlje su otkrile da su to uređaji koje druga strana može da čita, uključujući Austriju i SFRJ. S obzirom na to da je reč o izuzetno velikoj operaciji, na planetarnom nivou, treba biti oprezan u sagledavanju ovih podataka, koje ponovo ustupaju isti akteri koji su sve vreme učestvovali u nizu, između ostalog, neobaveštajnih aktivnosti SAD, Nemačke i Švajcarske, te da se ne radi o pripremi nove ili obnovljene stare operacije.

Jakobsen (*Peter Viggo Jakobsen*) vidi odvraćanje u drugom obliku, onom koji uključuje i državne i nedržavne aktere, a reč je o *multinacionalnim operacijama*. Jakobsen ovu vrstu operacije vidi kroz sprovođenje napada na mirovne snage (one sastavljene od zapadnih zemalja) koje su bile raspoređene na teritoriji bivše SFRJ. Upotrebu mirovnih snaga u drugim zemljama Jakobsen opisuje kao delovanje u promenljivom kontekstu u kome su stroga razgraničenja između odvraćanja i prinude urušavaju. Jakobsen posmatra ova razgraničenja kroz sledeće faktore: pretnju prinudom koja može da demonstrira sposobnost da se protivnik brzo i uz minimalne troškove pobedi; rok za usklađenost treba da stvori osećaj hitnosti; uverenje da neće biti dodatnih zahteva nakon usklađenosti i konačno, uključivanje pozitivnih podsticaja za smanjenje troškova usklađenosti.

Sledeća stvar koju Jakobsen ističe jeste potreba da se istovremeno odvraćaju i prisiljavaju različiti učesnici na i van bojnog polja tokom multinacionalnih operacija. Jakobsen tako razlikuje četiri grupe učesnika odvraćanja (pozitivne i negativne) u mirovnim operacijama, i to: borce koji koriste silu na bojnom polju; saveznike koji pružaju materijalnu podršku borcima; pristalice boraca, koji blokiraju akcije u regionalnim ili globalnim institucijama; kao i druga lica, posmatrače na bojnom polju na globalnom nivou koji ne izvode borbene akcije. Jakobsen zaključuje da bi odvraćanje bilo uspešno, učesnici odvraćanja ne mogu se oslanjati samo na pretnje i upotrebu sile, to nije dovoljno. Prema njegovim rečima, potrebno je dopuniti njihovo dejstvo tako da se upotreba prinude dopuni ubeđivanjem i ohrabrivanjem, osmišljavanjem, sprovođenjem strategije uticaja koja bi se u potpunosti oslanjala na sve ove tri komponente (Jakobsen, 2021). U ovom istraživanju, Jakobsen je potvrdio da specifičnost određenih kultura, zemalja, fenomena, a posebno u ovom slučaju aktivnosti, ima svoje karakteristike, faktore koji čine konkretno odvraćanje jedinstvenim, tako da šablon primene u drugim slučajevima nije adekvatan način povezivanja sa odvraćanjem. Međutim, mogu se videti dobra rešenja i moguća se mogu implementirati. U sledećem poglavlju videćemo kako Izrael reguliše odvraćanje.

3. Specifičnosti odvraćanja u strategiji izraelskih odbrambenih snaga

Analiza strateškog dokumenta Izraela, strategije Izraelskih odbrambenih snaga (IDF), ukazuje da strateški odnos između dve države, odnosno države i velike sile, Izraela i SAD, igra važnu dvostruku ulogu u izraelskom odvraćanju, što se ogleda u sledećem. Veoma bliska saradnja sa SAD povećava domet Izraela za političke i operativne manevre kao odgovor na agresiju protiv Izraela, i poboljšava operativne sposobnosti Izraela da nanese štetu svojim neprijateljima kroz veće jačanje snaga, kao i kroz pretnju američkom intervencijom u njegovo ime. Prilagođavanje koncepta odvraćanja iz 21. veka u politici SAD, promena prirode američke posvećenosti kao dela proširenog modela odvraćanja, izraelsko odvraćanje u 21. veku i proširenje koncepta odvraćanja kako bi se u strategije uključili nevojni alati i jačanje veze između odbrane i odvraćanja su glavne karakteristike ove strategije (Golov, 2016).

U avgustu 2015. godine objavljena je prva obelodanjena strategija Izraelskih odbrambenih snaga, prevedena na engleski jezik u avgustu 2016. godine (*Israel Defense Forces Strategy*, 2016). Koliko ozbiljno jedna od najugroženijih zemalja na planeti shvata mesto i ulogu bezbednosnih službi za opstanak nacije i poštovanje njenih pripadnika, zarad odvraćanja, najbolje možemo videti posmatrajući citat koji je izdvojen u strategiji Izraelskih odbrambenih snaga. To je misao Jadlina (Amos Yadlin), bivšeg šefa Vojnoobaveštajne službe Izraela, koja glasi: „Hamas i Hezbolah nismo uništili, ali smo uspeli da uspostavimo odvraćanje. To je u osnovi zato što smo ih snažno udarili i zato što su teroristi, na neki način, postali kao nepotpuni državni entiteti, ali su kao poludržavni entiteti. Teroristi su otkrili da kada su odgovorni za svoju ekonomiju, za obrazovanje, za živote svog naroda, odjednom se ne usuđuju da koriste teror ceo dan i to mnogo govori o efektima odvraćanja u državi" (Grejem, 2016, str. 24). Odvraćanje se stvara u percepciji, ali se zasniva i na fizičkim i konkretnim elementima. Izraelsko odvraćanje oslanja se na superiornost izraelskih odbrambenih sistema, ali sa naglaskom da je ograničenije nego u prošlosti, jer se pretnja promenila. Odvraćanje mora biti specifično i prilagođeno svakom neprijatelju. Odvraćanje protiv bilo kog neprijatelja mora biti generalizovano i kumulativno za sve vreme (kako bi se održala postojeća situacija), biti u kontekstu određene krize – specifično i precizirano tako da je neprijatelj primoran da deluje ili izbegne određenu akciju kako bi zaustavio rat ili sprečio pogoršanje situacije ili situacija. Prema ovoj strategiji, sledeće komponente su komponente odvraćanja: verodostojna pretnja teškim ofanzivnim operacijama koja se zasniva na izgradnji sile, javna percepcija akcija koje pokazuju našu spremnost da preuzmemo rizike i ograničene ofanzivne akcije. Neophodno je da oružane snage održe imidž odvraćanja i sposobnosti, kao nepredvidivog neprijatelja sposobnog da reaguje na veoma ozbiljan način. Izrael periodično izvodi vazdušne napade u Siriji i Libanu kako bi nametnuo „crvene linije" protiv terorističke organizacije, kao što je vazdušni napad u decembru 2015. na Samira Kuntara, iz vrha operative Hezbolaha (Graham, 2016, p. 25).

Akcije odvraćanja neprijatelja biće sprovedene u okviru *Kampanje između ratova* (Campaign between wars – CBW). Obrazloženje za upotrebu sile u CBW jeste slabljenje komponente negativne sile, minimiziranje neprijateljskih mogućnosti i jačanje sopstvenih snaga, stvaranje optimalnih uslova za pobedu u budućem ratu, stvaranje legitimiteta za sprovođenje izraelske akcije i poricanje legitimiteta neprijateljske akcije. Takve akcije, koje se sprovode između ratova, zahtevaju multidisciplinarni koncept, tj. korišćenje sledećih sfera: vojne, ekonomske, pravne, medijske i političke, a ideja operacija treba da bude sa jednim ciljem – strateškim. Takve ideje za upotrebu ofanzivne sile uključuju upotrebu, kombinaciju tajnih operacija (*Covert operations*) i prikrivenih operacija (*Clandestine operations*), na svim frontovima i dimenzijama van granica Izraela. Važno je naglasiti da se ova politika zasniva na podacima dobijenim angažovanjem službi bezbednosti i da je usmerena na nanošenje štete neprijateljskim akcijama ili namerama. Potrebno je napomenuti da ovaj dokument reguliše otvorenu akciju za stvaranje odvraćanja, što naglašava granice izraelske obuzdanosti. Vodeći principi za upotrebu sile u CBW tajnim i prikrivenim akcijama ili kampanjama su da su takve operacije inicirane, kontinuirane i kontrolisane, operacije u kojima snage deluju na tajan i prikriven način u kratkim vremenskim periodima, da ih karakteriše međuorganizaciona saradnja operativne prirode kao i sa bezbednosnim službama, međunarodna saradnja u cilju obavljanja obaveštajnog rada i osujećivanja neprijatelja i očuvanja legitimiteta delovanja izraelske odbrane i smanjenja legitimiteta neprijateljskog delovanja, kao i delovanje u javnoj percepciji, ekonomskoj i pravnoj oblasti kao deo napora da se smanje mogućnosti i legitimitet neprijatelja uz potrebu za pristupačnim i tačnim obaveštajnim podacima (Graham, 2016, p. 26).

Kako načelnik Generalštaba oružanih snaga Izraela Eizenkot (*Chief of General Staff Lt. Gen. Gadi Eisenkot*) iznosi svoje mišljenje o „drugačijoj situaciji“: „U prošlosti smo imali vojsku u jednoj od dve situacije, bila je spremna za rat ili je bila u ratu. Ali trenutno to nije stvarnost. Ne spremamo se za rat, niti smo u ratu. Nalazimo se u drugačijoj situaciji gde smatramo da se cela kampanja sa drugačijim percepcijama oslanja na bezbednosne službe i tajne i otvorene sposobnosti da spreče našeg protivnika da ojača, da pokušaju da oslabe neprijatelja na način koji mu neće doneti ubrzanje“ (Graham, 2016, p. 26). Posle iznošenja citata Amosa Jadlina (Amos Yadlin) ovo viđenje Eizenkota je takođe naglašeno u strategiji Izraelskih odbrambenih snaga, gde se još jednom potvrđuje da je ključ svih aktivnosti u periodu CBW, zapravo, aktivnost službi bezbednosti. Iz ovog segmenta strategije, svi analitičari na planeti trebalo bi da zaključe mnogo toga o zemlji koja možda ima najviše iskustva u pitanjima suprotstavljanja pretnjama nacionalnoj bezbednosti.

Izuzetno je važno naglasiti da je od teorijskog koncepta odvraćanja, Izrael možda najviše postigao svojim radom, gde odmah predlaže izgradnju snaga za CBW, gde je potrebno postupiti na sledeći način: uspostaviti koordinacioni centar za CBW operacije koji uključuje međuorganizacione i međuministarske elemente, zatim razviti kapacitete za tajne i prikrivene operacije za CBW (Graham, 2016, p. 44). S obzirom na to da operacije ovog tipa uvek uključuju veliki broj specijalista iz jedne zemlje, koji nisu zaposleni u jednoj organizaciji, centar koji je pomenut predstavlja prvi korak u formiranju snaga, dok je stvaranje kapaciteta za prikrivene i prikrivene akcije klasičan „zanatski deo" svake bezbednosno interesantne profesije neophodne za sprovođenje takvih operacija. Jedna od takvih profesija je segment poznavanja aktuelnih trendova u informaciono-telekomunikacionim sistemima - ITS. Sajber sfera je jedno od područja odbrane gde se sprovode takve operacije, ofanzivne aktivnosti i prikupljanje obaveštajnih podataka. Izgradnja snaga u ovoj sferi zasniva se na sledećim akcijama. Osnivanje sajber ogranka koji će biti direktno potčinjen sedištu načelnika Generalštaba Oružanih snaga Izraela za rad i izgradnju sajber kapaciteta. Taj ogranak ima obavezu da planira, organizuje i sprovodi sukobe u sajber prostoru. Međutim, kao posebna obaveza dat je razvoj tehnoloških kapaciteta za sajber odbranu svih operativnih sistema i odbrambenih kapaciteta sistema podrške (ljudstvo, logistika) (Graham, 2016, p. 44).

Radi poboljšanja uslova rada i izgradnje mogućih kapaciteta, neophodno je razviti jedinstveni zajednički jezik za komandovanje i kontrolu u svim štabovima Izraelskih odbrambenih snaga koji deluju ili funkcionišu u sferama između ratova, što će se sprovoditi kroz uspostavljene škole komandovanja i kontrole. Razviti sposobnost korišćenja kvalitetnih bezbednosnih službi, njenih usluga (aktivnosti koje preduzimaju) na svim nivoima operacija: nacionalnoj, strateškoj i operativnoj bezbednosnoj službi (njenoj aktivnosti). Izgradnja snaga u oblasti službi bezbednosti zasniva se na sledećim akcijama: razvoj i unapređenje sposobnosti integracije informacija, razvoj sposobnosti držanja susedne teritorije na osnovu obaveštajnih podataka neophodnih za kreiranje ciljeva sa visokom preciznošću u kratkom vremenskom periodu, praćenje neprijateljskih doktrina, iskorišćavanje bezbednosnih službi (njenih aktivnosti, podataka), njihovo analiziranje i stavljanje na raspolaganje na svim nivoima: od štaba, komande okruga, do taktičkog nivoa u bataljonima i komandama koje vrše silu, kao i potreba da se predstavi slika stanja neprijateljskih formacija i izmeri efikasnost ofanzivnih napora Izraelskih odbrambenih snaga protiv njih. Potrebno je održati očuvanje osnovne spremnosti, radi kvalitetnog odvraćanja, uz očuvanje mehanizama za ubrzanje neophodne nabavke. Izgradnja kapaciteta u ovom kontekstu biće zasnovana na sledećim aktivnostima: jačanje strateškog i taktičkog odvraćanja putem sajber ratovanja, dostupnost podataka od bezbednosnih službi kao rano upozorenje za pokretanje preventivnih aktivnosti kao i sposobnost preventivnog udara u skladu sa indikacijama ranog upozorenja kako bi se osujetio pokušaj napada na Izrael (Graham, 2016). Potrebno je još jednom naglasiti da su osnova delovanja u *CBW* delovanje i podaci dobijeni od službi bezbednost, gde se u strateškom dokumentu, prvom objavljenom javnom dokumentu u Izraelu, ističe značaj neobaveštajnih aktivnosti i bezbednosnih službi kao osnove stuba odvraćanja.

4. **Zaključak**

Teorija na Zapadu je kvalitativno pokrila većinu segmenata odvraćanja u svojim konceptualnim i instrumentalnim definicijama, ali postoji veoma malo ili minimalno mesto i uloga službi bezbednosti u odvraćanju, odnosno primeni neobaveštajnih aktivnosti u sprovođenju ciljeva spoljne politike, što je delimično razjašnjeno kroz ovo istraživanje.

Kada govorimo o kreiranju strategija na najvišem državnom nivou (što je, u poslednje vreme, možda postalo više promašaj), moramo biti svesni da informacija kao dokument, papir ili propis, ne znači ništa ako nije adekvatno propisana ili primenjena.

Ukoliko postoji propisivanje velikog broja dokumenata, na strateškom nivou, i oni se stavljaju u operativnu upotrebu, to dovodi do prekomernog broja važećih propisa, gde u složenim profesijama, jedna od njih je profesija lica koja se bave odvraćanjem (svako u svojoj oblasti rada), to dovodi do problema realne sposobnosti izvršioca da se pridržava svih propisa, da prepozna svoje obaveze i da ih primenjuje u odvraćanju. Postavlja se pitanje koordinacije i regulisanja ostalih podzakonskih akata u ovoj oblasti, jer ideja koju je postavio državni rukovodilac mora biti operacionalizovana počev od vrha države, pa sve do najnižih izvršilaca.

Izrael je urađen po uzoru na SAD i NATO (u proteklih nekoliko godina u SAD su sprovedene najveće organizacione promene vezane za rad i koordinaciju službi bezbednosti, uspostavljanjem centara za objedinjavanje bezbednosnih i kontraobaveštajnih komponenti službi bezbednosti; 2016. godine u NATO-u, Centar za suprotstavljanje neobaveštajnim aktivnostima i poboljšana koordinacija bezbednosnih službi), pa je otišao i korak dalje gde je strategija Izraelskih odbrambenih snaga – IDF, pored preciziranja instrumenata odvraćanja u primeni neobaveštajnih aktivnosti u odvraćanju, predvidela izgradnju snaga za neobaveštajne aktivnosti, tj. kampanje između ratova – CBW, koje uključuju obaveze date na najvišem državnom nivou – ministrima, organizaciona prilagođavanja i obuku lica za planiranje, učešće i sprovođenje tajnih i prikrivenih operacija za CBW. Isticanje sajber odvraćanja uz stvaranje strukture za suprotstavljanje sajber pretnjama, direktno potčinjene Izraelskim odbrambenim snagama, naglašava koji će instrument suprotstaviti ovoj vrsti pretnji i ističe mesto i ulogu službi bezbednosti u odvraćanju tokom CBW. Pošto je reč o izuzetno dobro urađenom dokumentu IDF-a koji sadrži citate načelnika Generalštaba Oružanih snaga Izraela i bivšeg šefa Izraelske vojnoobaveštajne službe, što uz gore navedene konkretne predloge za rešavanje problema formiranjem potrebnih državnih jedinica, snaga i određivanjem učesnika u odvraćanju, uz lično učešće, najstručnijih ljudi u ovoj oblasti čini ovaj dokument možda jedinstvenim na planeti, i kao takav može poslužiti kao model iz kojeg se mogu preuzeti delovi koji bi bili prilagodljivi u drugim zemljama.

Velika količina i brzina informacija koje se nalaze u svakodnevnoj upotrebi pogoduju lakoj primeni dezinformacija i obmana prema ciljnoj grupi, što stvara pogodno tlo za donošenje pogrešnih odluka državnih lidera u korišćenju instrumenata odvraćanja. Sada se suočavamo sa novom pretnjom, a to je izuzetno kratak vremenski period za proveru informacija. Ova pojava dovodi do ozbiljnih pretnji po nacionalnu bezbednost države, jer kada znamo da imamo određene važne informacije o registrovanoj pretnji po nacionalnu bezbednost, a ništa se ne preduzima povodom toga kako bi se preduzele preventivne mere, to je isto kao, ili čak i gore, da te informacije još uvek nemamo (uzmimo za primer 11. septembar u SAD i posledice koje je imao).

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DETERRENCE INSTRUMENTS IN THE POST COLD WAR PERIOD

ABSTRACT: Relying on conventional and/or nuclear armed forces of one or more states for deterrence[1] has represented a flawed approach to foreign policy implementation since the 1950s. In the West, even in the period following the Second World War, official policy—exemplified by Hoover's stance—held that it was necessary to "play dirty" in foreign relations. In the East, General Gerasimov's well-known statement that the

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Deterrence, according to the Dictionary of Military and Associated Terms of the U.S. Armed Forces, is defined as "the prevention of action by the existence of a credible threat of unacceptable opposition and/or the belief that the costs of the action are greater than the perceived benefits." In the same dictionary, deterrence is also equated with the term strategic effect in the context of defining tasks and missions (e.g., deterrence, stabilization), where the list of strategic effects includes: "advance, secure, compel, compete, contain, deceive, defeat, degrade, delay, delegitimize, deny, destroy, deter, discredit, disable, discourage, disrupt, redirect, engage, enhance, integrate, isolate, kill, maintain, manage, neutralize, prevent, protect, stabilize, suppress, synchronize" (DoD Dictionary of Military and Associated Terms, 2021, pp. 2, 63). Deterrence, as defined here and practiced for more than three quarters of a century, has evolved in tandem with shifting strategic conditions that shape responses to contemporary threats.

engagement of armed forces is merely the final act of a conflict suggests that certain conflicts unfold in peacetime and may be more significant and effective than military ones. The actions of state authorities in deterring such and similar directions of the highest state leaders included a shift from "hard power" to "soft power" as dominant in the realization of foreign policy conflicts. The culmination of this practical transition was marked in the post–Cold War period with the emergence of "smart power," where the concept of deterrence was reshaped under the influence of new technologies. These developments dictated a modification of deterrence and its adaptation to the rapid information-technological changes in the life and work of individuals, and consequently, the countries in which they live (or stay).

Keywords: *deterrence, instruments, security services, cyber deterrence, concept of Israel.*

1. Introduction

This research begins with an examination of the conditions that have led to the emergence of a new concept of deterrence for contemporary states in the post–Cold War period. Special attention is given to the case of Israel, with the aim of providing a scientific account of deterrence through two complementary lenses: an analysis of Western theoretical studies on the subject, and a close reading of Israel's most significant strategic document regulating deterrence—recently disclosed and translated—which outlines the instruments available to the state for such engagements.

From the opening statements of Joseph S. Nye in the first chapter of his work, where the concept of deterrence is approached through the lens of power, it becomes clear that deterrence is not reducible to the use of armed force alone. The shift in the "center of gravity" from exclusive reliance on military power—so-called *hard power*—toward *soft* and increasingly *smart power* reflects the transformation of contemporary threats. These threats now operate primarily within the spheres of information and telecommunications, cyberspace, and outer space, and they constitute not a future challenge but a present reality for states engaged in deterrence.

Coercive instruments traditionally associated with deterrence—tanks, planes, armored vehicles, and other combat assets—have largely migrated to new domains of conflict: drones (unmanned aerial vehicles), computers, media, and the virtual world. Within these domains, information operations have become among the most critical instruments of coercion. Deception, misinformation, and lies are now routinely employed by major powers in pursuit of strategic objectives. Cyber deterrence must be recognized as a necessary component of modern deterrence; however, the inertia of large, bureaucratic state security and intelligence systems raises questions about their capacity to adapt to the rapid pace of emerging threats. These threats, often invisible or covert, require swift integration into the organizational structures of entities tasked with countering them, particularly state security services[2].

When discussing deterrence and the engagement of the state sector, we refer to the designated actors responsible for specific operations. Yet the non-state sector is also deeply embedded in this sphere, and its obligations should be codified in the state's highest strategic documents. Secret threats typically involve a high degree of concealment during both the planning and execution phases of an operation. These actions often include deliberate efforts to obscure the identity of the true perpetrators, employing deception to ensure that the actual actors remain unknown.

Security services represent the "extended arm" of politics. In addition to providing information—through intelligence, counterintelligence, and

[2] In this research, the term *security services* refers to all state entities engaged in counterintelligence, intelligence, non-intelligence, and security-related activities—functions that most commonly involve covert operations. These services form part of a country's integrated security-intelligence system. In the Republic of Serbia, the scope and composition of the security services are defined by the Law on the Basics of the Organization of the Security Services of the Republic of Serbia. In other countries, comparable entities may be referred to as elements, offices, administrations, agencies, or state services. To avoid terminological inconsistencies across jurisdictions, this study adopts the unified term security services.

security activities—to the political leadership concerning national security, they function as both defensive and offensive instruments. Beyond these core activities, they also undertake non-intelligence operations and engage a wide range of other entities, institutions, firms, companies, and similar actors, particularly in the application of coercion within deterrence, most notably by great powers. By observing threats on a daily basis, due to the speed at which they evolve, it becomes clear that only through timely and high-quality deterrence is it possible to act preventively against specific threats.

2. Instruments of Deterrence in the Post-Cold War Period

The creator of the term *soft power* in foreign policy, Joseph S. Nye, an American theorist, highlights a changed understanding of the nature of power in the modern world. He considers the state's ability to influence others and impose its will through the promotion of democracy (both internal and external policy), mass culture, and similar means—not through military and economic force, which would constitute *hard power*. Nye emphasizes that *soft power* alone is insufficient to achieve strategic objectives. For this reason, he introduces another term into international relations theory: *smart power*, which combines coercion, economic pressure, and persuasion.

Nye states that information has always meant power, and that modern information technology disseminates information more widely and rapidly than at any previous point in history. As a result, the importance of information as a component of power has significantly increased. Nye notes that the nature of power has changed over the past fifty years, particularly following the most recent information revolution, which has rendered computers and the Internet indispensable across all spheres of life.

While Nye acknowledges that nuclear deterrence, domestic armed forces, and the stationing of troops abroad will remain relevant even in the information age, he asserts that these instruments alone will no longer suffice to ensure national security (Putnik, 2012). It is worth noting that as early as 1990, Nye hinted at the transformation of deterrence strategy, an evolution that today may be compared to cyber deterrence and the ongoing search for new instruments of deterrence.

In his research, Sten Rynning identifies the renewed strategic competition between the Russian Federation (RF) and NATO as a key factor in the development of deterrence strategies, shaped by the diversity of strategic perspectives among NATO member states. NATO perceives and responds to the Russian Federation's new generation warfare, which essentially represents a strategy of coercion, often directed at the adversary's information space. New generation conflicts employ a range of tools to persuade and deter unwanted political developments, and most importantly, they erase the traditional distinction between war and peace.

NATO has observed several new conceptual approaches adopted by the Russian Federation across various political domains, particularly in relation to societal resilience, enhanced cooperation among security services, cyber security, and the need for rapid decision-making. In 2014, NATO established the Joint Intelligence and Security Division, one of the instruments designed for early detection of Russian intentions. However, a key shortcoming remains – NATO's political-military headquarters do not integrate the security services of member states, but merely coordinate them, and the intelligence that member states provide is incorporated into a collective assessment of Russian policy and actions.

In the context of hybrid threats, this coordination proves particularly contentious, as it introduces ambiguity and potential confusion within the information spaces of allied states. NATO has improved its cyber defense capabilities and the coordination of security services, and since 2016, cooperation with the European Union in addressing hybrid threats has been notably strengthened. That year, a joint declaration was adopted, leading to a shared work program with the Centre of Excellence for Countering Hybrid Threats, located in Helsinki.

In response to the annexation of Crimea by the Russian Federation in 2014, NATO has introduced a combination of *deterrence by denial*—including grey zone conflict management, societal resilience, and deployment of forces to counter a limited land grab—and *deterrence by* *punishment*, involving a full spectrum of responsive capabilities, from conventional to nuclear. NATO remains largely committed to deterring the Russian Federation through punitive measures. During the Cold War, NATO's flexible response strategy reflected a political compromise (Rynning 2021).

National security can be threatened not only by armed forces, but also by governments, groups, individuals, and other non-state actors—or those posing as such. Namely, in the era of new technological development, the primary dimension of conflict is no longer land, air, or sea. A few years ago, it shifted decisively to cyberspace. The great powers—the United States of America (USA), the Russian Federation, and others—have long since established forces and centers dedicated to both protection and conflict in the cyber domain. In 2018, NATO Secretary General Jens Stoltenberg issued a statement regarding the interpretation of Article 5 of the NATO Founding Treaty in the context of cyber attacks originating from the territory of the Russian Federation. The Secretary General of the Alliance, which is led by the USA, affirmed that cyber attacks may be treated as attacks on NATO members. Depending on the nature of the attack, NATO may invoke Article 5, thereby alerting all member states. However, this provision will not be applied automatically to every cyber incident. Stoltenberg deliberately refrained from specifying the conditions under which Article 5 would be activated. In recent years, cyber attacks have been accompanied by public accusations, primarily from senior officials in the USA, France, and Great Britain, against presumed perpetrators from the Russian Federation. These accusations have been met with consistent denials from Russian officials, resulting in a persistent stream of contradictory statements from both Western and Eastern sources. Just a few years later, in 2021, NATO expanded its strategic framework by introducing a fifth dimension of conflict: space. This addition may also serve as grounds for activating Article 5. NATO declared that its members would be prepared to respond to attacks *in* space and *from* space, recognizing that such attacks could pose threats comparable to conventional military aggression (Stoltenberg, 2018; 2021). .

Soesanto and Smeets view cyber deterrence through a military lens and argue that the concept carries at least three distinct meanings. It may refer to the deterrence of a (military) attack, the use of (military) means to deter (military) cyber-attacks, or the use of (military) cyber means to deter by means of a (military) cyber-attack. Scholars currently disagree on the extent to which hostile cyber-attacks can be effectively deterred—perhaps due to the observation that cyberspace hosts a multitude of actors with access to offensive cyber capabilities. Some researchers believe that the strategic value of damage caused by cyber-attacks is generally limited, which in turn reduces the opportunities for effective deterrence. Proponents of cyber deterrence typically refer to four logics: *deterrence by denial* (synonymous with cyber security), *deterrence by punishment* (where costs outweigh benefits), *deterrence by entanglement* (where interdependence disincentivizes aggression), and *deterrence by delegitimization* (which seeks to restrict the battlefield to military actors only). Although cyberspace is increasingly recognized as a new domain of warfare, its utility for deterrence, particularly outside the military sphere, remains uncertain. Politically motivated cyber-attacks with strategic impact are relatively rare, most relevant documents are highly classified, and access to cyber operators is limited. Moreover, existing military cyber organizations are still in the process of development.

Thus, Soesanto and Smeets propose four future research directions for cyber deterrence: its integration into broader deterrence postures within multi-domain strategic competition; a deeper focus on technical aspects at operational and tactical levels; greater emphasis on competence; and the development of strategies to curb and blunt hostile aggression in cyberspace (Soesanto & Smeets, 2021). As of now, there is no consensus among scholars on the viability of cyber deterrence as a strategic concept.

Since the attacks of September 11, 2001, counterterrorism studies have increasingly focused on the question of whether non-state actors can deter. Eitan Shamir identifies a link between deterrence and violent non-state actors in the context of preventing terrorist threats. Shamir argues that Israel has developed a concept of deterrence specifically aimed at violent non-state actors, which includes efforts to contain adversary capabilities. In addition to restraint, Shamir emphasizes that deterrence must be understood as a process-based approach—one that presupposes a continuous relationship between the deterrent and the deterred.

The prevailing view that terrorist groups, especially those motivated by religious ideology, are difficult to deter stems from several factors: they are rarely monolithic organizations, often operate through hidden networks and autonomous cells, and lack a centralized leadership with whom state representatives could engage. Moreover, their ideological frameworks typically exclude the possibility of diplomatic negotiation. Consequently, Shamir contends that full deterrence of violent non-state actors is not feasible, and that a restrictive approach is more appropriate. This implies that deterrence should not rely on symbolic attacks, but rather on repeated responses to norm violations, a strategy Shamir refers to as the "grass-cutting" approach. Restrictive and cumulative deterrence of violence by non-state actors draws more from criminological understandings than from Cold War models of absolute deterrence (Shamir, 2021). As in many areas of life, strategic experience and culture cannot simply be transferred from one entity to another. Shamir underscores that deterrence is shaped by a state's unique economic, military, and political capacities, and that it cannot be copied wholesale from one state or culture to another—though certain positive practices may be adapted.

Practically, the threat of sanctions will not yield the same results for economically independent states as it might for dependent ones. According to one definition, deterrence is never achieved through a single act, but through a series of coordinated activities—often involving security services—that serve the political goals of a society's elite, whether state-led or otherwise. Some theorists define hybrid warfare as a fusion of conventional deterrence and insurgent tactics. The broader question is whether hybrid warfare constitutes a new form of conflict, or a strategy employed by states to pursue political objectives in both war and peace—most often through subversive, non-intelligence activities. Hybrid warfare exploits nationalist identities, obscures the responsibility of perpetrators, and may even garner political support among foreign observers.

The strategy of the Russian Federation (RF) aims to weaken NATO's readiness to pursue its own deterrence threats and vice versa. Military strategists have long recognized that, in order to achieve victory, one side in a conflict must provoke rebellion or instability, thereby gaining the ability to prevail more easily over its opponent. Direct military conflicts are generally avoided by states, as they tend to benefit only the great powers. Accordingly, more subtle and indirect techniques of problem-solving are considered more appropriate. These techniques include the use of propaganda to mobilize insurgent support, to demoralize enemy forces, and to target the weak points of opposing forces. Crisis situations, whether within a country or on a global scale, such as epidemics or pandemics, give rise to a new type of threat. Regardless of the priority engagement of, for example, the national health apparatus, such situations require the involvement of security services. This begins with the registration of threats, procurement of resources, equipment, and devices across the globe, and extends to the prevention of misinformation, defeatism, and panic, as well as other related activities (Marjanović & Mićović, 2022).

As one of the important instruments of deterrence, we cite *land power*, which—in the context of economic independence, both in terms of energy and agriculture, and with regard to other resources necessary for the functioning of companies, organizations, the population, the army, and the state—represents a form of power that nullifies all instruments of deterrence related to coercion in the economic sphere and sanctions in this area (Marjanović & Mićović, 2023). Thus, economic activities (sanctions) applied to the Federal Republic of Yugoslavia in 1999, and those used against the Russian Federation in the 21st century as an energy-independent country, cannot have the same effect on the leadership of the country and the population in general.

There are various instruments that can be applied in hybrid warfare: *propaganda*, which influences the attitudes of members of the target society and serves to hinder the ability of the target group to rely on public support in implementing its policies and mobilizing its resources; *espionage*, in which agents covertly gather intelligence in order to give the conflicting party an advantage in forced negotiations. Then, the use of agents in the targeted, intentional dissemination of *false information* among members of the public regarding the real intentions of certain organizations, or the creation of misunderstandings and discord (which do not yet exist) within the target society. The next instrument is criminal disruption, whereby agents of the parties to the conflict engage in attacks, cyberattacks, sabotage, kidnapping, and other forms of subversion. The creation, training, and use of the *fifth column*[3] (individuals or groups who usually operate covertly and are embedded in a much larger population against which they operate), in the role of "unmarked soldiers," makes it possible to man checkpoints, occupy government buildings and other facilities, and detain persons of strategic importance for a time. A side in a conflict might initiate border skirmishes to unsettle the other side and test its weaknesses, then proceed to deplete forces and resources and disengage from the center of action using guerrillas. The USSR applied these techniques immediately after the Second World War, sponsoring communist movements in Europe and other locations to undermine the capitalist order. The modern military doctrine of the Russian Federation emphasizes the need to respond to both external and internal threats, not only from other great powers, but also from subversive organizations operating in areas controlled by the Russian Federation.

Military theorists recognized decades ago that the United States had gained a strategic advantage in precision strikes and in information and communication technologies, and that states could become targets of information warfare. The initial stages of such warfare typically involve disinformation campaigns. Information superiority has become indispensable in modern conflict (Lanoszka, 2016). Given that the theoretical definition of hybrid war remains fluid and that no comprehensive definition of the phenomenon has been established, the term is often used inconsistently—frequently to suggest that a hybrid war is underway, even when the situation may in fact involve covert operations or non-intelligence activities conducted by security services. When such activities are occurring, they should be properly identified as intelligence, counterintelligence, or non-intelligence operations—forms that

[3] The term *fifth column* dates back to the Spanish Civil War, when in 1936 Spanish General Emilio Mola declared in a radio announcement to the residents of Madrid that four nationalist columns were moving towards the capital, but that there was a fifth column in the city that would strike from within. The term was later widely used during the Second World War to describe collaborators who secretly acted in favor of the enemy, and it remained in use for decades thereafter.

have existed since the inception of security services, albeit with techniques adapted to technological advancement. When invoking the conceptual definition of war, one should begin with its theoretical, legal, and normative foundations, and assess whether the concept of hybrid war is adequately defined (Lanoszka, 2016).

Professor Ilija Kajtez[4] presented information indicating that, even in the aftermath of the Second World War, preparations for global surveillance by the United States had already begun. In 1970, the security services of the United States—CIA and NSA—and Germany's BND allegedly concluded a secret agreement to conduct illegal global wiretapping of a substantial portion of the planet, including 130 countries and the United Nations. The operation was code-named *Rubicon* by the BND—symbolically referencing Julius Caesar's irrevocable crossing of the Rubicon—although its original name was *Theasaurus*. The CIA reportedly referred to the same operation under the code name *Minerva*. Most of these activities were conducted through the Swiss company Krypto AG, allegedly founded by Boris Hagelein, a specialist in encryption. The company generated substantial profits, which were reportedly funneled into the black budgets of the U.S. and German security services and used to finance their economic operations. Krypto AG was allegedly established by the CIA and the BND. The BND is said to have sold its stake only in September 1993, following the arrest of Hans Biller in Tehran, where he was held for nine months. This event led to the loss of German governmental support for the operation, while the United States allegedly continued these activities until 2018.

In early 2020, Peter Müller produced a documentary on this operation for a German television program, in which the Socialist Federal Republic of Yugoslavia (SFRY) was mentioned as a purchaser of encryption devices as early as 1957 and 1978. The documentary was broadcast by German and Swiss public services ZDF and SRF, as well as the American *Washington Post*. Some countries, including Austria and the SFRY, discovered that these devices were readable by the other side.

[4] Professor Ilija Kajtez, a retired colonel of the Ministry of Defense of the Republic of Serbia, presented the above data during a guest appearance on a television program in Belgrade on August 21, 2022.

Given the global scope of the operation, caution is warranted in interpreting the data—particularly as it continues to be disseminated by the same institutional actors who have consistently participated in a series of non-intelligence activities conducted by the United States, Germany, and Switzerland. It remains unclear whether this reflects the preparation of a new operation or the revival of an older one.

Peter Viggo Jakobsen sees deterrence in a broader form, one that includes both state and non-state actors and is situated within the context of multinational operations. He examines this type of operation through the implementation of attacks on peacekeeping forces—primarily those composed of Western countries—that were deployed in the territory of the former Socialist Federal Republic of Yugoslavia (SFRY). The use of peacekeeping forces in foreign countries, according to Jakobsen, takes place within a changing context in which the strict demarcations between deterrence and coercion are collapsing.

Jakobsen interprets these collapsing boundaries through several interrelated factors: a coercive threat that demonstrates the ability to defeat an opponent quickly and at minimal cost; a compliance deadline that creates a sense of urgency; an assurance that no further demands will follow compliance; and the inclusion of positive incentives to reduce the cost of compliance. He further stresses the need to deter and coerce simultaneously the various participants both on and off the battlefield during multinational operations.

Jakobsen thus distinguishes four groups of deterrence participants—both positive and negative—in peacekeeping operations: fighters who use force on the battlefield; allies who provide material support to the fighters; supporters of fighters who block action in regional or global institutions; and other persons, bystanders, present on the battlefield at the global level who do not engage in combat. He concludes that for deterrence to be effective, participants cannot rely solely on threats and the use of force, which are insufficient. According to Jakobsen, it is necessary to supplement these measures with persuasion and encouragement, designing and implementing an influence strategy that fully integrates all three components: coercion, persuasion, and incentivization (Jakobsen, 2021).

In this research, Jakobsen confirms that the specific features of certain cultures, countries, and phenomena, particularly the activities in question, introduces distinct characteristics and factors that make each instance of deterrence unique. As a result, applying a uniform template across different cases is not an adequate approach. Nevertheless, effective solutions can be identified and selectively implemented. In the next chapter, we will examine how Israel regulates deterrence.

3. Specifics of Deterrence in the Strategy of the Israeli Defense Forces

An analysis of Israel's strategic document—the strategy of the Israel Defense Forces (IDF)—indicates that the strategic relationship between two states, that is, a state and a great power (Israel and the United States), plays an important dual role in Israeli deterrence, reflected in the following. Very close cooperation with the United States increases Israel's scope for political and operational maneuvering in response to aggression against it and enhances Israel's operational capabilities to inflict damage on its enemies—both through greater force buildup and through the threat of U.S. intervention on its behalf.

Adapting the concept of deterrence from 21st-century U.S. policy, modifying the nature of the American commitment within the extended deterrence model, developing Israeli deterrence in the 21st century, expanding the concept of deterrence to include non-military tools in strategic planning, and strengthening the link between defense and deterrence are the main features that characterize this strategy (Golov, 2016).

In August 2015, the Israel Defense Forces published their first-ever publicly disclosed strategic document, which was translated into English in August 2016 (*Israel Defense Forces Strategy 2016*). The seriousness with which one of the most endangered countries in the world approaches the role of its security services—as essential to national survival and the dignity of its citizens—can best be appreciated through a quote highlighted in the strategy itself. It is a reflection by Amos Yadlin, former head of Israel's Military Intelligence Directorate, which reads: "Hamas and Hezbollah, we did not destroy, but we were able to establish deterrence. This is basically because we hit them hard, and because the terrorists, in a way, have become like incomplete state entities, but they are like semi-state entities. Terrorists have discovered that when they are responsible for their economy, for education, for the lives of their people, suddenly they don't dare to use terror all day long." (Graham 2016, p. 24). This statement speaks volumes about the practical effects of deterrence within a state framework.

Deterrence is created in perception, but it is also grounded in physical and concrete elements. Israeli deterrence relies on the superiority of its defense systems, with the important caveat that this superiority is more limited than in the past due to the evolving nature of threats. Deterrence must be specific and tailored to each adversary. At the same time, deterrence against any enemy must be generalized and cumulative over time to preserve the existing situation. It must also be crisis-specific and clearly defined, so that the adversary is compelled to act, or refrain from acting, in order to halt hostilities or prevent further deterioration of the situation.

According to this strategy, the components of deterrence include: a credible threat of heavy offensive operations based on force buildup; public perception of actions that signal a willingness to take risks; and limited offensive actions. It is essential that the armed forces maintain an image of deterrence and capability—one that portrays them as an unpredictable adversary capable of responding in a serious and decisive manner.

Israel periodically conducts airstrikes in Syria and Lebanon to enforce its 'red lines' against terrorist organizations—for example, the December 2015 airstrike targeting Samir Kuntar, a senior Hezbollah operative (Graham, 2016, p. 25). Such deterrent actions are carried out within the framework of the Campaign Between Wars (CBW). The rationale for employing force in the CBW context is multifaceted: to weaken the component of negative force, to minimize the enemy's capabilities and strengthen its own forces, to create optimal conditions for victory in the future war, to shape favorable conditions for future conflict, to legitimize Israeli operations, and to delegitimize enemy actions. Operations conducted between wars require a multidisciplinary approach, encompassing military, economic, legal, media, and political spheres. The operational concept must be unified around a single strategic objective. Offensive measures may include a combination of covert and clandestine operations across all fronts and dimensions, extending beyond Israel's borders. Crucially, this policy is informed by intelligence gathered through the security services and is designed to disrupt enemy activities or intentions. It is important to note that this document outlines an overt deterrence strategy—one that underscores the limits of Israel's restraint and signals its readiness to act decisively when necessary.

The guiding principles for the use of force in the Campaign Between Wars (CBW), particularly in covert and clandestine operations, emphasize that such actions must be initiated, sustained, and tightly controlled. These operations typically involve short-term deployments of forces acting in a covert or clandestine manner and are marked by inter-organizational cooperation—both operational and intelligence-based—with the security services. They also rely on international collaboration to conduct intelligence work, disrupt enemy activities, and preserve the legitimacy of Israeli defense actions while undermining the legitimacy of the adversary. In addition to the military dimension, CBW operations extend into the public perception, economic, and legal spheres, all of which contribute to diminishing the enemy's capabilities and legitimacy. These efforts depend on accessible and accurate intelligence (Graham, 2016, p. 26). As Chief of General Staff Lt. Gen. Gadi Eisenkot articulates this strategic shift: "In the past, we had an army in one of two situations—it was either preparing for war or at war. But that is no longer the reality. We are not preparing for war, and we are not at war. We are in a different situation, one in which the entire campaign, shaped by evolving perceptions, relies on the security services and on both covert and overt capabilities to prevent our adversary from gaining strength, and to weaken the enemy in a way that does not provoke escalation." (Graham, 2016, p. 26). This perspective, echoed by Amos Yadlin and embedded in the broader strategy of the Israel Defense Forces, underscores that the cornerstone of CBW doctrine is the activity of the security services. From this segment of Israel's strategic framework, analysts worldwide can draw significant insights from a country that arguably possesses unparalleled experience in countering threats to national security.

It is extremely important to emphasize that, within the theoretical concept of deterrence, Israel may have achieved the most through its strategic efforts. It immediately proposes the construction of CBW forces, where the process should unfold as follows: first, by establishing a coordination center for CBW operations, which includes inter-organizational and inter-ministerial elements; and second, by developing capabilities for covert and clandestine CBW operations (Graham, 2016, p. 44). Given that such operations typically involve a wide array of national experts who are not concentrated within a single institution, the proposed coordination center constitutes a foundational step in force development. The development of covert and clandestine capabilities thus reflects the 'artisan' dimension of security professions, those whose craft and discretion are essential to the successful execution of such operations.

One of the key professions involved in such operations is the domain of expertise in current trends in information and telecommunication systems (ITS). The cyber sphere represents one of the principal areas of defense in which offensive activities and intelligence gathering are conducted. The process of building forces in this domain is structured around several core actions. First, the establishment of a cyber branch directly subordinated to the office of the Chief of the General Staff of the Israeli Armed Forces, tasked with the development and operationalization of cyber capabilities. This branch is responsible for planning, organizing, and executing conflicts in cyberspace. In addition to these duties, it bears a specific obligation: the development of technological capabilities for the cyber defense of all operational systems, as well as the protection of support systems such as manpower and logistics (Graham, 2016, p. 44).

In order to improve working conditions and build potential capacities, it is necessary to develop a unified command-and-control language across all headquarters of the Israel Defense Forces operating in the interwar spheres. This standardization is to be implemented through the establishment of dedicated command-and-control schools. Furthermore, it is essential to enhance the ability to utilize high-quality security services and their activities across all levels of operation—national, strategic, and operational.

Force-building in the field of security services is grounded in several key actions: developing and refining the capacity to integrate intelligence; enhancing the ability to hold adjacent territory based on actionable intelligence that enables rapid, high-precision targeting; monitoring enemy doctrines; and exploiting the outputs of security services—both their activities and data—through analysis and dissemination across all levels of command, from headquarters and district commands to tactical units and battalions. These efforts must also include the presentation of a comprehensive picture of enemy formations and the assessment of the effectiveness of Israeli offensive operations against them.

Maintaining baseline readiness is essential for sustaining credible deterrence, alongside mechanisms that accelerate necessary procurement processes. Capacity-building in this context will rely on the following activities: reinforcing strategic and tactical deterrence through cyber warfare; ensuring the availability of security service data as an early-warning mechanism to trigger preventive measures; and enabling preemptive strikes based on early-warning indicators to thwart potential attacks on Israel (Graham, 2016).

It is important to reiterate that the foundation of CBW operations lies in the actions and intelligence provided by security services. In Israel's first publicly released strategic document, the significance of non-intelligence activities and the broader role of security services is explicitly recognized as a cornerstone of its deterrence posture.

4. Conclusion

Western theory has qualitatively addressed most segments of deterrence in its conceptual and instrumental definitions. However, the role of security services in deterrence, particularly the application of non-intelligence activities in the pursuit of foreign policy objectives, has received minimal attention. This research has sought to partially clarify that gap.

When discussing the creation of strategies at the highest levels of state governance, which in recent times may have become more of a trend than a necessity, we must recognize that a document, regulation, or strategic paper holds little value if it is not adequately prescribed or implemented. The proliferation of strategic documents, when operationalized, can result in an excessive number of valid regulations. In complex professions, such as those involving deterrence, each within its own domain, this can lead to difficulties for practitioners in identifying, complying with, and applying their obligations effectively. The issue of coordination and the regulation of subordinate legal instruments becomes critical, as the strategic vision articulated by state leadership must be operationalized from the top down, reaching even the lowest-level executors.

Israel has modeled its approach after the United States and NATO. In recent years, both have implemented significant organizational reforms in the coordination of security services: the U.S. established centers to unify security and counterintelligence components, and in 2016 NATO created a center for countering non-intelligence activities and improving inter-service coordination. Israel has gone a step further. The strategy of the Israel Defense Forces (IDF) not only specifies the instruments of deterrence involving non-intelligence activities but also envisions the construction of dedicated forces for such operations—namely, the Campaign Between Wars (CBW). These campaigns include obligations assigned at the highest levels of government, including ministerial responsibilities, organizational adjustments, and the training of personnel for planning, participating in, and executing covert and clandestine CBW operations.

The strategy's emphasis on cyber deterrence, and the creation of a structure for countering cyber threats directly subordinated to the IDF, clearly identifies the instruments to be used against such threats and underscores the role of security services in deterrence during CBW. As a strategic document, the IDF strategy stands out for its clarity and depth. It includes direct quotations from the Chief of the General Staff of the Israeli Armed Forces and the former head of Israeli Military Intelligence, and it offers concrete proposals for solving deterrence-related challenges—through the formation of state units, the development of operational forces, and the designation of participants with personal involvement from leading experts in the field. This makes the document arguably unique on a global scale, and as such, it may serve as a model from which adaptable elements can be drawn for use in other national contexts.

The vast volume and rapid circulation of information in daily use facilitates the spread of disinformation and deception targeting specific groups, creating fertile ground for poor decision-making by state leaders in the application of deterrence instruments. A new threat has emerged: the extremely short time available for verifying information. This phenomenon poses serious risks to national security. When credible intelligence about a threat is available and no preventive action is taken, the consequences may be as severe—or even worse—than if the information had not existed at all. The events of September 11 in the United States and their aftermath serve as a stark example.

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PRAVNA NORMA U PREDRATNOJ I POSLERATNOJ SRPSKOJ TEORIJI: RADOMIR LUKIĆ IZMEĐU FEDORA TARANOVSKOG I ĐORĐA TASIĆA

Apstrakt: Predmet ovog rada predstavlja analiza i utvrđivanje razlike između shvatanja instituta pravne norme kod Radomira Lukića u njegovom posleratnom udžbeniku „Uvod u pravo" iz 1974. godine, i dva predratna pravna naučnika Đorđa Tasića i Fedora Taranovskog u njihovim „Enciklopedijama prava". U samom istraživanju primenjena su dva metoda. To su deskriptivni metod kada se opisuje ono što je utvrđeno, kombinovan sa komparativnim metodom kada se vrši upoređivanje utvrđenog. Početna hipoteza rada, koja je istraživanjem potvrđena, je da se shvatanje pravne norme kod Lukića u „Uvodu u pravo" značajno razlikuje od shvatanja pravne norme kod druge dvojice analiziranih teoretičara prava.

Ključne reči: *Radomir Lukić, Fedor Taranovski, Đor*đe Tasić, pravna norma, sankcija.

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1. Uvod

U čemu se ogleda aktuelnost ovakvog istraživanja? Radomir Lukić[2], Đorđe Tasić[3] i Fedor Taranovski[4] predstavljaju velikane srpske pravne nauke u oblasti teorije prava, a stvarali su u različitim istorijskim periodima i društvenim okolnostima, pa zaslužuju da im se posveti posebna istraživačka pažnja. Enciklopedije prava predstavljaju osnovnu literaturu iz kojih su se obrazovale generacije pravnika između dva rata. Sam Lukić je bio učenik Tasića. Lukić u svojoj doktorskoj disertaciji „Obavezujuća snaga pravne norme i problem objektivnosti prava", koju je odbranio u Parizu na Univerzitetu Sorbona 1939. godine navodi da ga je „želeći da posmatramo normu istovremeno kao činjenicu i kao ideal, i da povežemo činjenicu i ideal" (Lukić, 1995: 267), „u tom smislu nadahnuo naročito primer našeg eminentnog profesora, g. Tasića, dekana Pravnog fakulteta u Beogradu, kome dugujemo opšti pravac našeg metoda" (Lukić, 1995: 267). „Uvod u pravo" Lukića uzet je kao polazna osnova u ovom radu zbog svog značaja za savremenu srpsku teoriju prava. Naime, „po svojoj strukturi, definicijama, izboru tema i metodima objašnjavanja, udžbenik je postavio standarde koji su još uvek široko prihvaćeni i razmatrani" (Božić, 2020: 46). Takođe, za potrebe rada izvršena je i analiza Lukićeve doktorske disertacije i upoređivanje sa njegovim kasnijim radom, budući da postoji odstupanje u njegovoj teoriji u početnom periodu stvaranja, od posleratnog delanja, kako će to biti pokazano na primerima u ovom radu.

Za predmet rada izabran je institut pravne norme. Većina teoretičara prava pravnu normu određuje kao najbitniji deo prava. Čak Lukić i sam pojam prava određuje kao „skup normi koje sankcioniše država"

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[2] Radomir D. Lukić – (Miloševac, 31. avgust 1914. godine – Beograd, 31. maj 1999. godine) – Profesor Pravnog fakulteta Univerziteta u Beogradu i akademik SANU.

[3] Đorđe Tasić – (Vranje, 7. novembar 1892. godine – Beograd, 25. avgust 1943. godine) – Profesor i dekan Pravnog fakulteta Univerziteta u Beogradu.

[4] Fedor Vasiljevič Taranovski – (Plonsk, 24. maj 1875. godine – Beograd, 23. januar 1936. godine) – Profesor prava u Varšavi, Petrogradu i Beogradu. Nakon Oktobarske revolucije napušta Rusiju, a 1920. godine dolazi u Beograd nakon čega postaje profesor Istorije slovenskih prava i Enciklopedije prava.

(Lukić, 1974: 198). Razlog zašto je za predmet istraživanja uzet institut pravne norme jeste taj što je nakon proučavanja različitih pravnih instituta u pomenutoj literaturi uočena velika razlika u poimanju same pravne norme i njene strukture. Dok Lukić u „Uvodu" pravnu normu definiše kroz četiri elementa, a Taranovski određuje dva elementa pravne norme, Tasić se uopšte ne upušta u strukturu pravne norme, niti se bavi pravnom normom kao pomenuta dvojica. Međutim, Tasić se ipak na određenim mestima u svojoj „Encikopediji prava" bavi temama koje možemo da kvalifikujemo kao institut pravne norme iako ih nije tako odredio, kako će to u radu biti pokazano. Zbog svega iznetog čini se i danas aktuelnim ovako određen predmet rada. U radu, za potrebe ovog istraživanja, drugi teoretičari prava, predratni ili posleratni, nisu bili predmet proučavanja. Pomenuti autori za predmet proučavanja uzeti su zbog svog značaja za srpsku pravnu teoriju i u ovom trenutku. Rad ima za cilj da pokaže u kojem stepenu se razlikuju ovi pravni delatnici na primeru instituta pravne norme, a na čijim učenjima se zasnivala srpska teorija prava u vreme njihovog stvaranja, dok se teorija profesora Lukića i danas primenjuje.

2. Teorijski okvir

Da bi se razumelo na koji način su pravnu normu posmatrala tri teoretičara prava koji su predmet ovog rada, potrebno je obrazložiti teorijske osnove na kojima su oni zasnivali svoje učenje. Lukić u svom posleratnom „Uvodu u pravo" kombinuje marksističku teoriju prava sa normativizmom Hansa Kelzena. Marksitička teorija prava, koja pripada sociološkim teorijama prava, pravo objašnjava kao klasnu tvorevinu. „Prema Marksu, Engelsu i tumačima njihove misli (posebno Lenjinu) društveni karakter prava može da se razume i objasni isključivo klasnom borbom i njenim klasnim sadržajem" (Vukadinović & Mitrović, 2020: 294). Normativizam Hansa Kelzena, koji pripada pozitivističkim pravnim teorijama, govori da pravne norme „raspoređene prema svojoj pravnoj snazi, one čine jedan unutar sebe saglasan pozitivni sistem normi" (Vukadinović & Mitrović, 2020: 286). Na vrhu ovakvog pravnog sistema nalazi se jedna osnovna norma čije se postojanje pretpostavljla (Grundnorm), sa kojom moraju biti saglasne sve druge niže pravne norme.

Marko Božić (2020) navodi da „Lukićev Uvod u pravo, kao i njegova teorija uopšte, kombinuje sociološki pristup sa normativizmom, kako bi objasnila pravno pravilo kao socijalnu činjenicu, bez odricanja njegove normativne dimenizije" (str. 46). Lukić u svojoj disertaciji koristi sintetički metod da objasni obavezujuću snagu pravne norme. Tim metodom, koji naziva „pozitivističkim u najvećem stepenu" (Lukić, 1995: 267), Lukić tvrdi da je pravna norma u isto vreme i činjenica i ideal. Tako Lukić u svojoj disertaciji kaže: „Naš metod, utvrđujući postojanje ideala koji se ne da svesti na zakone uzročnosti, ali koji ima stvarnog uticaja na činjenice koje se pokoravaju ovim zakonima, ostaje pozitivistički, jer se služi samo pojavama koje se daju ustanoviti, bilo spoljašnjim posmatranjem, bilo introspekcijom" (Lukić, 1995: 267–268). Na istom mestu Lukić navodi za Tasića da je „on pokušao da ostvari sintezu ova dva metoda u svom delu Uvod u pravne nauke, knjizi velikog bogatstva misli, prepunoj sugestija[...]" (Lukić, 1995: 267).

Tasić je u srpsku pravnu nauku uveo sociološki metod, po uzoru na francusku sociološku teoriju. „Protivnik strogog disciplinarnog uokviravanja prava i pravne nauke, Tasić je već prvih decenija ovog [XX; napomena autora] veka bio pobornik višedimenzionalnog istraživanja prava kao višeslojne pojave. Taj njegov „multimetodski pristup pravu" pruža osnov da se govori o „Tasićevoj jurisprudenciji" (Vukadinović & Mitrović, 2020: 388–389). Međutim, kako je to i Lukić istakao u govoru povodom godišnjice Tasićeve smrti, „činjenica da je Tasić pokrenuo nov sociološki pravac u pravnoj nauci nikako ne znači da je on zanemario dotadašnji, klasičan dogmatički pravac" (Lukić, 1977: 2).

Za „Enciklopediju prava" Taranovskog, Tasić kaže „da je ona u stvari filozofija prava" (Tasić, 1995: 445). Taranovski je za svoju „Enciklopediju prava", koju je izdao 1923. godine, iskoristio ranije izdanje koje je objavio u Rusiji, a koje je značajno dopunio i proširio. Taranovski se posebno bavio istorijom prava i istorijom pravnih instituta, pa tako i u svojoj „Enciklopediji" piše o razvoju prava još od rimskih vremena, pa do za to vreme, savremenih teorija. U „Enciklopediji prava" Taranovskog „je lako uočljivo da se on istorijom služio samo kao okvirom i podlogom za iznošenje vlastite teorije i filozofije prava" (Vukadinović & Mitrović, 2020: 388). Ukoliko bi trebalo Taranovskog smestiti u određeni teorijski okvir, proučavajući njegovu „Enciklopediju prava", moglo bi se reći da je, pored istorijskog metoda koji je obilato koristio, stvarao pod uticajem pozitivizma, kombinujući sociološki metod.

2. Pojam pravne norme

Za Lukića pravna norma predstavlja najbitniji deo ili element prava. Ona je za njega sama suština prava. „Pravna norma bi se mogla nazvati pravnim atomom. Ona je poslednji, najprostiji element prava, koji se više ne može razložiti na prostije pravne elemente“ (Lukić, 1974: 200). U „Uvodu“ za Lukića neodvojivi deo određenja pravne norme čini sila, odnosno državni aparat prinude. Tako on pravnu normu definiše kao „pravilo o ponašanju ljudi koje je zaštićeno državnim aparatom prinude“ (Lukić, 1974: 200). Ovakav Lukićev stav vidi se na više mesta u „Uvodu“. On za sankciju kaže da predstavlja „samu prinudnu meru koju državni organ sile primenjuje nad prekršiocem [...]“ (Lukić, 1974: 215) i da ona predstavlja „deo pravne norme koji joj daje specifično pravni karakter“ (Lukić, 1974: 215). O samoj sankciji, kao elementu pravne norme, kod Lukića, više reči će biti u sledećem delu.

Međutim, čini se da Lukić nije uvek smatrao da sankcija normi daje specifično pravni karakter. U disertaciji, Lukić (1995) navodi da „norma koja se primenjuje isključivo usled sankcije koja joj je dodeljena nema, po našem shvatanju, obavezujuću normativnu snagu; ne može se, uopšte, u tom slučaju govoriti o obavezujućoj snazi, već o običnoj snazi; isto kao što se ne može reći za bilo koju činjenicu da ima obavezujuću snagu zato što deluje nužno i u skladu sa prirodnim zakonima“ (str. 269) i još, „sankcija je tako važna činjenica da su je neki čak uzeli za suštinsku karakteristiku prava: pravo će biti samo ono što je sankcionisano. Već smo izneli svoje shvatanje: pravo ne može da počiva samo na sankciji, pravni sistem koji ne bi imao druge, čvršće osnove do sankcije ne bi mogao da funkcioniše“ (str. 385). Na ovom mestu navešćemo još jedan primer iz Lukićevog naučnog rada „Pravo značenje pravne norme“ (1960), gde on kaže, u pogledu pravog značenja pravne norme, da je to „ono značenje koje od svih mogućih značenja norme u datom slučaju najbolje štiti klasni interes“ (str. 270). Tako Dajović (1995) konstatuje da „ponegde može da se primeti da prof. Lukić ne ostaje dosledan, da menja poziciju spram određenog pitanja i sl. Međutim, čini se da mu se ovo ne može uzeti za zlo, jer prof. Lukić je toliko mnogo pisao i izneo je toliko mnogo ideja da bi bilo pravo ʼčudoʼ da su one potpuno koherentne i složene u neprotivrečnu celinu“ (str. 109).

Sa druge strane, Tasić u „Uvodu u pravne nauke“ ili „Enciklopediji prava“, za razliku od Lukića, uopšte ne poznaje takvu sistematiku izložene materije, pa se o pojmu pravne norme kao pravilu ponašanja na više mesta može ponešto naći. On u „Enciklopediji“ ne daje potpunu ili određenu definiciju pravne norme, već pravno pravilo ili normu određuje kao opšta pravila i individualna akta, dok za individualna akta govori da sa njima pravo postiže svoj cilj, a to je primena u životu.[5] U odnosu na Lukića, ovakvo određenje pravne norme bi se poklopilo sa pojmovima opštih i pojedinačnih pravnih akata. Da Tasić (1995) normu posmatra mnogo šire od Lukića kazuje i negativno određenje ovog pojma, gde on navodi: „Od pojma norme izuzimaju se samo akta materijalnog izvršenja (kao tradicija – predaja stvari, plaćanje duga, zidanje itd)“ (str. 207). Na drugom mestu u svojoj „Enciklopediji“ Tasić normu određuje kao zapovest. „Kada kažemo norma, pravilo, ili imperativ (zapovest) mi uvek mislimo na obaveznost“ (Tasić, 1995: 161). Međutim, ovaj autor na istom mestu kritikuje kao pogrešno shvatanje da se pravo odlikuje apsolutnom silom. Ovde je Lukićevo shvatanje pravne norme iz disertacije mnogo bliže Tasiću nego shvatanje koje je Lukić kasnije izložio u „Uvodu“.

Taranovski se u „Enciklopediji prava“ bavi unutrašnjim karakterom pravnih normi i njihovom funkcijom. Za razliku od Tasića, koji je stvarao otprilike u isto vreme kad i Taranovski, on daje definiciju pravne norme. Za njega „pravne norme predstavljaju pravila ponašanja pojedinaca u društvu“ (Taranovski, 2003: 154). Ali, za razliku od Lukića koji sankciju unosi u svoju definiciju pravne norme, kod Taranovskog to nije slučaj. Iz definicje Taranovskog se vidi da sankcija nije element pravne norme za njega. Ipak, kako će biti pokazano, Taranovski obrađuje sankciju u svojoj „Enciklopediji“, ali ne kao element pravne norme.

Za Taranovskog pravna norma ima dvostrani karakter. Ona je u isto vreme zapovest jednom licu da nešto izvrši i potraživanje, odnosno moć

[5] Vidi Đ. Tasić, (1995), „Pravno pravilo kao opšte pravilo i kao konretan akt“.

subjekta potraživanja da zahteva ispunjenje dužnosti. Tako on određuje da je „funkcija pravne norme, shodno tome, dvostruka: ona uvek sadrži zapovest i dozvolu. Zbog toga može i da se kaže kako je funkcija pravne norme uvek imperativno-atributivna“ (Taranovski, 2003: 157). Taranovski u ovom smislu shvatanja karaktera pravne norme osporava onim teoretičarima prava koji smatraju da postoje dve vrste pravnih normi – imperativne (koje nešto zapovedaju) i permisivne (koje nešto dozvoljavaju). Tako on tvrdi „da se u svim slučajevima stvarna sadržina pravne norme sastoji u zapovesti“ (Taranovski, 2003: 156). Kako će biti pokazano, kada Taranovski govori o imperativno-atributivnoj prirodi pravne norme, on tvrdi isto što i Lukić u „Uvodu u pravo“, a to je da, pošto pravne norme predstavljaju pravila ponašanja ljudi u društvu, svaka obaveza koja se pojavljuje na jednoj strani predstavlja u isto vreme i ovlašćenje za drugu stranu.

4. Elementi pravne norme (struktura pravne norme)

U pogledu strukture pravne norme postoji najviše razlike između tri analizirana teoretičara prava. Dok Lukić pravnu normu razlaže na četiri elementa, Taranovski na dva, Tasić se uopšte ne bavi ovim pitanjem na način kako su se to druga dvojica bavila. Iako treći odeljak Tasićeve „Enciklopedije prava“ nosi naziv „Bitni elementi u pravnom pravilu“, ne može se reći da je Tasić govorio o strukturi pravne norme. Tamo gde se može uočiti sličnost to je da je Tasić u okviru ovog odeljka pisao o sankciji pravnih propisa, o čemu će više reči biti u nastavku. Međutim, ni onda se ne može tvrditi da je on sankciju video kao element pravne norme.

Lukićeva pravna norma sastoji se iz četiri elementa: 1) pretpostavka ili hipoteza dispozicije, 2) dispozicija, 3) pretpostavka ili hipoteza sankcije i 4) sankcija. Međutim, nema svaka norma četiri elementa, već samo uslovne pravne norme. Bezuslovne pravne norme nemaju pretpostavku dispozicije i one imaju tri elementa. Bezuslovne pravne norme su za Lukića (1974) „norme koje se donose za situacije koje su već date“ (str. 201), a uslovne „norme koje se donose za situacije koje tek treba da nastupe“ (str. 201). Dispozicija i sankcija su pravila ponašanja koja stoje u alternativnom odnosu – ili se primenjuje jedno ili drugo. Ukoliko se postupi po dispoziciji neće se primeniti sankcija. Ukoliko se ne postupi po dispoziciji onda se za državni organ prinude stvara obaveza da primeni sankciju na lice koje je prekršilo dispoziciju. Ovako shvaćena sankcija predstavlja sekundarnu dispoziciju, „dispoziciju koja stupa na snagu i postaje obavezna tek kad se ispuni primarna dispozicija i koja je tako podešena da se uvek može ispuniti državnom prinudom“ (Lukić, 1974: 204).

Da bi se primenila dispozicija, moraju se ispuniti činjenice koje se opisuju u samoj normi. Ovaj opis činjenica vrši se u delu dispozicije koji se naziva pretpostavka dispozicije. Za Lukića pretpostavka dispozicije nije pravilo o ponašanju, već opis faktičke situacije. On je (1974) objašnjava na sledeći način: „Zato pretpostavka i nije norma, nije pravilo o ponašanju, već samo opis činjenica koje su uslov za primenu dispozicije, što znači da se dispozicija ima primeniti tek ako se dogode one činjenice koje su opisane u njenoj pretpostavci“ (str. 203).

Dispozicija je za Lukića (1974) centralni deo norme, „samo pravilo ponašanja ljudi“ (str. 203). Drugačije definisana, dispozicija je „zapovest o ponašanju ljudi [...]“ (Lukić, 1974: 205). Ali ni dispozicija, sama po sebi, nema još uvek pravni karakter. Nedostaje joj sankcija. Zapovest može biti u obliku naređenja, zabrane ili ovlašćenja, te tako Lukić (1974) razlikuje tri vrste dispozicije: „Naređujuća dispozicija naređuje subjektu da se ponaša na određen način, tj. zapoveda mu da izvrši određenu pozitivnu radnju (činjenje)“ (str. 205); „Zabranjujuće dispozicije zabranjuju subjektu da izvrši neku radnju, tj. naređuju mu negativnu radnju (nečinjenje)“ (str. 205); „Ovlašćujuća dispozicija ovlašćuje subjekta na jedno ponašanje, niti mu ga naređujući niti mu ga zabranjujući“ (str. 205). Tako Lukić (1974) tvrdi da pošto su pravne norme pravilo o ponašanju ljudi u društvu, „svaka dužnost, svaka obaveza za jednu stranu pojavljuje se samim tim kao ovlašćenje za drugu stranu koja je učesnik tog odnosa (koji, po samom svom pojmu, mora biti dvostran“ (str. 206). Ovde Lukić tvrdi isto što i Taranovski kada kaže da je priroda pravne norme imperativno-atributivna. Lukić kod dispozicije pravne norme tvrdi isto što i Taranovski kada kaže da je stvarna sadržina pravne norme zapovest. Ovo vidimo kada Lukić (1974) kaže da je „i ovaj spor bespredmetan, jer, kao što smo rekli, svaka dispozicija sadrži zapovest.

Ali ta zapovest ne mora uvek biti izražena u zapovednom (naređujućem, odn. zabranjujućem) obliku“ (str. 205).

Treći element pravne norme kod Lukića je pretpostavka sankcije. Svaka pravna norma ima pretpostavku sankcije. Uslov za primenu same sankcije Lukić naziva prekršajem ili deliktom. Pretpostavka sankcije sadrži opis samog prekršaja dispozicije. Kada uslov bude ispunjen primenjuje se sankcija. Tako Lukić razlikuje dve glavne vrste delikta – krivičnopravne u vidu krivičnih dela i građanskopravne u vidu prouzrokovanja štete. Taranovski ne poznaje ovaj element pravne norme.

Četvrti i poslednji element pravne norme kod Lukića je sankcija. Ona predstavlja deo pravne norme koji joj daje specifično pravni karakter. Lukić, međutim, nije ovo tvrdio od samog početka svog bavljenja pravom. „Očigledno, Lukićeva četvorodelna formula nije nastala ni iz čega. Inovativna, ali ne i originalna, bila je više važan deo sovjetskog nasleđa nego njegovo izvorno učenje“ (Božić, 2020: 50; prevod autora). U pojmu sankcije se Lukić najviše razlikuje od Taranovskog, koji za obavezne delove pravne norme smatra samo hipotezu i dispoziciju. Tako Lukić za sankciju kaže da predstavlja sekundarnu dispoziciju, što Taranovski u svojoj teoriji ne poznaje. Za Taranovskog sankcija predstavlja prinudno ostvarivanje prava, odnosno sporednu posledicu, kako će biti pokazano. Sankcija se, prema Lukiću, istovremeno odnosi na prekršioca dispozicije i na državni organ koji je dužan da primeni prinudnu meru. Kada se sankcija odnosi na državni organ onda ona ne predstavlja sekundarnu dispoziciju, već „označava prinudnu meru koju državni organ sile primenjuje nad prekršiocem dispozicije“ (Lukić, 1974: 215). Shvaćena u ovom smislu, sankcija nije deo pravne norme i ne predstavlja pravilo o ponašanju.

Za razliku od Lukića, Taranovski strukturu pravne norme zasniva na klasičnoj teoriji. Pravna norma se sastoji iz dva dela. To su hipoteza ili pretpostavka i dispozicija ili propis. Sankcija nije element pravne norme. U ovome se Lukić i Taranovski najviše razlikuju. Za hipotezu Taranovski kaže da je opisni, a za dispoziciju propisni deo pravne norme. I tu se Taranovski i Lukić ne razlikuju. Prema Taranovskom (2003), „hipoteza podrazumeva postojanje nekog faktičkog odnosa između dva lica. Dispozicija, pak, određuje dužnost i potraživanje koji moraju da proizađu iz tog odnosa“ (str. 160). Taranovski kritikuje stav dela teorije da su pravne norme uslovni sudovi, jer je hipoteza neophodan deo svake pravne norme, te da u pravu nema bezuslovnih normi. Takođe, kao pogrešan kritikuje i stav teorije da je norma uslovna ili hipotetička samo zato što u sastavu norme postoji hipoteza. On navodi da je „zadatak hipoteze sasvim drugačiji i sastoji se u tome da se odrede uslovi u kojima nastaje faktički odnos između dva lica, zbog čega dispozicija određuje dužnost i potraživanje“ (Taranovski, 2003: 162), pa su, prema njegovom mišljenju, iz tog razloga sve pravne norme hipotetičke.

Međutim, sam Taranovski sastav krivičnopravne norme određuje drugačije. Za njega hipoteza ovakve norme predstavlja dispoziciju, a dispozicija sankciju. Tako Taranovski (2003) kaže da „hipoteza norme krivičnog prava određuje biće zločina, a njena dispozicija propisuje kaznu za zločin“ (str. 166). Prema njemu, biće krivičnog dela koje je sadržano u hipotezi predstavlja u stvari zapovest adresatima da se uzdrže od zabranjenog ponašanja. Za Taranovskog (2003) „kazna predstavlja jednu vrstu sporednih posledica izazvanih povredom prava. Određivanje tih posledica za lice koje je povredilo pravo naziva se sankcijom“ (str. 166). Iz ovoga vidimo još jednom da Taranovski sankciju ne smatra za deo pravne norme, već da je smatra sporednom posledicom.

Ono što je za Lukića sankcija, to je za Taranovskog prinudno ostvarenje prava. Prema njegovom mišljenju, kada se prilikom ostvarivanja zapovesti iz pravne norme ne postupi po njoj, pravo se stara da se ispune dužnosti. Za potrebe rada nećemo ulaziti u mehanizme ostvarivanja ove zaštite, bitne su pravna priroda i suština. U ovom smislu, Taranovski tvrdi da je sankcija pravne norme u stvari pretnja, tj. fizička prinuda upravljena prema subjektu dužnosti.

Tasić ne govori o strukturi pravne norme, on se time uopšte ne bavi. Ipak, izvesne paralele između njega i Lukića mogu da se povuku kada Tasić govori o sankciji pravnih propisa. Iako ni tad ne govori o sankciji kao formalnom delu pravne norme, Tasić (1995) smatra da „svaki pravni propis, po pravilu, ima i svoju sankciju, tako da pored glavnog, primarnog propisa koji određuje prava i dužnosti, ima uvek i sekundarnog propisa, koji predviđa sankcije“ (str. 201). Može se reći da je Tasić u pogledu sankcije pravne norme bliži Lukiću nego Taranovskom. Tasić, takođe, navodi da sankcije mogu da budu upravljene protiv ljudi ili protiv akata.

5. Zaključak

Upoređivanjem učenja tri autora na primeru instituta pravne norme utvrđeno je da se posleratna teorija Lukića u značajnoj meri razlikuje od teorije Tasića i Taranovskog. Shvatanje pravne norme kod Lukića u njegovom „Uvodu u pravo" značajno je zbog uticaja na savremenu srpsku teoriju prava, zbog čega je on uzet kao polazna osnova istraživanja. Upoređivanje sa druga dva autora izvršeno je zbog njihovog značaja i značaja njihovih „Enciklopedija prava" za teoriju prava u vremenu u kojem su stvarali, kao i zbog činjenice da je Lukić pravničko znanje sticao u vreme kad su Tasić i Taranovski podučavali svoju teoriju na beogradskom Pravnom fakultetu. Ovo, takođe, i zbog činjenice da je Lukić preuzeo od Tasića osnovni metod sopstvene teorije. Kada posmatramo rad Lukića u predratnom periodu, onda razlika i nije velika, što je i razumljivo. Ono što smo hteli da ispitamo jeste u kolikom stepenu se Lukić razlikuje od Tasića i Taranovskog u svom posleratnom periodu doktrine koja se zasnivala i na marksističkoj teoriji prava.

Razlike koje su utvrđene idu od samog pojma pravne norme, pa sve do njene strukture, gde se ogledaju najveće razlike. Najveća razlika nalazi se u strukturi pravne norme. Lukić, oslonjen na sovjetsku pravnu teoriju, sankciju unosi kao deo pravne norme. Na taj način struktura pravne norme kod Lukića dobija četiri dela. Na drugoj strani, Taranovski, prema klasičnoj pravnoj teoriji, zastupa učenje po kojem pravnu normu čine dva dela – pretpostavka i dispozicija. Iako se Tasić u svojoj doktrini ne bavi pitanjem strukture pravne norme, pokazano je da određene teme, kao što je pitanje sankcije pravnih propisa, možemo kvalifikovati kao institut pravne norme prema današnjem shvatanju. Ovde dolazimo do suštinske razlike u doktrini Taranovkog u odnosu na Lukića, a to je pitanje pravne prirode sankcije. Za Lukića ona predstavlja sekundarno pravilo o ponašanju (sekundarnu dispoziciju) koje se primenjuje ako se ne postupi po dispoziciji i koje stvara obavezu za državni organ, dok je Taranovski objašnjava kao prinudno ostvarivanje prava. Za Lukića sankcija predstavlja suštinski element koji pravnoj normi daje pravni karakter, dok Taranovski i Tasić tvrde da su pravna pravila i ona pravila koja nisu zaštićena sankcijom.

U pogledu određenja pravne norme njihova učenja su nešto bliža, sva trojica pravnu normu vide kao zapovest. Međutim, Tasić, koji ne daje određeniju definiciju pravne norme, pravno pravilo objašnjava mnogo šire od Lukića, pa tako u njega svrstava sva opšta pravila i individualna akta. Najveća razlika u pojmu pravne norme nalazi se u Lukićevom učenju, da je ona pravilo koje je zaštićeno državnim aparatom prinude. Ni Taranovski, ni Tasić ne vide državnu prinudu kao suštinsku karakteristiku pravne norme, štaviše oni objašnjavaju da postoje pravna pravila koja nisu obezbeđena državnom prinudom.

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THE LEGAL NORM IN PRE-WAR AND POST-WAR SERBIAN LEGAL THEORY: RADOMIR LUKIĆ BETWEEN FEDOR TARANOVSKY AND ĐORĐE TASIĆ

Abstract: The subject of this paper is the analysis and identification of the differences in the understanding of the concept of the legal norm by Radomir Lukić in his post-war textbook *Introduction to Law* (1974), and by two pre-war legal scholars, Đorđe Tasić and Fedor Taranovsky, in their respective *Encyclopedias of Law*. Two methods were applied in the research: The descriptive method, used to present the established findings, and the comparative method, used to compare those findings. The initial hypothesis of the paper, which was confirmed through the research, is that Lukić's understanding of the legal norm in Introduction to Law differs significantly from the understanding of the legal norm found in the works of the other two analyzed legal theorists.

Keywords: *Radomir Lukić, Fedor Taranovsky,* Đorđe *Tasić, legal. norm, sanction.*

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1. Introduction

What makes this research relevant today? Radomir Lukić, Đorđe Tasić, and Fedor Taranovsky are prominent scholars of Serbian legal science in the field of legal theory. They produced their work in different historical periods and social contexts, which makes them deserving of scholarly attention.[2][3][4] The Encyclopedias of Law represent fundamental literature through which generations of lawyers were educated between the two world wars. Lukić himself was a student of Tasić. In his doctoral dissertation *The Binding Force of the Legal Norm and the Problem of the Objectivity of Law*, which he defended in 1939 at the University of Paris, Sorbonne, Lukić states that he was "motivated by the desire to view the norm simultaneously as a fact and as an ideal, and to connect the fact and the ideal" (Lukić, 1995: 267). He adds that "in this sense, he was particularly inspired by the example of our eminent professor, Mr. Tasić, Dean of the Faculty of Law in Belgrade, to whom we owe the general direction of our method" (Lukić, 1995: 267). Lukić's *Introduction to Law* was taken as the starting point in this paper due to its significance for contemporary Serbian legal theory. Namely, "in terms of its structure, definitions, choice of topics, and methods of explanation, the textbook set standards that are still widely accepted and discussed" (Božić, 2020: 46). Additionally, for the purposes of this paper, an analysis of Lukić's doctoral dissertation was conducted and compared with his later work, given that there is a noticeable shift in his theory from the early period of his academic development to his post-war contributions, as will be demonstrated through examples in this study.

[2] Radomir D. Lukić – (Miloševac, August 31, 1914 – Belgrade, May 31, 1999) – Professor at the Faculty of Law, University of Belgrade, and member of the Serbian Academy of Sciences and Arts.

[3] Đorđe Tasić – (Vranje, November 7, 1892 – Belgrade, August 25, 1943) – Professor and Dean of the Faculty of Law, University of Belgrade.

[4] Fedor Vasilyevich Taranovsky – (Płońsk, May 24, 1875 – Belgrade, January 23, 1936) – Professor of law in Warsaw, Petrograd, and Belgrade. After the October Revolution, he left Russia and came to Belgrade in 1920, where he became a professor of the History of Slavic Law and the Encyclopedia of Law.

The subject of this paper is the concept of the legal norm. Most legal theorists define the legal norm as the most essential part of law. Lukić even defines the very concept of law as "a set of norms sanctioned by the state" (Lukić, 1974: 198). The reason why the concept of the legal norm was chosen as the subject of this research lies in the fact that, after studying various legal concepts in the aforementioned literature, a significant difference was observed in the understanding of the legal norm itself and its structure. While Lukić, in his *Introduction to Law*, defines the legal norm through four elements, and Taranovsky identifies two elements of the legal norm, Tasić does not engage with the structure of the legal norm at all, nor does he approach the concept in the same manner as the other two. However, Tasić does address topics that can be classified as related to the concept of the legal norm in certain parts of his *Encyclopedia of Law*, even though he does not explicitly define them as such, as will be demonstrated in this paper. For these reasons, the chosen subject of this study remains relevant even today. In this paper, for the purposes of this research, other legal theorists, whether prewar or postwar, were not included in the study. The authors mentioned were selected as the subject of study due to their significance for Serbian legal theory, both historically and in the present day. The aim of this paper is to show to what extent these legal scholars, whose teachings formed the foundation of Serbian legal theory during their time, differ in their views, using the concept of the legal norm as an example, while Professor Lukić's theory is still applied today.

2. Theoretical Framework

To understand how the three legal theorists examined in this paper viewed the legal norm, it is necessary to explain the theoretical foundations on which their teachings were based. Lukić, in his postwar *Introduction to Law*, combines Marxist legal theory with Hans Kelsen's normativism. Marxist legal theory, which belongs to sociological theories of law, explains law as a class construct. "According to Marx, Engels, and interpreters of their thought (especially Lenin), the social character of law can only be understood and explained through class struggle and its class content" (Vukadinović & Mitrović, 2020: 294). Hans Kelsen's normativism, which belongs to positivist legal theories, states that legal norms, "arranged according to their legal force, constitute a coherent positive system of norms within themselves" (Vukadinović & Mitrović, 2020: 286). At the top of such a legal system is a fundamental norm whose existence is presumed (Grundnorm), with which all other lower legal norms must be consistent.

Marko Božić (2020) states that "Lukić's *Introduction to Law*, as well as his theory in general, combines a sociological approach with normativism to explain the legal rule as a social fact without denying its normative dimension" (p. 46). Lukić uses a synthetic method in his dissertation to explain the binding force of the legal norm. With this method, which he calls "positivist to the highest degree" (Lukić, 1995: 267), Lukić argues that the legal norm is both a fact and an ideal at the same time. Lukić states in his dissertation: "Our method, by establishing the existence of an ideal that cannot be reduced to causal laws, but which has a real influence on the facts that comply with these laws, remains positivist because it relies only on phenomena that can be established either through external observation or introspection" (Lukić, 1995: 267–268). In the same passage, Lukić notes about Tasić that "he attempted to achieve a synthesis of these two methods in his work *Introduction to Legal Sciences*, a book rich in thought and full of suggestions [...]" (Lukić, 1995: 267).

Tasić introduced the sociological method into Serbian legal science, following the example of French sociological theory. "Opposed to strict disciplinary confinement of law and legal science, Tasić, already in the early decades of the twentieth century, was an advocate of multidimensional research of law as a multi-layered phenomenon. His 'multi-method approach to law' provides the basis for speaking of 'Tasić's jurisprudence' (Vukadinović & Mitrović, 2020: 388–389). However, as Lukić also emphasized in a speech on the anniversary of Tasić's death, 'the fact that Tasić initiated a new sociological direction in legal science by no means indicates that he neglected the previous classical dogmatic approach' (Lukić, 1977: 2)."

Regarding Taranovsky's Encyclopedia of Law, Tasić states that "it is, in fact, a philosophy of law" (Tasić, 1995: 445). As the basis for his *Encyclopedia of Law*, released in 1923, Taranovsky used an earlier edition he had published in Russia, which he significantly expanded and supplemented. Taranovsky particularly focused on the history of law and the history of legal institutions, so in his *Encyclopedia* he writes about the development of law from Roman times up to the contemporary theories of his era. In Taranovsky's *Encyclopedia of Law*, "it is easy to notice that he used history merely as a framework and foundation for presenting his own theory and philosophy of law" (Vukadinović & Mitrović, 2020: 388). If Taranovsky were to be placed within a specific theoretical framework, studying his *Encyclopedia of Law*, it could be said that, alongside the historical method which he used extensively, he developed under the influence of positivism while combining the sociological method.

3. The Concept of Legal Norm

For Lukić, the legal norm represents the most important part or element of law. For him, it is the very essence of law. "The legal norm could be called the legal atom. It is the final, simplest element of law, which can no longer be broken down into simpler legal elements" (Lukić, 1974: 200). In the *Introduction*, Lukić considers force, the state apparatus of coercion, an inseparable part of the definition of the legal norm. Thus, he defines the legal norm as "a rule of human behavior that is protected by the state's apparatus of coercion" (Lukić, 1974: 200). Lukić's position is reflected throughout several parts of his *Introduction*. Lukić describes a sanction as ''the very coercive measure applied by the state authority against the violator [...]" and states that it is ''the part of the legal norm which gives it its specifically legal character" (Lukić, 1974: 215). The sanction, as an element of the legal norm, will be discussed in the following section.

However, it seems that Lukić did not always consider the sanction to be the element that gives the norm its specifically legal character. In his dissertation, Lukić (1995) states that "a norm that is applied solely because of the sanction attached to it does not, in our view, possess binding normative force; in such a case, one cannot even speak of binding force, but rather of mere force; just as one cannot say that any fact has binding force simply because it operates necessarily and in accordance with natural laws" (p. 269). He further adds: "the sanction is such an important element that some have even taken it to be the essential characteristic of law: only what is sanctioned will be considered law. Our position has already been stated: law cannot rest solely on sanction; a legal system that has no firmer foundations than sanction cannot function" (p. 385). In *The True Meaning of the Legal Norm* (1960) Lukić notes that the true meaning of the legal norm is "the meaning which, among all possible meanings of a norm in a given case, best protects the class interest" (p. 270). Thus, Dajović (1995) observes that "at certain points, it may be noticed that Professor Lukić is not entirely consistent, that he changes his position on a given issue, and so on. However, it seems that he cannot be reproached for this, as Professor Lukić wrote so extensively and presented so many ideas that it would be a real 'miracle' if they were completely coherent and formed a non-contradictory whole" (p. 109).

Contrary to Lukić, Tasić does not employ such a systematic presentation of the material in *Introduction to Legal Sciences* or *Encyclopedia of Law*, so references to the concept of legal norm, as a rule of behavior, are dispersed throughout the texts. In the *Encyclopedia*, he does not provide a specific definition of a legal rule or norm, but rather describes it as general rules and individual acts. Regarding individual acts, he states that the law achieves its purpose through them, namely its application in real life. Compared to Lukić, this understanding of the legal norm aligns with the concepts of general and individual legal acts.[5] That Tasić (1995) views the norm much more broadly than Lukić is also evidenced by his negative definition of the concept, where he states: "Excluded from the concept of norm are only acts of material execution (such as tradition – handing over things, debt payment, construction, etc.)" (p. 207). Elsewhere in his *Encyclopedia*, Tasić defines the norm as a command.

[5] See: Đ. Tasić (1995), *Pravno pravilo kao opšte pravilo i kao konkretan akt* [A Legal Rule as a General Rule and an Individual Act].

"When we say norm, rule, or imperative (command), we always mean force of obligation" (Tasić, 1995: 161). However, in the same passage, he criticizes the mistaken notion that law is characterized by absolute force. Lukić's understanding of the legal norm expressed in his dissertation aligns closely with Tasić's perspective, more than the understanding he later presented in *Introduction to Law*.

Taranovsky addresses the internal nature of legal norms and their function in his *Encyclopedia of Law*. Unlike Tasić, who worked around the same time as Taranovsky, he provides a definition of the legal norm. For him, "legal norms represent rules of conduct for individuals in society" (Taranovsky, 2003: 154). However, unlike Lukić, who includes sanction in his definition of legal norm, Taranovsky does not. From Taranovsky's definition, it is clear that he does not consider sanction to be an element of the legal norm. While Taranovsky discusses sanction in the *Encyclopedia of Law*, he does not treat it as part of the legal norm.

For Taranovsky, the legal norm has a dual nature. It simultaneously functions as a command requiring someone to act, as well as a claim, that is, the power of the claimant to demand the fulfillment of an obligation. He thus defines that "the function of the legal norm is therefore twofold: it always contains both a command and an authorization. For this reason, it can be said that the function of the legal norm is always imperative-attributive" (Taranovsky, 2003: 157). Taranovsky, in this interpretation of the nature of legal norms, disputes the position of legal theorists who distinguish between two types of legal norms – imperative (those that prescribe behavior) and permissive (those that grant permission). Thus, he asserts that "in all cases, the true substance of every legal norm lies in a command" (Taranovsky, 2003: 156). It becomes evident that when Taranovsky discusses the imperative-attributive nature of the legal norm, he asserts the same idea as Lukić in *Introduction to Law*, and since legal norms represent rules of human behavior in society, every obligation on one side simultaneously constitutes an authorization on the other.

4. Elements of the Legal Norm (Structure of the Legal Norm)

The greatest differences among the three legal theorists analyzed can be found in their views on the structure of the legal norm. While Lukić breaks down the legal norm into four elements and Taranovsky into two, Tasić does not address this issue in the same manner as the other two. Even though the third section of Tasić's Encyclopedia of Law is titled "Essential Elements in the Legal Rule," it would be inaccurate to claim that Tasić addressed the structure of the legal norm. The only notable similarity lies in the fact that, within this section, Tasić addressed the sanction of legal provisions, which will be discussed in more detail below. Nonetheless, it cannot be argued that he considered the sanction to be a constituent element of the legal norm.

Lukić's legal norm is composed of four elements: (1) the assumption or hypothesis of the disposition, (2) the disposition itself, (3) the assumption or hypothesis of the sanction, and (4) the sanction. It should be noted that not every norm consists of all four elements, only conditional legal norms do. Unconditional legal norms lack the hypothesis of the disposition and thus contain only three elements. According to Lukić (1974), unconditional legal norms are "norms enacted for situations that already exist" (p. 201), whereas conditional norms are "norms enacted for situations that are yet to occur" (p. 201). The disposition and the sanction are rules of conduct that stand in an alternative relationship – either one or the other is applied. Compliance with the disposition precludes the application of the sanction. Non-compliance with the disposition gives rise to an obligation on the competent state authority to impose a sanction on the individual who has breached it. The sanction as such represents a secondary disposition, ''a disposition that comes into force and becomes obligatory only when the primary disposition is violated, and which is designed so that it can always be enforced through state coercion" (Lukić, 1974: 204).

To apply the disposition, the facts described within the norm itself must be fulfilled. This description of facts is made in the part of the disposition called the hypothesis of the disposition. For Lukić, the hypothesis of the disposition is not a rule of conduct but rather a description of the factual situation. He (1974) explains it as follows: "Therefore, the hypothesis is not a norm, not a rule of conduct, but merely a description of the facts that serve as a condition for the application of the disposition, which means that the disposition is to be applied only if the facts described in its hypothesis occur" (p. 203).

According to Lukić (1974), the disposition is the central part of the norm, "the rule of human behavior itself" (p. 203). Defined differently, the disposition is "a command regarding human behavior [...]" (Lukić, 1974: 205). However, the disposition itself does not yet possess legal character. It lacks sanction. A command can take the form of an order, a prohibition, or an authorization. Thus, Lukić (1974) distinguishes three types of disposition: "The commanding disposition orders the subject to behave in a certain way, that is, it commands them to perform a specific positive action (an act)" (p. 205); "Prohibitive dispositions forbid the subject from performing a certain action, that is, they order a negative action (omission)" (p. 205); "Authorizing dispositions empower the subject to engage in a certain behavior, neither ordering nor forbidding it" (p. 205). Lukić (1974) thus asserts that since legal norms are rules governing human behavior in society, "every duty, every obligation for one party simultaneously appears as an authorization for the other party involved in that relationship (which, by its very nature, must be bilateral)" (p. 206). Here Lukić asserts the same as Taranovsky when he states that the nature of the legal norm is imperative-attributive. Regarding the disposition of the legal norm, Lukić makes the same claim as Taranovsky, stating that the true content of the legal norm is a command. This is evident when Lukić (1974) states that "this dispute is also irrelevant, because, as we said, every disposition contains a command." However, that command does not always have to be expressed in an imperative form (whether as an order or a prohibition) (p. 205).

The third element of the legal norm according to Lukić is the assumption of the sanction. Every legal norm has the assumption of sanction. Lukić calls the condition for applying the sanction a violation or a delict. The assumption of sanction contains the description of the violation of the disposition itself. When the condition is met, the sanction is applied. Lukić thus distinguishes two main types of delicts – criminal law delicts in the form of criminal offenses and civil law delicts in the form of infliction of damage. Taranovsky does not recognize this element of the legal norm.

The fourth and final element of the legal norm according to Lukić is the sanction. It represents the part of the legal norm that gives it its specific legal character. However, Lukić did not claim this from the very beginning of his legal work. "Obviously, Lukić's four-part formula did not arise from nothing. Innovative, but not original, it was more an important part of the Soviet legacy than his own original teaching" (Božić, 2020: 50; *translation by the author*). Lukić differs most from Taranovsky in his concept of sanction, as Taranovsky considers only the hypothesis and disposition to be the essential parts of the legal norm. Lukić defines sanction as a secondary disposition, a concept absent from Taranovsky's theory. For Taranovsky, sanction represents the coercive enforcement of a right, or a secondary consequence, as will be shown. According to Lukić, a sanction simultaneously relates both to the violator of the disposition and to the state authority obliged to apply the coercive measure. When the sanction concerns the state authority, it does not represent a secondary disposition, but rather "designates the coercive measure that the state authority applies to the violator of the disposition" (Lukić, 1974: 215). Approached in this sense, the sanction is not part of the legal norm and does not constitute a rule of behavior.

Unlike Lukić, Taranovsky bases the structure of the legal norm on classical theory. The legal norm consists of two parts: the hypothesis or condition, and the disposition or rule. Sanction is not considered an element of the legal norm. This is where Lukić and Taranovsky differ the most. Taranovsky describes the hypothesis as the descriptive part, and the disposition as the prescriptive part of the legal norm. On this point, Taranovsky and Lukić do not differ. According to Taranovsky (2003), "the hypothesis implies the existence of a factual relationship between two persons. The disposition, on the other hand, determines the duty and claim that must arise from that relationship" (p. 160). Taranovsky criticizes the view held by some legal theorists that legal norms are conditional statements, arguing that the hypothesis is an essential part of every legal norm and that there are no unconditional norms in law. He also rejects the theory that a norm is conditional or hypothetical merely because it contains a hypothesis. He states that "the function of the hypothesis is entirely different and consists in specifying the conditions under which a factual relationship between two persons arises, which is why the disposition determines the obligation and the claim" (Taranovsky, 2003: 162). For this reason, in his opinion, all legal norms are hypothetical.

However, Taranovsky himself defines the structure of a criminal law norm differently. For him, the hypothesis of such a norm represents the disposition, while the disposition represents the sanction. As Taranovsky (2003) states, "the hypothesis of a criminal law norm defines the elements of a crime, and its disposition prescribes the punishment for the crime" (p. 166). According to him, the elements of a criminal offense contained in the hypothesis actually serve as a command to the addressees to refrain from prohibited behavior. For Taranovsky (2003), "punishment represents a type of secondary consequence caused by the violation of a right. The determination of such consequences for the person who violated the law is referred to as a sanction" (p. 166). From this, we can once again observe that Taranovsky does not regard the sanction as part of the legal norm, but rather as a secondary consequence.

What Lukić considers a sanction, Taranovsky views as a compulsory enforcement of law. According to Taranovsky, when the command contained in the legal norm is not complied with, the law acts to ensure that duties are fulfilled. This paper will not explore the mechanisms of enforcement, as the legal nature and essence of the concept are of primary importance. In this regard, Taranovsky argues that the sanction of the legal norm is, in fact, a threat, that is, physical coercion directed at the subject of the duty.

Tasić does not address the structure of the legal norm and does not engage with this issue in any way. Nevertheless, certain parallels between him and Lukić may be drawn when Tasić discusses the sanction of legal provisions. Although he does not refer to the sanction as a formal element of the legal norm, Tasić (1995) considers that "every legal provision, as a rule, also contains a sanction, so that, in addition to the main, primary provision that defines rights and duties, there is always a secondary provision, which prescribes sanctions" (p. 201). It can be said that, regarding the sanction of the legal norm, Tasić is closer to Lukić than to Taranovsky. Tasić also notes that sanctions may be directed either against individuals or against acts.

5. Conclusion

By comparing the views of the three authors through the lens of the concept of the legal norm, it has been established that Lukić's post-war legal theory significantly differs from that of Tasić and Taranovsky. Lukić's understanding of the legal norm, as presented in his *Introduction to Law*, is of particular importance due to its influence on contemporary Serbian legal theory, which is why his work was taken as the starting point of this research. The comparison with the other two authors was carried out because of their significance and the importance of their *Legal Encyclopedias* for the legal theory of the time in which they wrote, as well as the fact that Lukić acquired his legal education during the period when both Tasić and Taranovsky were lecturing on their legal theory at the Faculty of Law in Belgrade. Another reason is the fact that Lukić adopted the fundamental method of his own theory from Tasić. If we consider Lukić's work from the pre-war period, the differences are not substantial, which is understandable. What we aimed to examine is the extent to which Lukić diverges from Tasić and Taranovsky in his post-war legal doctrine, which was also grounded in Marxist legal theory.

The identified differences range from the very concept of the legal norm to its internal structure, where the most significant distinctions are observed. The greatest divergence lies in the structure of the legal norm. Drawing on Soviet legal theory, Lukić incorporates the sanction as an integral part of the legal norm. In doing so, the structure of the legal norm in Lukić's theory comprises four elements. On the other hand, Taranovsky, following classical legal theory, upholds the view that the legal norm consists of two components – the hypothesis and the disposition. Although Tasić does not explicitly address the structure of legal norms in his doctrine, it is noted that certain topics, such as the issue of legal sanctions, can be can be classified as an institute of the legal norm according to contemporary understanding. This brings us to a fundamental difference in Taranovsky's doctrine compared to Lukić's, which is the legal nature of the sanction. For Lukić, a sanction constitutes a secondary rule of conduct (a secondary disposition) that is applied when the primary disposition is not followed and that imposes an obligation on a state authority. In contrast, Taranovsky views the sanction as the coercive enforcement of rights. For Lukić, the sanction is an essential element that gives the legal norm its specifically legal character, whereas Taranovsky and Tasić argue that legal norms can still exist even when they are not backed by sanctions.

Regarding the definition of the legal norm, their theories are somewhat closer, as all three view the legal norm as a command. However, Tasić, who does not provide a more precise definition of the legal norm, interprets legal rules much more broadly than Lukić, including both general rules and individual acts under this term. The greatest difference in the concept of the legal norm is found in Lukić's theory, which defines it as a rule backed by the state apparatus of coercion. Neither Taranovsky nor Tasić regard state coercion as an essential feature of the legal norm. On the contrary, both of them argue that there are legal rules that are not enforced by state coercion.

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INTERNET U SLUŽBI NARKO-MAFIJE

Apstrakt: Tehnološki napredak u svetu u poslednjih deset godina, podstaknut digitalizacijom, nije samo olakšao svakodnevni život u domenu unapređene komunikacije i lakšeg pristupa informacijama, edukaciji i transformaciji poslovnih aktivnosti ili nekoj od drugih sfera pozitivnih ljudskih aktivnosti, već je otvorio nove horizonte i za kriminalne aktivnosti, posebno trgovinu drogom na skrivenim mrežama interneta. Ovaj rad istražuje kompleksnu dinamiku onlajn trgovine drogom, analizirajući uticaj DarkNet mreže na delovanje kako kriminalnih organizacija, tako i pojedinačnih dilera koji učestvuju u trgovini drogom. U radu se apostrofiraju primeri najvećih kriptomarketa na svetu, kao što su *Silk Road* i *Hydra*, koji su godinama skriveno funkcionisali kao onlajn prodavnice za prodaju droge i druge ilegalne robe i usluga.

Ključne reči: *DarkNet, onlajn trgovina drogom, kriptomarketi, dead drop, Covid-19.*

1. Uvod

U eri digitalne transformacije, tehnološki napredak nije samo olakšao svakodnevni život, već je otvorio i nove horizonte za kriminalne aktivnosti. Jedan od najizazovnijih fenomena koji proizilazi iz ovog razvoja jeste trgovina drogom u onlajn okruženju. Dok tradicionalne

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metode distribucije droga ostaju značajne, virtuelni prostor je postao nezaobilazno mesto za ilegalnu trgovinu, pružajući kriminalcima anonimnost, globalni doseg i sofisticirane tehnike za izbegavanje zakona.

Ovaj rad istražuje kompleksnu dinamiku trgovine drogom na internetu, analizirajući kako su digitalne platforme postale sredstvo za poslovanje narko-kartela i pojedinaca uključenih u ovu trgovinu. Kroz razmatranje tehnoloških aspekata, pravnih, kao i socio-ekonomskih faktora, cilj ovog rada je da razume različite dimenzije onlajn trgovine drogom, istraži mere koje se preduzimaju kako bi se suprotstavili ovoj pretnji i razmotrile implikacije koje ovakav oblik kriminala ima na društvo i globalnu bezbednost.

2. Onlajn trgovina drogom

Od 2011. godine i uspostavljanja prve kriptoprodavnice za prodaju droge „Silk road“, „broj anonimnih onlajn prodavnica droge se proširio i onlajn trgovina je postala uobičajen način kupovine i prodaje ilegalnih droga“ (United Nations Office on Drugs and Crime, 2021). Veliki broj studija „bavio se trgovinom drogama preko DarkNet-a“ (Aldridge, Stevens, & Barratt, 2018), uključujući „koordinaciju između kupaca i prodavaca“ (Bakken, Moeller, & Sandberg, 2018) i metodama koje su imale za cilj da stvore i održe poverenje među subjektima na ovom ilegalnom tržištu, koji se međusobno ne vide, ne poznaju i ne sreću, ali koji su razvili kriminalni sistem trgovine drogom dotad nezamisliv i nepoznat. „Poverenje među učesnicima ove trgovine isticalo se kroz recenzije i ocene na mrežama DarkNet-a“ (Morselli, Décary-Hétu, Paquet-Clouston, & Aldridge, 2017; Munksgaard & Tzanetakis, 2022, p. 19). Jedan od važnih nalaza brojnih istraživanja na ovu temu jeste i otpornost učesnika trgovine drogom na snošenje zakonskih konsekvenci prilikom zatvaranja pojedinačnih onlajn prodavnica na kojima se vršila kupoprodaja narkotika. Postavlja se pitanje koliki efekti se postižu zatvaranjem pojedinačnih onlajn prodavnica koje se bave trgovinom drogom, „jer učesnici u toj trgovini vrlo brzo migriraju na neke nove mreže i ostaju nedostupni pravosudnim organima“ (Ladegaard, 2019).

„Virtuelna priroda kripto prodavnica za prodaju droga je dovela do toga da učesnici na ovom tržištu nemaju potrebu da se fizički sastaju“ (Aldridge et al., 2018). Neki naučnici napominju da je pre onlajn trgovine drogama postojao mnogo veći stepen kriminalizacije na ulicama i da je od kada je 2011. godine registrovan ovaj način prodaje droge zabeleženo mnogo manje obračuna kriminalnih bandi, posebno na teritoriji SAD. Počevši od „Silk roada“ 2011. godine, „broj kripto prodavnica narkotika se brzo povećavao“ (Christin, 2013) na procenjenih „118 kripto prodavnica u 2019. specijalizovanih za prodaju robe na crnom tržištu“ (United Nations Office on Drugs and Crime, 2021). „Kripto prodavnice (eng. *crypto markets*), su sada važan izvor ponude droge za ličnu upotrebu i prodaju širem krugu ljudi“ (Demant, Munksgaard, Décary-Hétu, & Aldridge, 2018). Onlajn tržišta droge pokušavaju da zaobiđu zakone tako što sprovode svoje operacije na DarkNetu, dok se oslanjaju na kriptovalute, kao što je bitkoin (eng. *bitcoin*), za obavljanje transakcija. Pitanje poverenja jedan je takođe važan aspekt problema koordinacije: kako kupci mogu da budu sigurni da će dobiti kvalitetnu „robu“ za svoj novac, s obzirom da nemaju nikakvu zaštitu u slučaju da je proizvod lošeg kvaliteta ili, jednostavno, ukoliko budu prevareni?

S tim u vezi, koriste se iskustva sa legalnih onlajn tržišta, „tako da se na kripto tržištima droge primenjuje sistem reputacije koji počiva na recenzijama i ocenama prodavaca“ (Przepiorka, Norbutas, & Corten, 2017). Na nekim kripto prodavnicama „koristi se i sistem deponovanja sredstava kod trećih lica, da bi se predupredili eventualni sporovi između kupaca i prodavaca, što u ukupnoj meri doprinosi većem poverenju i među kupcima i među dilerima“ (Munksgaard & Tzanetakis, 2022, p. 20). Kupci u kripto prodavnicama „osećaju veću bezbednost u poređenju sa drugim oblicima distribucije droge“ (Morselli et al., 2017).

S obzirom da je onlajn tržište za prodaju droge omogućilo i njenu veću dostupnost, „kupci i uživaoci droga imaju tendenciju da češće konzumiraju drogu, ali i kupuju manje količine i generalno se upuštaju u kontrolisanu potrošnju ilegalnih supstanci“ (Barratt, Lenton, Maddox, & Allen, 2016, p. 50). Glavni nedostatak DarkNet platformi jeste rizik od gašenja tržišta. Ovo se može dogoditi na četiri različita načina. U slučaju dobrovoljnog zatvaranja, administratori kripto prodavnica dobrovoljno zatvaraju svoje prodavnice i vraćaju deponovan novac svojim korisnicima. Dobrovoljna zatvaranja kripto prodavnica se dešavaju uglavnom zato što administratori smatraju da su tržišta neprofitabilna ili zato što se administratori plaše da će ih pravosudni organi zapleniti. DarkNet platforme takođe mogu da se ugase na način koji je poznat i kao „izlazna prevara" (Barratt, 2012, p. 683). U ovom slučaju prodavnica se gasi bez ikakve prethodne najave i administratori zadržavaju novac koji je bio deponovan u sistemu prodavnice. Takođe, DarkNet tržišta mogu biti zatvorena i zato što su ih hakovali nepoznati hakeri ili su ih zaplenili organi za sprovođenje zakona. U slučaju hakovanja, ciljevi hakera mogu se značajno razlikovati i obično ostaju nepoznati. Oni obično ili pokušavaju da ukradu novac koji je deponovan na računima ili imaju za cilj da razotkriju tržište iz nepoznatih razloga. Akcije policijskih organa imaju za cilj gašenje DarkNet platformi i prodavnica, kao i zaplenu novca koji je deponovan (često u vidu bitkoina), ali i hapšenje i krivično gonjenje administratora ovih platformi. „Neočekivana gašenja platformi na DarkNetu predstavljaju glavnu pretnju stabilnosti onlajn tržišta droge. Konkretno, u periodu između 2011. i 2016. godine otvoreno je 88 DarkNet platformi, od kojih su 82 zatvorene pre kraja 2016. godine" (Barratt et al., 2016, p. 56). Ovo nije obeshrabrilo administratore na DarkNet platformama koji su naučili kako da brzo pređu na nove platforme nakon što bi se postojeća zatvorila, reagujući na gašenja platformi kao na privremeni šok koji nikako ne bi umanjio njihovu sposobnost da trguju drogom na mreži.

2.1. DarkNet – mračna strana interneta kao centar onlajn trgovine drogom

DarkNet marketi, kripto prodavnice ili tržišta na kojima se odvija nelegalna onlajn trgovina „sastoje se od veb-lokacija koje su slične legalnim onlajn platformama koje olakšavaju trgovinu, kao što su eBay ili Amazon" (Munksgaard & Tzanetakis, 2022, p. 20). Tehnologije šifriranja u kombinaciji sa interfejsom prilagođenim korisniku „omogućavaju da se nezakonite trgovine odvijaju na platformama lakim za korišćenje bez ikakvog direktnog susreta i sa anonimnim identitetima i lokacijama, čineći DarkNet plodnim tlom za nezakonite trgovine" (Tzanetakis, 2018). „Saradnja i razmena informacija između međunarodnih agencija za sprovođenje zakona je očigledno od ključnog značaja za uspostavljanje efikasnog odgovora na eksponencijalni rast DarkNet marketa" (Reitano, 2015). Trgovina nedozvoljenim drogama je uporište većine DarkNet marketa: „Većina aktivnosti na DarkNet marketima je povezana sa drogom" (Europol, 2017).

Utvrđeno je da je DarkNet tržište privlačno kupcima koji ga doživljavaju kao „sigurnije okruženje za kupovinu droge zbog odsustva ličnog kontakta sa dilerima, brišući sve vrste rizika od potencijalnog nasilja" (Barratt et al., 2016, p. 57). Međutim, iako se rizici direktnog kontakta sa prodavcima droga mogu ukloniti na DarkNetu, postoje i neki drugi rizici koji su uključeni u kupovinu na ovoj mreži: na primer, dok lokacija prodavca ostaje anonimna u transakcijama prodaje droge, potrebna je adresa za isporuku za kupca: „Ovo može dovesti do rizika objavljivanja ličnih podataka o pojedincu – ili može povećati verovatnoću da bude izložen riziku od prevare i ucene, kao i da bude identifikovan od strane organa za sprovođenje zakona" (Europol, 2017).

Takođe, „DarkNet pruža mogućnosti dilerima droge da prošire svoju bazu kupaca van svog kontrolisanog fizičkog područja, proširenje koje ne bi bilo moguće u fizičkom svetu zbog rivalstva sa drugim dilerima droge" (Morselli et al., 2011). Dileri droge koji posluju na ovim tržištima su u mogućnosti da komuniciraju sa nepoznatim kupcima uz visok stepen zaštite realnog fizičkog identiteta koju im daju mehanizmi anonimnosti ugrađeni u DarkNet tržište, ali čak i iz povratnih informacija prethodnih kupaca. Da bi se u potpunosti shvatilo na koji način funkcioniše onlajn tržište trgovine drogom, potrebno je definisati i razjasniti određene pojmove koji se konstantno sreću, kao što su *DarkWeb*, *DarkNet* i *Tor*.

DarkVeb (ili *DarkWeb*) je „deo interneta koji se sastoji od skrivenih sajtova koji se ne mogu pronaći putem konvencionalnih i poznatih web pretraživača" (Guccione, 2021). Umesto toga, potrebno je da se instalira javno dostupni Tor pretraživač preko kojeg se pristupa Tor mreži koja pruža anonimnost korisniku prilikom obavljanja veb-saobraćaja.

Dark Net (ili *DarkNet*) je „manji deo Darkweb-a koji je dizajniran da ljudi anonimno komuniciraju. Opšte poznat kao DarkNet (‘mračna ili skrivena mreža'), ovaj skriveni deo interneta smatra se prostorom za obavljanje kriminalnih aktivnosti" (Buxton & Bingham, 2015, p. 12). Pored toga, skoro svi su čuli priče o trgovini drogom i ljudima ili čak ubistvima koja su organizovana na mračnoj mreži. Redovne, odnosno ClearNet pretraživačke mašine, poput Google-a, Bing-a i dr. ne mogu da pronađu sajtove sa DarkNeta. Veb-lokacijama na DarkNetu se može pristupiti samo uz pomoć Tor mreže. Sajtovima, odnosno skrivenim ili onion servisima može se pristupiti samo ako je poznat tačan URL, čije se domensko ime završava na .onion. DarkNet je zapravo mesto za trgovinu svim vrstama ilegalne robe, a plaćanje se uglavnom obavlja u kriptovalutama. Pošto ne postoji način da se prate korisnici, komunikacija preko DarkNeta obezbeđuje najveću sigurnost i privatnost. Zbog šifrovane komunikacije i anonimnosti koju pruža, kriminalci maksimalno koriste DarkNet. Rizik od širenja malware-a je znatno veći ovde nego na ClearNet-u. Posetioci DarkNeta mogu lako da nasednu na sumnjive ponude ili da dođu u kontakt sa kriminalnim organizacijama i tako postanu podložni krivičnom gonjenju. Samo pretraživanje DarkNeta nije protivzakonito, iako predstavlja bezbednosni rizik. Čim osoba preuzme nezakonit sadržaj na svoj računar, ili kupi nelegalnu robu i usluge, postaje kriminalac. Kažnjiva je i prodaja nelegalne robe i usluga. U tom pogledu, „DarkNet se zapravo ne razlikuje od fizičkog sveta: ono što je nelegalno van interneta i dalje je nelegalno na internetu, bez obzira da li se nalazi na ClearNet-u ili DarkNet-u" (Buxton & Bingham, 2015, p. 12).

Kao što se vidi iz samog naziva mreže, DarkNet predstavlja najmračnije mesto na internetu i obiluje ilegalnim sadržajem. Na DarkNetu najčešće se mogu naći stranice za prodaju droge, stranice koje prodaju dečju pornografiju, potom naoružanje, i to različite vrste naoružanja i vojne opreme (pištolji, puške, bombe, mada je moguće poručiti i ručne bacače, kao i ostalo naoružanje). Takođe, DarkNet pruža mogućnost ljudima da kupe lažni identitet, ukradenu robu, ali i različite informacije. Moguće je organizovati i naručiti pljačku, a ima slučajeva kada je poručeno i ubistvo preko ove mreže.

Tor („The Onion Routing") predstavlja „modifikovanu verziju pretraživača Mozilla Firefox, ima funkciju da sakrije IP adresu korisnika sa koje se pristupa DarkNetu, lokaciju korisnika i druge podatke koji ga mogu identifikovati sa redovnih web lokacija" (Swan, 2016, p. 110). Tor su razvila istraživačka odeljenja mornarice SAD, a ovaj pretraživač se i dalje finansira od strane američke vlade. Naziv Tor je akronim od *The Onion Router* i vizuelno se prikazuje crnim lukom, kojim se naglašava višeslojna enkripcija kojom se podaci obrađuju, odnosno šifruju na takav način da izvorni oblik podatka može otkriti samo onaj ko poseduje odgovarajući ključ za dešifrovanje (Swan, 2016, p. 111) Na isti način funkcioniše npr. bankarski sektor ili onlajn trgovina tako da ako bi se desilo da neko npr. presretne neke mejlove oni ne bi bili čitljivi. Tor sakriva identitet korisnika i njihovu onlajn aktivnost od nadzora i analize saobraćaja odvajanjem identifikacije i rutiranja tako što usmerava internet saobraćaj preko više posrednika poznatijih kao Tor releji (najmanje tri za komunikaciju sa ClearNet veb-serverima, odnosno šest za komunikaciju sa onion servisima). Komunikacija se šifruje a zatim, iz perspektive spoljnog posmatrača, nasumično odvija kroz mrežu releja širom sveta, odnosno, prosto rečeno, za povezivanje se koriste različiti računari i kompjuterski serveri kao tačke povezivanja. Tor pretraživač i sajtovi povezani sa ovom mrežom se široko koriste među korisnicima DarkNeta i mogu se identifikovati po domenu .onion. Za razliku od URL-ova na ClearNet-u, URL onion servisa se ne može mapirati na IP adresu, što otežava istražnim organima lociranje ovih servisa. Osim toga, i IP adrese veb-klijenata (prodavaca i kupaca na DarkNet marketima) onion servisa su potpuno nedostupne veb-serveru tako da i kad ih istražni organi zaplene oni ostaju anonimni.

2.2. Uticaj pandemije Covid-19 na onlajn prodaju droge

Pandemija Covid-19 poremetila je mnoge aspekte društvenog života u celom svetu, pa se tako ispostavilo da je imala uticaje i na različite društvene grupe, na primer na populaciju zavisnika od droga. Kao što su neka prethodna istraživanja sugerisala da „recesije obično ne izazivaju pad potražnje za narkoticima, pošto su korisnici droga veoma stabilni kupci" (Caulkins, 2011), tako su i neka druga istraživanja (Dunlap, Graves, & Benoit, 2012) pokazala da, iako mnogi korisnici droga ne menjaju svoje navike vezane za konzumiranje opojnih droga tokom ekonomskih kriza, ipak postoje neki krajnji slučajevi koji izazivaju promene na ovom tržištu. Pandemija Covid-19 nije uticala u velikoj meri na tražnju nedozvoljenih droga, već je problem nastao u distribuciji droge do krajnjih korisnika, pogotovo ako se radilo o međunarodnim isporukama.

U mesecima koji su usledili nakon početka pandemije Covid-19, EMCDDA je primetio povećan saobraćaj na kripto tržištu, „što ih je dovelo do pitanja da li kripto tržišta predstavljaju pogodniji kanal za distribuciju droga, zbog činjenice da nije bio potreban lični kontakt" (EMCDDA, 2020). Pandemija Covid-19 uslovila je da se dileri droge koji su dotad drogu sakrivali u „legitimnim međunarodnim pošiljkama" (United Nations Office on Drugs and Crime, 2020) nađu u situaciji da robu poručenu na kripto prodavnicama ne mogu lako da distribuiraju van zemlje, zbog zatvorenih granica sa ciljem sprečavanja širenja virusa. Stoga je međunarodna trgovina drogom postala još teža, ako ne i nemoguća, nakon raznih zabrana međunarodnih putovanja i trgovine.

„Uticaj Covid-19 na tržišta nedozvoljenih droga u velikoj meri zavisio je i od geografske lokacije prodavca i kupca, iz jednostavnog razloga što pandemija nije na isti način pogodila sve zemlje" (United Nations Office on Drugs and Crime, 2020). U suprotnosti sa ovim načinom prodaje, prodaja zabranjenih droga na domaćim kripto tržištima je možda bila manje pogođena od međunarodne prodaje. Vrsta nedozvoljene droge kojom se vrši transakcija takođe je igrala ulogu u pogledu toga kako je Covid-19 uticao na kripto tržišta. Na primer, i EMCDDA i Europol su izveštavali da je, „iako je postojalo malo dokaza da je Covid-19 uticao na prodaju kokaina, došlo do smanjenja potražnje za sintetičkim drogama" (EMCDDA-Europol, 2020). Ista studija je takođe primetila da je došlo do povećanja cena za većinu vrsta droge koja se prodavala na kripto tržištima nakon pandemije. Iako je ova promena mogla da bude indirektno posledica pandemije, u smislu da se ponašanje pojedinaca menja kao odgovor na nestašice, izveštaj EMCDDA i Evropola „skreće pažnju na moguće gomilanje biljnog kanabisa od strane korisnika i ukazuje da je povećana cena kokaina i kanabisa mogla da potiče od nestašice ovih droga" (EMCDDA-Europol, 2020).

Kao što je već pomenuto, s obzirom na to da mnogi učesnici kripto tržišta žive u zapadnim industrijalizovanim zemljama, promene koje je nametnula pandemija mogle su da utiču na glavne aktere na tržištima droga i ugroze njihovu konkurentsku prednost. „Holandija je, na primer, naširoko dokumentovana kao važan izvor za nedozvoljene droge na kripto marketima“ (EMCDDA-Europol, 2019). Međutim, „nakon izbijanja COVID-19, čini se da se njegovo prisustvo na kripto tržištima donekle smanjilo“ (EMCDDA-Europol, 2020).

3. Borba policijskih organa protiv onlajn trgovine drogama

Univerzalan način putem kojeg su se mnoge policije u svetu borile protiv onlajn prodaje droga stavljao je fokus na krivično gonjenje vlasnika onlajn mreža i onlajn prodavnica i gašenje tih kripto tržišta. Glavne strategije su se, međutim, sastojale u ometanju samih DarkNet tržišta i prevenciji na način gde bi se policijski agenti infiltrirali u sam proces trgovine drogom na kripto prodavnicama, pretvarajući se istovremeno i da su kupci i da su prodavci. Ova strategija uticala je na porast transakcionih troškova i što je mnogo bitnije smanjila je stepen poverenja koji je do tada postojao među dvema stranama u onlajn prodaji. „Agenti bi unosili trajnu sumnju u prodavce navodeći lažne recenzije sa niskim ocenama za dilere“ (Hutchings & Holt, 2017).

Drugi vidovi borbe uključivali su strožu kontrolu bankarskih transakcija i krivično gonjenje dilera i kupaca koji bi na ovaj način bili razotkriveni. Međutim, „onlajn trgovina ilegalnom robom, a posebno drogom, izuzetno je otporna na delovanje zakonodavnih organa, pošto su DarkNet tržišta međusobno jako povezana, što ih čini lako zamenljivim, pa i kupci i prodavci mogu da migriraju na nove mreže, a što je jako bitno ove migracije ne utiču preterano na promenu cena droge“ (Ouellet, Maimon, Howell, & Wu, 2022, p. 1518). Korišćenje DarkNet tržišta za trgovinu drogom je globalno pitanje. „Konkretno, značajno se povećala trgovina drogom na ovaj način poslednjih godina u Indiji i zemljama Jugoistočne Azije uključujući Indoneziju, Tajland i Vijetnam“ (United Nations Office on Drugs and Crime, 2020).

4. Načini za distribuciju droge kupljene preko darkneta

Dok se putem tehnoloških inovacija nastojala obezbediti anonimnost na DarkNet tržištima kako bi se, na taj način, smanjili pravni rizici, dostava droge do krajnjih korisnika je ostala slaba tačka, jer su policijski organi uspevali da presretnu jedan deo paketa koji bi sadržali narkotike. Korisnici na Zapadu su koristili nekoliko metoda da smanje rizike vezane za isporuku paketa. Na primer, „među korišćenim metodama bilo je biranje lokacije za dostavu daleko od kuće ili posla i rotiranje ovih lokacija, pokušaj da se ne koriste poštanske usluge koje zahtevaju potpis, pa čak i korišćenje pravih imena kupaca kako bi pošta izgledala manje sumnjivo“ (Aldridge & Askew, 2017, p. 102). Supstance koje se šalju poštom su uvek u opasnosti da budu zaplenjene. Međutim, to ne dovodi do automatskog otkrivanja pošiljaoca i ne predstavlja dovoljan dokaz da je kupac kupio drogu na internetu.

„Prodavac ne mora da navede svoju adresu na običnoj pošiljci, a kupac uvek može da tvrdi da mu je droga isporučena greškom“ (The Washington Post, 2018). Štaviše, verovatnoća da će droga biti zaplenjena nije tako visoka, kao što bi se moglo očekivati, pošto se pošta koja sadrži drogu generalno ne razlikuje od obične pošte i ne proverava se sva obična pošta od strane obezbeđenja. Međutim, svaki put kada se droga zapleni kupac ne zna da li je prodavac uopšte poslao drogu ili je ona zaplenjena. „Drugi način za isporuku droge, koji u velikoj meri nije bio primenjenivan u zapadnim zemljama, bio je ‘dead drop’ isporuka“ (Aldridge & Askew, 2017, p. 104). Ovaj metod je bio znatno brži, jer nije uključivao veliko kašnjenje u prijemu droge kakvo je postojalo pri dostavi pošte.

Ovakav način dostave postao je jako popularan u mnogim zemljama jer je omogućavao da se isporuka odvija brzo i bez oslanjanja na druge legalne vidove isporuke. „Internet tržište droga je efikasnije od uličnog tržišta, sa nižim stopama krađa i prevara“ (Bhaskar, Linacre, & Machin, 2019). Ovo poboljšanje efikasnosti je rezultat nekoliko tehnoloških inovacija koje su učinile tržište konkurentnijim i transparentnijim. Prvo, uličnu trgovinu drogom karakteriše ogromna asimetrija informacija između kupaca i prodavaca o kvalitetu droge kojom se trguje. Droge kojima se trguje na ulici često se mešaju sa nekim drugim supstancama koje smanjuju njen „kvalitet" i povećavaju verovatnoću od mnogobrojnih štetnih efekata na zdravlje.

„Heroin se, na primer, može mešati sa sodom bikarbonom, šećerom, skrobom, lekovima protiv bolova, talkom, mlekom u prahu, deterdžentom za veš, kofeinom i otrovom za pacove" (American Addiction Centers, 2019). Kada se drogom trguje na ulici potrošači nisu u potpunosti svesni njenog kvaliteta i, iz očiglednih razloga, ne mogu da se žale na to. Tržišta na DarkNetu su prevazišla ovaj problem uvođenjem sistema povratnih informacija za kupce i prodavce koji odražava sisteme povratnih informacija legalnih onlajn tržišta kao što je eBay. „U ovom kontekstu, buduća prodaja je određena povratnim informacijama koje se dobijaju od prethodnih kupaca, dajući snažne podsticaje prodavcima (dilerima) da isporučuju drogu koja je višeg kvaliteta" (Espinosa, 2019, p. 29). Drugo, uvođenje „escrow" sistema (deponovanja) doprinelo je rešavanju problema moralnog poslovanja od strane dilera. U skladu sa ovim načinom prodaje droge, DarkNet platforme drže novac na svom računu dok roba ne bude isporučena kupcu a zatim, ako kupac potvrdi da je robu primio, platforma prosleđuje novac prodavcu.

Pošto se roba na DarkNet tržištima plaća pre nego što je isporučena, postoji značajan rizik da prodavac neće poslati proizvod nakon prijema novca, što je situacija koja je vrlo verovatna za transakcije nelegalnom robom. „Međutim, sistem deponovanja novca je samo opcioni i u određenim slučajevima kupci žele da direktno plate prodavcu robu da bi transakcija išla brže, i to je varijanta koja je poznata kao 'Finalize Early' (Finiširaj ranije), i koja se koristi samo kada kupac veruje prodavcu" (Darknetone, 2021). Važno je naglasiti da tržišta na DarkNetu nisu prva koja su implementirala povratne informacije i sisteme deponovanja. „Sistemi povratnih informacija su se pokazali važnim na tradicionalnim i legalnim onlajn tržištima kao što su eBay, Airbnb i Amazon, gde pozitivne povratne informacije, a samim tim i pozitivna reputacija, određuju veće cene" (Anderson & Magruder, 2012). „Sistem deponovanja je prvi implementirao Amazon i doprineo je povećanju poverenja u zajednicu prodavaca" (Pavlou & Gefen, 2004, p. 40). Poverenje je ključni element u modelu onlajn prodaje droga, pošto se tržište narkotika suočava sa ozbiljnim moralnim problemima. Kupci ne znaju kvalitet supstanci koje kupuju sve dok ih ne potroše, dajući prostor prodavcima da vrše prevare koje se obično sastoje u mešanju droga sa jeftinijim supstancama. Da bi pronašli dobru vezu, kupci treba da pronađu prodavce koji imaju za cilj da maksimiziraju svoj profit stvaranjem dugoročne veze sa kupcima. To znači da će kupci tek nakon što konzumiraju drogu odlučiti da li će nastaviti da kupuju od istog prodavca na mreži ili će potražiti drugog.

5. Istraživanje o delovanju darknet platformi za onlajn prodaju droge

Od kad su se prvi put pojavile 2011. godine na DarkNetu, više desetina onlajn platformi za prodaju nelegalnih roba i usluga, među kojima je i droga, otvoreno je i ugašeno u kratkom vremenskom periodu. Među najpoznatijim platformama su *Silk Road* (Put svile) koje se prva pojavila u SAD, 2011. godine, dok je na drugom kraju sveta, u Rusiji, najpoznatija onlajn platforma pod nazivom *Hydra* (Hidra). U radu će se bliže objasniti na koji način su funkcionisale ove platforme i kako je bio organizovan sistem prodaje droge. Obe platforme su ugašene, prva 2013. godine, rok je Hydra posle višegodišnjeg izmicanja pravosudnim organima ugašena u aprilu 2022. godine.

Silk road (Put svile) bio je naziv platforme koja se koristila na DarkNetu za prodaju ilegalne robe, pružajući anonimnost onima koji su takve aktivnosti obavljali. *Silk road* je bio prvo moderno tržište DarkNeta, onlajn mesto za anonimnu kupovinu i prodaju ilegalnih proizvoda i usluga. Ovu mrežu je osnovao Ros Ulbriht 2011. godine u SAD.

„Dve tehnologije su obezbedile anonimnost i prodavcima i kupcima na Putu svile: *Tor* mreža i virtuelni novac *Bitcoin*" (Martin, 2013, p. 351). *Bitcoin* je bio prva digitalna valuta stvorena 2009. godine koja je omogućavala transakcije bez potrebe za monitoringom od strane organa, kao što su centralna banka ili vlada. Umesto toga, autentičnost i obezbeđenje ovih transakcija potvrđivano je i beleženo preko *blockchain* tehnologije. „*Blockchain* tehnologija je napredni mehanizam baze podataka koji omogućava transparentno deljenje informacija unutar jedne (poslovne) mreže. Blockchain baza podataka čuva podatke u blokovima koji su povezani zajedno u lancu. Podaci su hronološki konzistentni jer ne mogu izbrisati ili modifikovati lanac bez konsenzusa sa mreže“ (Martin, 2013, p. 353).

Kao rezultat toga, može da se koristi *blockchain* tehnologija za kreiranje i praćenje narudžbina, plaćanja, naloga i drugih transakcija. Sistem ima ugrađene mehanizme koji sprečavaju neovlašćene unose transakcija i stvaraju doslednost u zajedničkom prikazu ovih transakcija. Na Putu svile ljudi su kupovali i prodavali širok spektar proizvoda i usluga. „Međutim, do 2013. godine oko 70% kupovina bila je droga. Upravo je potražnja i distribucija droge na privremene poštanske fahove dovela do pada *Silk road*-a. Ovo je omogućilo američkim policijskim i pravosudnim organima da uhapse ljude koji su radili za Ulbrihta i sklope ceo slučaj o funkcionisanju *Silk road*-a na DarkNet mreži“ (Martin, 2013, p. 358).

Ipak, *Tor* mreža je sprečila policiju da odmah utvrdi ko tačno stoji iza *Silk road*-a. Može se reći da su američki federalni agenti (FBI) imali dosta sreće prilikom hapšenja Ulbrihta. „Dobijene su informacije da se na Reddit forumu pojavila IP adresa *Silk road*-a koja je bila vidljiva na mreži. Agenti su ispitali ove tvrdnje objavljivanjem različitih podataka na *Silk road*-u, a zatim su koristili softver za analizu saobraćaja koji je uspeo da otkrije IP adresu“ (Lacson, Beata, 2016, p. 40). Ulbriht, koji je na *Silk road*-u koristio nadimak „Strašni pirat Roberts“ prijavio se na ovu mrežu iz javne biblioteke i to je dovelo do hapšenja. Uhapšen je i optužen za pranje novca, hakovanja kompjutera, promet narkotika i zavere za ubistvo najmanje pet ljudi koje je trebalo ućutkati, jer su pretili da će razotkriti funkcionisanje *Silk road*-a. „Ulbriht je odbio sporazum o priznanju krivice koji mu je nudio minimalnu kaznu od 10 godina zatvora, što se pokazalo kao velika greška. Osuđen je u sudskom procesu koji je vođen protiv njega i dobio pet kazni, uključujući dve kazne doživotnog zatvora bez mogućnosti uslovnog otpusta, a novčano je kažnjen sa 183 miliona dolara“ (Lacson, Beata, 2016, p. 40).

Hydra (Hidra) – Iskustva u borbi protiv onlajn kriminala fokusirana su u najvećoj meri na iskustva iz zapadnog sveta, ali treba takođe napomenuti da je tržište onlajn trgovine drogom svoj najveći procvat doživelo u Rusiji, gde je punih sedam godina funkcionisala DarkNet mreža pod imenom *Hydra* (Hidra). „Hidra je bila dominantno DarkNet tržište u Rusiji od svog nastanka 2015. do 2022. i razvila se u sofisticiranu platformu. Ova mreža koja je funkcionisala na globalnom nivou gotovo da nije imala konkurenciju na tržištu i bila je najveće kripto tržište trgovine drogom na svetu" (VICE, 2020).

Ruski policijski i pravosudni organi nisu u dovoljnoj meri bili posvećeni gašenju ove DarkNet mreže u poređenju sa svojim kolegama iz zapadnih zemalja. „S vremena na vreme bili bi uhapšeni pojedini kuriri" (VICE, 2020), ali glavni organizatori celog sistema neometano su radili. To je omogućavalo da Hidra iz godine u godinu raste i širi svoj uticaj u kriminalnom svetu. Nijedno drugo DarkNet tržište na svetu, na kojem se odvijala maloprodaja droge, nije funkcionisalo toliko dugo kao Hidra. Konačno Hidra je ugrašena u aprilu 2022 godine. Tokom svim tih godina rada i postojanja, Hidra je na onlajn tržištu trgovine drogom razvila takav sistem koji je omogućavao anonimnu komunikaciju između više segmenata na tom tržištu, od veleprodavaca, pa sve do krajnjih korisnika. Uspeh ove DarkNet mreže pomogao je da se dobije koristan uvid u budućnost maloprodajne trgovine drogom i potencijalne implikacije da DarkNet tržište može da raste i da se razvija tokom niza godina. Hidra je omogućila anonimnost učesnika na tržištu trgovine drogom, koristeći kriptovalute za plaćanja i *dead drop* sistem za isporuke.

Istovremeno, Hidra je bila onlajn prodavnica sa aktivnom samoregulacijom, sistemom reklamiranja za pojedinačne prodavce/prodavnice, i sistemom povratnih informacija recenzija i ocena za pojedinačne artikle i prodavce. Veliko onlajn tržište droge povećalo je i potražnju i ponudu droga zbog različitih pogodnosti i smanjenih rizika za kupce, kao i lakše komunikacije i trgovine sa dilerima. Digitalizacija trgovine drogom, koja se dešavala u prisustvu velikog i pouzdanog DarkNet tržišta, dovela je do trajnog povećanja udela onlajn trgovine drogom. Delovanje Hidre je evidentirano u 1.129 različitih naselja (gradova, mesta i sela) u svakom regionu Rusije, što odgovara najmanje 69% pokrivenosti ruske populacije (Goonetilleke, Knorre, & Kuriksha, 2023, p. 735). Veći gradovi su imali veću koncentraciju prodavaca i čitave liste opojnih droga koje su bile u ponudi za prodaju.

„Skuplja droga je distribuirana uglavnom u bogatijim oblastima, posebno oko poslovnih okruga. Onlajn tržište opojnih droga bilo je izuzetno konkurentno, kako generalno, tako i na nivou pojedinačnih vrsta droga, ali i po regionima Rusije“ (Goonetilleke, Knorre, & Kuriksha, 2023, p. 736). Ključni efekat politike zatvaranja koju sprovodi većina vlada jeste da se u tim zemljama nije pojavilo veliko tržište slično Hidri. Dakle, Hidra je omogućavala da se bolje razumeju prednosti ovih politika, služeći kao kontračinjenica za ono što bi se moglo dogoditi u njihovom odsustvu.

Ruska vlada je konačno priznala 2019. godine da Hidra ima značajnu ulogu na tržištu droge. Do zatvaranja Hidre došlo je tek na inicijativu vlada SAD i Nemačke. „Vlada SAD je procenila da je Hydra omogućila promet od više od 5 milijardi dolara u nezakonitim transakcijama od januara 2016. do marta 2022. godine, pri čemu se otprilike 80% svih transakcija kriptovaluta na DarkNet tržištu u 2021. dogodilo na Hydri“ (United States vs. Pavlov, 2022). Konkretno, Ministarstvo pravde SAD navelo je Hidru kao „najveće i najdugotrajnije tržište DarkNeta na svetu“ (United States vs. Pavlov, 2022). Pored toga, sugerisano je da postoje i drugi onlajn prostori za kupovinu droge u Rusiji, posebno pojedinačne prodavnice koje su funkcionisale preko Telegram grupa i botova. Međutim, oni su bili manje popularni i fokusirani na lokalnu prodaju droge u određenim gradovima i okruzima. Svi doušnici su sugerisali da je Hidra najpopularniji način za ilegalnu kupovinu droge, barem u Moskvi, Sankt Peterburgu i drugim velikim ruskim gradovima. Oštra razlika između Hidre i sličnih platformi koje su funkcionisale u zapadnim zemljama bila je dužina vremena tokom koje je bila u stanju da neprekidno radi bez straha od intervencije policijskih organa. Hidra je radila sedam godina i bila je dominantno tržište DarkNeta u Rusiji veći deo ovog vremena. U odnosu na druga popularna DarkNet tržišta, koja su retko preživela čak i jednu godinu od početka rada, Hidra je imala priliku da evoluira i da dominira ruskim tržištem droge. Kao deo toga, razvila je sofisticiranu organizaciju i strukturu, uspostavila skup pravila i propisa za prodavce i kupce, uvela mehanizme obezbeđenja kvaliteta i obezbedila uslugu deponovanja novca.

Jedna specifična karakteristika koja je Hidru razlikovala od popularnih DarkNet tržišta u SAD i Evropi bio je način isporuke. Većina DarkNet prodavnica koristi slanje porudžbina poštom, a dobavljači se oslanjaju na poštu ili na legalne kurirske službe za slanje prikrivenih paketa sa drogom. „Dok je dostava droge putem pošte ranije bila veoma popularna u Rusiji, uvođenje zakona iz 2014. godine koji zahteva od poštanskih službi da pregledaju pakete na prisustvo nedozvoljenih supstanci učinilo je ovaj način dostave manje atraktivnim“ (Saidashev & Meylakhs, 2021).

Kao rezultat toga, Hidra je poslovala preko *dead drop* sistema. Kuriri, koje su zapošljavali prodavci, sakrili bi drogu po gradu pre nego što se transakcije ostvare. Prodavac bi zatim naveo vrstu, količinu, približnu lokaciju i cenu droge na Hidri. Za razliku od većine DarkNet tržišta, „Hydra je uglavnom radila kroz *dead drop* sistem; droga je bila unapred skrivena i kupci su mogli da vide vrstu, količinu i približnu lokaciju na platformi“ (VICE, 2020). Nakon uplate, kupac je dobijao tačne podatke potrebne za preuzimanje predmeta. Postojale su četiri metode za sakrivanje paketa: „magnet“, „kopanje“, „kopanje u snegu“ ili „skrivanje“. Prvi je uključivao pričvršćivanje magneta na pakovanje, a zatim lepljenje za neki predmet, kao što je npr. kišni oluk. Druga i treća metoda bile su zakopavanje paketa na pogodnu lokaciju, kao što su park ili javna bašta, u zemlju ili sneg, respektivno.

Konačno, paket bi jednostavno mogao biti sakriven negde gde je malo verovatno da će biti slučajno pronađen. Mnoga roba je takođe bila dostupna za *pre-order*, što je značilo da nije bila skrivena pre transakcije, već su deponovane nakon uplate. Prednarudžbe su se prvenstveno koristile ili za veleprodajne transakcije ili za egzotične droge. „Kako je komunikacija između Hydra administratora, prodavaca, kurira i kupaca bila udaljena i anonimna, tržište je služilo za ublažavanje mnogih pravnih rizika povezanih sa transakcijama drogom. Međutim, postavljanje i preuzimanje dead drop-a jeste izložilo kurire i potrošače riziku da ih policija za sprovođenje zakona otkrije“ (VICE, 2020). Aktivnosti poput kopanja u parkovima ili pretraživanja kućnih dvorišta bile su jasne indikacije da je neko verovatno preuzimao drogu.

Slično drugim DarkNet platformama, Hidra je dozvolila prodavcima da registruju i navode razne vrste droge za prodaju. „Na platformi je bilo zaposleno tri vrste radnika: administratori, operateri i kuriri. Administratori su imali mogućnost da dodeljuju uloge drugim radnicima, menjaju profil i podešavanja prodavnice i obavljaju finansijske transakcije. Operateri su služili kao menadžment srednjeg nivoa, na primer, odgovarali su na sporove i zahteve kupaca. Konačno, kuriri su dostavljali drogu“ (Goonetilleke et al., 2023, p. 737). Kad su kupci u pitanju, nakon kreiranja anonimnog profila, korisnik je mogao da pregleda veb-lokaciju i filtrira dostupnu robu prema vrsti droge, prodavnicama, lokaciji, ceni i željenoj količini. „Za mnoge liste proizvoda, postojale su recenzije drugih kupaca koji su dali povratne informacije o kvalitetu proizvoda i njihovom iskustvu. Kada se kupac odluči za željeni proizvod, plaćanje je izvršeno putem Bitcoin-a. Kupci su generalno imali dve opcije za deponovanje bitkoina na platformi. Jedan je bio eksterna kupovina bitkoina, koji bi se zatim mogao preneti na adresu prodavnice“ (Goonetilleke et al., 2023, p. 737).

Druga opcija je bila korišćenje KIWI novčanika, usluge plaćanja koju pruža ruska finansijska kompanija KIWI. „Pošto kompanija KIWI ima terminale slične bankomatima širom Rusije, korisnik je mogao jednostavno da deponuje gotovinu kako bi je zamenio za Bitcoin s kojim je kasnije mogao da plaća na Hydra platformi. S obzirom da za korišćenje KIWI terminala nije bila potrebna nikakva identifikacija, ovakav način deponovanja novca je obezbeđivao dovoljnu anonimnost kupcima“ (Goonetilleke et al., 2023, p. 738). Prisustvo ovih terminala u Rusiji davalo je mogućnost građanima da na znatno jednostavniji način anonimno kupe ili prodaju kriptovalute nego što je to bio slučaj u zapadnim zemljama. „Kada bi se kupovina obavila, Hydra bi obezbedila *escrow* uslugu, deponujući sredstva na računu, do trenutka dok se transakcija ne bi potvrdila kao uspešna. Nakon uplate, kupac bi dobijao detaljne informacije o dead drop lokaciji, uključujući fotografije i GPS koordinate kako da stigne do tog mesta. Dakle, ne bi bilo fizičkog kontakta između prodavca i kupca“ (Goonetilleke et al., 2023, p. 738). Štaviše, njihova međusobna komunikacija bila je izolovana na *Tor* mreži. Finansijska transakcija je takođe bila anonimna pod uslovom da je kupac koristio *Bitcoin* ili direktno deponovao gotovinu na KIWI terminal. Glavni kanal komunikacije između kupca i prodavca odvijao se preko čet-sistema na platformi Hidra. „Postojala su stroga pravila u vidu komunikacije na platformi. Bilo kakva komunikacija van Hydra platforme je bila zabranjena. Kršenje ove zabrane povlačilo je sa sobom kaznu od 2 bitkoina za prodavnice koje bi pokušale da ostvare komunikaciju sa kupcima van

Hydra-e, dok bi kupci koji bi razotkrili ovakve planove bili nagrađivani" (Saidashev & Meylakhs, 2021, p. 175).

Svaki put kada bi kupac obavio kupovinu, imao bi 24 sata da ostavi povratnu informaciju. Najjednostavniji način za ocenjivanje prodavaca bio je putem prosečne ocene. Sistem ocenjivanja se kretao od 0 do 10. Slično kao i na platformi SilkRoad, većina ocena na Hidri je bila veoma visoka. Prosečna ocena se kretala uvek oko 10, dok je udeo porudžbina sa ocenom ispod 10 iznosio samo 4%. Ovako visok broj pozitivnih ocena može se u velikoj meri objasniti činjenicom da ako korisnik nije postavio ocenu tokom perioda od 24 sata, platforma bi automatski dodelila ocenu 10 porudžbini. Kupcima se pružala mogućnost da vide prosečnu ocenu prodavca i prosečnu ocenu za svaki od artikala koje prodaje. Druga komponenta sistema reputacije bile su recenzije. One su mogle biti ostavljene samo nakon obavljene kupovine da bi se izbegle lažne recenzije od strane konkurencije. Svaka recenzija pružala je informacije o uočenom kvalitetu droge, problemima koji bi nastajali tokom procesa kupovine i predmetima koji bi eventualno nedostajali.

„Hydra je omogućavala kupcima da pokreću sporove u okviru platforme ukoliko ne bi bili zadovoljni procesom kupovine ili im kupljena roba nije bila zadovoljavajuća" (Saidashev & Meylakhs, 2021 p. 176). Problemi u toku kupovine bili su vezani većinom za situacije u kojima se droga ne bi nalazila na dogovorenom mestu ili je dostava bila otežana zbog nepristupačne lokacije ili zbog prisustva policijskih organa. Sam artikal je mogao da bude ili neodgovarajući, u smislu da je lošeg kvaliteta i u suprotnosti sa onim kako je bilo oglašeno. „Spor bi bio pokušan da se reši prvo direktnom komunikacijom između kupca i prodavca putem internog sistema za razmenu poruka. Ovakvi sporovi bi se završavali uglavnom povratom novca, ili popustom na neku buduću kupovinu ili eventualno zamenom robe" (Goonetilleke et al., 2023, p. 738). Ako do rešenja spora ne bi moglo da dođe na ovakav način, u spor bi se uključio moderator sa platforme koji bi nakon čitanja komunikacije među učesnicima u prodaji u većini slučajeva presudio u korist kupca ako bi ustanovio da taj kupac ima dugu istoriju kupovine na mreži bez većeg udela sporova u tom procesu.

Još jedna karakteristika Hidre bila je to što je prodavcima omogućavala da dobiju dva posebna statusa koja bi im pomogla da se razlikuju od drugih prodavaca i poboljšaju poslovne procese. „Status 'prodavca od poverenja' mogao je da se kupi ako bi bili ispunjeni sledeći uslovi: da je prodavac imao više od 1.000 prodaja ukupno i imao je stopu sporova ispod 7%. Status je povećavao očekivanu pouzdanost sa stanovišta kupaca. Takođe je omogućavao prodavcu da poboljša svoju poziciju u rezultatima pretrage" (Goonetilleke et al., 2023, p. 738). Pored toga, prodavci od poverenja mogli su da donose odluke u postupku spora pre nego što bi spor završio kod moderatora Hidre. „Kao kod legalnih tokova poslovanja i u okviru Hydra platforme, prodavcima od poverenja je bilo dozvoljeno da daju franšize, odnosno da sarađuju sa manjim partnerima koji su proizvodili sintetičke droge ili marihuanu, a imali su i mogućnost da budu partneri sa prodavcem koji je koristio Hidru kao posrednika" (Saidashev & Meylakhs, 2021, p. 177). Postojalo je nekoliko ključnih izvora prihoda za platformu. Prvo, Hidra je naplaćivala prodavcima mesečnu naknadu i proviziju od svih transakcija na tržištu. Drugo, Hidra je izlicitirala pozicije na glavnoj stranici veb-stranice. Treće, Hidra je prodavala posebne statuse većim prodavcima na tržištu. Prodavcima je naplaćivan rad na platformi. „Od 19. marta 2022, cena koju je platforma naplaćivala za otvaranje nove prodavnice bila je otprilike oko 300 USD. Pored toga, Hidra je takođe naplaćivala od prodavnica „rentu" od 100 USD svakog meseca" (Goonetilleke et al., 2023, p. 740).

Hidra je naplaćivala proviziju za prodaju koja je varirala u zavisnosti od vrste i vrednosti droge. „Platforma Hydra je zatvorena 5. aprila 2022. godine, kada je nemačka policija zaplenila servere na kojima su se nalazile prodavnice, u zajedničkoj operaciji sa američkim federalnim agencijama" (Bloomberg, 2022; Wall Street Journal, 2022). U svom saopštenju za javnost, „Savezna kancelarija kriminalističke policije Nemačke je navela da je odgovarajuća istraga počela u avgustu 2021. godine" (Bundeskriminalamt, 2022). Istog dana, Ministarstvo finansija SAD je izdalo sankcije protiv ove platforme (U.S. Department of the Treasury, 2022) a Ministarstvo pravde SAD je dobilo „optužnicu protiv navodnog administratora Hydra-e" (United States vs. Pavlov 2022). Nisu obezbeđeni nikakvi dokazi da su ruske vlasti bile umešane u operaciju gašenja Hidre. Uprkos tome što su neki učesnici na tržištu izrazili očekivanja da će Hidra biti vraćena na DarkNet mrežu, tržište je postalo potpuno nefunkcionalno i to je potrajalo više od godinu dana. U prvim danima nakon gašenja kupci i prodavci su pokušali da trguju koristeći dva DarkNet foruma koji su bili popularni među Hidra korisnicima, LegalRC i RuTor, a počeli su i da migriraju na druge platforme koje su se u međuvremenu otvarale ili su bile aktivne već neko vreme, ali nisu imale tu posećenost i tako uspostavljen sistem kakav je imala Hidra. „Među tržištima koja su porasla nakon gašenja Hydra-e, najveća su 'OMG' 'Blacksprut', 'Mega' i 'Solaris'" (Chainalysis, 2023). Još jedno tržište koje je sada popularno – Kraken, otvoreno je u decembru 2022. Kraken se predstavlja kao naslednik Hidre kojim upravljaju ljudi koji su bili povezani sa Hidra platformom.

6. **Zaključak**

U svetu postoji globalna saradnja u borbi protiv onlajn trgovine drogama. Sa porastom svesti o privatnosti, tehnologije enkripcije i anonimnosti postaju sve naprednije. To omogućava kriminalcima na internetu da ostanu skriveni tokom komunikacije i transakcija. Policijske i bezbednosne agencije širom sveta rade na jačanju saradnje kako bi se suprotstavile ovoj vrsti kriminala. Međunarodna saradnja postaje ključna, jer onlajn prodaja droga ne poznaje granice. Razvoj tehnologije i analize podataka omogućio je bezbednosnim agencijama da prate onlajn aktivnosti, identifikuju digitalne tragove i učesnike u ilegalnim aktivnostima. Takođe, ove tehnologije bi mogle prepoznati i prevazići metode enkripcije u borbi protiv onlajn trgovine drogama.

U tim poslovima pomaže im veštačka inteligencija, koja se takođe koristi za analizu dobijenih podataka. Internet platforme, finansijske institucije i provajderi usluga često imaju ključne informacije koje mogu pomoći policiji u identifikaciji i praćenju dilera drogom. Informisanje javnosti o rizicima i opasnostima onlajn kupovine droga može smanjiti potražnju i otežati poslovanje kriminalnim organizacijama i dilerima.

Slučaj Hidre pokazuje da DarkNet tržište, kome je dozvoljeno da nekontrolisano raste, može dominirati onlajn tržištem, dostižući izuzetne kapacitete i visok nivo sofisticiranosti. S obzirom na ograničene resurse koji su na raspolaganju organima za sprovođenje zakona, odluka o tome da li će pokušati da se ugase DarkNet tržišta zahtevaće analizu ukupnog uticaja koje bi ova gašenja mogla da izazovu. Postojeći korisnici DarkNet tržišta, i kupci i prodavci, već su platili za sticanje znanja neophodnog za rad na ovim platformama. To znači da veliki deo učesnika brzo migrira na nova tržišta. Dakle, ako veliko DarkNet tržište podstiče potencijalne korisnike da nauče da rade na ovim platformama, ovi efekti su uporni. Stoga, omogućavanje tržištu da nekontrolisano raste rizikuje da organi za sprovođenje zakona izgube sposobnost da u budućnosti smanje veličinu onlajn trgovine drogom. Agencije za borbu protiv narkotika neprestano preduzimaju operacije nadzora kako bi pratile i ometale kriminalce i onemogućile prodaju droge na DarkNetu. Zatvaranje velikih onlajn platformi za trgovinu drogom, s druge strane, ima minimalan dugoročni uticaj na prodaju droge, jer kupci i dobavljači migriraju na druge onlajn platforme i ukupna prodaja se na kraju oporavlja.

U skladu sa tim, ovaj rad sa sobom nosi poruku onih koji u svom životu nisu prezali da se na sve načine suprotstave organizovanom kriminalu, uvek i na svakom mestu. Upravo je čuveni italijanski sudija i tužilac Đovani Falkone bio personifikacija borbe protiv mafije i organizovanog kriminala u kojoj je žrtvovao i sopstveni život. U njegovim izjavama ostale su zabeležene reči da *mafija i kriminal nisu nepobedivi, da je to sistem koji se može demontirati*. U toj borbi presudno je da celokupno društvo zauzme stav protiv organizovanog kriminala tako što će razotkriti sve mehanizme na kojima on počiva, i da se samo hvatanjem u koštac sa organizovanim kriminalom može osporiti njegova percepcija nepobedivosti. Njegove reči da *mafija napreduje u tami, ali da pravda donosi svetlost* donose suštinu ove borbe i preslikavaju se na borbu protiv mafije i organizovanog kriminala koji u današnjem vremenu i napreduje u tami, na mračnoj strani interneta i njenim skrivenim i opskurnim mrežama.

Falkoneovo verovanje bilo je da pravda, koju simbolizuju odgovornost i vladavina prava, predstavlja svetionik koji donosi svetlost i transparentnost u najmračnije uglove društva, otkrivajući nezakonite aktivnosti kriminalnih organizacija. Ovi stavovi služe kao podsetnik da se organizovani kriminal i trgovina drogom koja je naizgled nedodirljiva na tamnoj strani interneta mogu pobediti samo ukoliko se sve poluge pravnog sistema zajednički uključe u ovu borbu, jer težnja za pravdom nije ključna samo u borbi protiv organizovanog kriminala, već i u održavanju i očuvanju vrednosti pravednog i zakonitog društva.

Neophodno je da kriminalistička policija i bezbednosne službe u budućnosti nastave da koordinisano deluju na suzbijanju onlajn trgovine drogom na DarkNetu. Ova saradnja treba da se odvija na razmeni informacija, analizi podataka, infiltraciji u kriminalne zajednice na internetu i koordinaciji akcija radi identifikacije prodavaca i kupaca droge i suzbijanju ovih aktivnosti na DarkNetu. Zakonodavci treba da rade na usvajanju i jačanju zakona koji se odnose na onlajn trgovinu drogom kako bi se adekvatno odgovorilo na nove izazove koje donosi digitalno doba. To uključuje pooštravanje kazni za počinioce ovakvih dela. Potrebno je unaprediti međunarodnu saradnju kako bi se uspostavili zajednički zakonski okviri za suzbijanje onlajn trgovine drogom, koji bi uključivali i sporazume o zajedničkim istragama. Ove zakonske mere mogu biti ključne u borbi protiv onlajn trgovine drogom na DarkNetu, ali je važno da budu deo šire strategije koja uključuje i druge aspekte, kao što su tehnološke inovacije i kriminalističko-obaveštajni rad.

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INTERNET AS ILLICIT DRUG MARKET

Abstract: Over the past decade, technological advancements driven by digitalization have transformed everyday life, enhancing communication, expanding access to information and education, and reshaping business operations. However, these developments have also facilitated new forms of criminal activity, particularly drug trafficking through hidden online networks. This paper examines the complex dynamics of online drug markets, analyzing DarkNet's role in shaping the operations of both organized crime groups and individual traffickers. It highlights major cryptomarkets such as Silk Road and Hydra, which operated clandestinely for years as platforms for the sale of illicit drugs and other illegal goods and services.

Keywords: DarkNet, online drug trafficking, cryptomarkets, dead drop, Covid-19.

1. Introduction

In the era of digital transformation, technological advancements have not only streamlined daily life but have also created new avenues for criminal activity. One of the most pressing challenges emerging from this shift is the rise of online drug trafficking. While traditional drug distribution methods remain relevant, the digital landscape has become

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a critical hub for illicit trade, offering criminals anonymity, global reach, and sophisticated techniques to evade law enforcement.

This paper examines the complex dynamics of online drug trafficking, investigating how digital platforms serve as conduits for both organized crime syndicates and independent traffickers. By analyzing technological, legal, and socio-economic factors, it seeks to provide a comprehensive understanding of the multifaceted nature of this issue, assess current countermeasures, and explore the broader implications of cyber-enabled drug markets on society and global security.

2. Online drug trafficking

Since 2011 and the establishment of the first crypto drug market "Silk Road", "the number of anonymous online drug markets has expanded and online commerce has become a common way to buy and sell illegal drugs" (United Nations Office on Drugs and Crime, 2021). A large number of studies have "dealt with drug trafficking through the DarkNet" (Aldridge, Stevens & Barratt, 2018), including "coordination between buyers and sellers" (Bakken, Moeller & Sandberg, 2018) and methods aimed at creating and maintaining trust between entities in this illicit market, who do not see, know or meet each other, but who have developed a criminal system of drug trafficking hitherto unimaginable and unknown. "The trust among the participants in this trade was highlighted through reviews and ratings on the DarkNet's networks." (Morselli, Décary-Hétu, Paquet-Clouston & Aldridge, 2017; Munksgaard & Tzanetakis, 2022, p. 19). One of the important findings of numerous studies on this topic is the resistance of participants in the drug trade to bear the legal consequences when shutting down individual online markets where narcotics were bought and sold. The question is how many effects are achieved by shutting down individual online markets that deal in drug trafficking, "because participants in that trade very quickly migrate to some new networks and remain inaccessible to judicial authorities" (Ladegaard, 2019).

“The virtual nature of crypto drug markets has meant that participants in this market do not need to physically meet” (Aldridge et al., 2018). Some scholars note that before online drug trafficking, there was a much higher degree of criminalization on the streets, and that since the drug sale was registered in 2011, there have been far fewer clashes between criminal gangs, especially in the United States. Starting with Silk Road in 2011, “the number of crypto narcotics markets increased rapidly” (Christin, 2013), to an estimated “118 cryptomarkets in 2019 specializing in the sale of goods on the black market” (United Nations Office on Drugs and Crime, 2021). “ Cryptomarkets are now an important source of supply of drugs for personal use and sale to a wider range of people” (Demant, Munksgaard, Décary-Hétu & Aldridge, 2018). Online drug markets are trying to circumvent the laws by conducting their operations on the DarkNet while relying on cryptocurrencies such as Bitcoin to carry out transactions. The issue of trust is also an important aspect of the coordination problem: how can customers be sure that they will get quality “goods” for their money when they have no protection in case the product is of poor quality or simply if they are scammed?

In this regard, experience from legal online marketplaces is used, “so that a reputation system based on reviews and ratings of sellers is applied in crypto drug markets” (Przepiorka, Norbutas & Corten, 2017). On some cryptomarkets, “a system of depositing funds with third parties is also used, in order to prevent possible disputes between buyers and sellers, which overall contributes to greater trust among both buyers and dealers” (Munksgaard & Tzanetakis, 2022, p. 20). Shoppers in cryptomarkets “feel more secure compared to other forms of drug distribution” (Morselli et al., 2017).

Since the establishment of the first crypto drug market, *Silk Road*, in 2011, the number of anonymous online drug markets has expanded significantly, making online commerce a common method for buying and selling illicit substances (United Nations Office on Drugs and Crime, 2021). Numerous studies have examined drug trafficking through the DarkNet (Aldridge, Stevens & Barratt, 2018), including the coordination between buyers and sellers (Bakken, Moeller & Sandberg, 2018) and the mechanisms used to establish and maintain trust in these illicit markets. Despite the lack of direct interaction between participants, they have developed a sophisticated system for drug trafficking that was previously unimaginable. Trust within this trade is reinforced through review and rating systems embedded in DarkNet platforms (Morselli, Décary-Hétu, Paquet-Clouston & Aldridge, 2017; Munksgaard & Tzanetakis, 2022, p. 19).

An important finding in research on this topic is the resilience of online drug markets despite legal interventions. Participants often evade legal consequences when individual platforms are shut down, as they quickly migrate to new networks that remain inaccessible to law enforcement (Ladegaard, 2019). The virtual nature of crypto drug markets eliminates the need for physical meetings (Aldridge et al., 2018). Some scholars suggest that prior to online drug trafficking, street-based distribution resulted in higher levels of criminal violence, whereas since the emergence of Silk Road in 2011, violent clashes among criminal gangs—particularly in the United States—have declined.

Following the launch of Silk Road, the number of crypto drug markets expanded rapidly (Christin, 2013), reaching an estimated 118 cryptomarkets in 2019 dedicated to black-market trade (United Nations Office on Drugs and Crime, 2021). Cryptomarkets have become a major source of drug supply, serving both personal users and larger distribution networks (Demant, Munksgaard, Décary-Hétu & Aldridge, 2018). These markets operate within the DarkNet and leverage cryptocurrencies such as Bitcoin to facilitate transactions while circumventing legal restrictions.

Trust is a crucial element in this illicit trade, as buyers lack formal protections against fraudulent or low-quality products. To address this issue, crypto drug markets borrow strategies from legal e-commerce platforms, incorporating reputation systems based on seller reviews and ratings (Przepiorka, Norbutas & Corten, 2017). Additionally, some cryptomarkets implement third-party escrow systems to mitigate disputes between buyers and sellers, further strengthening trust (Munksgaard & Tzanetakis, 2022, p. 20). Many shoppers perceive cryptomarkets as a safer alternative to traditional drug distribution methods (Morselli et al., 2017).

The increasing accessibility of illicit substances through online marketplaces has influenced consumption patterns. Research suggests that "drug buyers and users tend to consume drugs more often but also buy smaller quantities and generally engage in controlled consumption of illicit substances" (Barratt, Lenton, Maddox & Allen, 2016, p. 50). However, one of the primary vulnerabilities of DarkNet platforms is the risk of market shutdowns, which can occur in four distinct ways.

First, voluntary closures take place when cryptomarket administrators shut down their platforms and return deposited funds to users, typically due to unprofitability or fear of law enforcement intervention. Second, exit fraud occurs when administrators abruptly shut down the market without prior notice, retaining all deposited funds (Barratt, 2012, p. 683). Third, DarkNet marketplaces may be hacked, with attackers either stealing deposited funds or exposing market operations for unknown reasons. Finally, markets may be **seized by law enforcement,** leading to asset confiscation—often in the form of Bitcoin—as well as the arrest and prosecution of administrators.

The frequent and unexpected shutdowns of DarkNet platforms pose a significant threat to the stability of the online drug trade. "The unexpected shutdowns of platforms on the DarkNet pose a major threat to the stability of the online drug market. Specifically, between 2011 and 2016, 88 DarkNet platforms were opened, of which 82 were closed before the end of 2016" (Barratt et al., 2016, p. 56). Despite these disruptions, administrators and users have adapted by rapidly migrating to new platforms, treating shutdowns as temporary setbacks rather than insurmountable obstacles to the continuation of online drug trafficking.

2.1. DarkNet: The dark side of the Internet as a hub of online drug trafficking

DarkNet marketplaces, also known as cryptomarkets, facilitate illegal online trade through platforms "similar to legal online platforms that facilitate trade, such as eBay or Amazon" (Munksgaard & Tzanetakis, 2022, p. 20). These platforms leverage encryption technologies alongside user-friendly interfaces, allowing "illicit trades to take place on easy-to-use platforms without any direct encounter and with anonymous identities and locations, making the DarkNet a breeding ground for illicit trades" (Tzanetakis, 2018). As the DarkNet market continues to expand, international cooperation and information exchange among law enforcement agencies remain critical to combat its exponential growth (Reitano, 2015). Most activity on DarkNet marketplaces revolves around illicit drug trafficking, making it a central pillar of this hidden economy (Europol, 2017).

One of the primary reasons buyers are drawn to DarkNet markets is their perception of a safer environment for drug purchases; "due to the absence of personal contact with dealers, erasing all kinds of risks of potential violence" (Barratt et al., 2016, p. 57). However, while anonymity protects sellers, buyers must still provide a delivery address, which introduces vulnerabilities such as potential exposure of personal information, fraud, blackmail, or identification by law enforcement authorities (Europol, 2017).

Additionally, DarkNet platforms enable drug dealers to expand their customer base beyond their immediate physical territory, overcoming geographical limitations that would exist in traditional street-level markets due to competition and territorial disputes among rival dealers (Morselli et al., 2011). These dealers operate with a high degree of identity protection, relying on encryption and anonymity mechanisms built into DarkNet marketplaces. However, customer trust is also reinforced through feedback and rating systems, mirroring those found in legitimate online marketplaces.

To fully grasp the functioning of online drug markets, it is essential to define and distinguish key concepts frequently encountered in this discourse, including the DarkWeb, DarkNet, and Tor—each playing a distinct role in the ecosystem of illicit online trade.

The dark web (or *Dark Web*) is "a piece of the internet consisting of hidden sites that cannot be found through conventional and well-known web search engines" (Guccione, 2021). Instead, it is necessary to install a publicly available Tor browser through which the Tor network is accessed, which provides anonymity to the user when performing web traffic.

The Dark Net (or *DarkNet*) is "a small part of the Dark Web that is designed for people to communicate anonymously. Commonly known as the DarkNet ("dark or hidden web"), this hidden part of the internet is considered a space for criminal activity" (Buxton & Bingham, 2015, p. 12). In addition, almost everyone has heard stories of drug and human trafficking or even murders that have been organized on the dark web. Regular search engines, such as Google, Bing, etc., can't find websites from the DarkNet. Sites on the DarkNet can only be accessed by using the Tor network. Sites, i.e. hidden or onion services, can only be accessed if the exact URL, whose domain name ends in .onion, is known. The DarkNet is actually a place to trade all kinds of illegal goods, and payment is mostly made in cryptocurrencies. Since there is no way to track users, communication over *the Darknet* provides the highest security and privacy. Due to the encrypted communication and anonymity it provides, criminals make maximum use of the DarkNet. The risk of malware spreading is much higher here than on ClearNet. Visitors to the DarkNet can easily fall for suspicious offers or come into contact with criminal organizations and thus become vulnerable to criminal prosecution. Browsing the DarkNet itself is not illegal, although it does pose a security risk. As soon as a person downloads illegal content on their computer, or buys illegal goods and services, they become a criminal. The sale of illegal goods and services is also punishable. In this regard, "the DarkNet is not really different from the physical world: what is illegal offline is still illegal on the Internet, regardless of whether it is on the ClearNet or the DarkNet" (Buxton & Bingham, 2015, p. 12).

As you can see from the name of the network, the DarkNet is the darkest place on the Internet and abounds in illegal content. On the DarkNet, you can most often find sites for the sale of drugs, sites that sell child pornography, then various types of weapons and military equipment (pistols, rifles, bombs, although it is also possible to order hand launchers and other weapons). Also, the DarkNet provides the ability for people to buy fake identities, stolen goods, and various information. It is possible to organize and order a robbery, and there are cases where a murder has been ordered through this network.

The Dark Web refers to a segment of the internet that consists of hidden sites inaccessible through conventional search engines such as Google or Bing (Guccione, 2021). Accessing these sites requires the installation of specialized software, such as the publicly available Tor browser, which enables users to browse the Tor network while maintaining anonymity.

Within the Dark Web exists a smaller, more restricted subset known as the DarkNet, designed for anonymous communication and often associated with illicit activities (Buxton & Bingham, 2015, p. 12). While mainstream search engines cannot index DarkNet sites, users can access them through the Tor network. These sites, referred to as onion services, require exact URLs ending in ".onion" to enter.

The DarkNet facilitates the trade of various illegal goods, with transactions typically conducted using cryptocurrencies to preserve anonymity. Due to its encrypted communication channels, criminals exploit the DarkNet for illicit transactions, making it a breeding ground for cybercrime. However, its inherent risks extend beyond law enforcement detection—malware proliferation is significantly higher than on the ClearNet (the publicly accessible internet), exposing users to potential security threats.

Importantly, browsing the DarkNet itself is not illegal, but engaging in illegal activities—such as downloading illicit content, purchasing illegal goods or services, or facilitating cybercrime—constitutes a criminal offense. The DarkNet operates similarly to the physical world: activities deemed illegal offline remain illegal online, regardless of whether they occur on the ClearNet or DarkNet (Buxton & Bingham, 2015, p. 12).

DarkNet is the darkest place on the Internet and abounds in illegal content. DarkNet marketplaces frequently host sites dedicated to the sale of drugs, weapons, child pornography, counterfeit identities, and stolen goods. Reports have also highlighted its involvement in organizing cybercrime, fraud, and, in rare instances, more severe offenses such as contracted violence, even murder.

Tor ("The Onion Routing") is a modified version of the Mozilla Firefox browser designed to protect user anonymity by concealing their IP address, location, and other identifying information from conventional websites (Swan, 2016, p. 110). Originally developed by the U.S. Navy's research department, Tor continues to receive funding from the U.S. government. Its name—an acronym for "The Onion Router"—reflects its multi-layered encryption process, which ensures that only those with the appropriate decryption key can access the original data (Swan, 2016, p. 111).

This encryption model is similar to the security protocols used in the banking sector and online commerce, where intercepted emails or transactions remain unreadable without proper authorization. Tor achieves anonymity by routing internet traffic through multiple intermediaries, known as Tor relays—typically three relays for communication with ClearNet web servers and up to six for interactions with onion services. Through this process, encrypted communication appears random to external observers, as traffic is transmitted across multiple global servers before reaching its destination.

The Tor browser and its associated sites are widely used within the DarkNet, identifiable by the ".onion" domain. Unlike ClearNet URLs, onion service addresses cannot be mapped to an IP address, making it significantly more difficult for investigators to locate them. Furthermore, even when DarkNet marketplaces are seized by law enforcement, the IP addresses of web clients—including sellers and buyers—remain inaccessible to web servers, ensuring continued anonymity.

2.2. The impact of the COVID-19 pandemic on online drug sales

The COVID-19 pandemic disrupted multiple aspects of social life worldwide, including its effects on various vulnerable populations, such as drug users. While some research suggests that economic recessions generally do not reduce narcotics demand, as drug users tend to be consistent consumers (Caulkins, 2011), other studies indicate that certain extreme circumstances can lead to shifts in drug markets (Dunlap, Graves & Benoit, 2012). Although the pandemic did not significantly alter overall demand for illicit substances, it created substantial distribution challenges, particularly for international shipments.

Following the outbreak of COVID-19, the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) noted increased traffic in cryptomarkets, raising questions about whether these platforms had become more viable channels for drug distribution, given the absence of face-to-face transactions (EMCDDA, 2020). Drug traffickers who previously concealed narcotics within legitimate international shipments (United Nations Office on Drugs and Crime, 2020) faced new logistical obstacles due to border closures aimed at curbing the spread of the virus. As a result, international drug trafficking became increasingly difficult—if not temporarily halted—due to travel and trade restrictions.

The pandemic's impact on illicit drug markets varied depending on both the geographic location of sellers and buyers, as different regions experienced varying degrees of disruption (United Nations Office on Drugs and Crime, 2020). While international cryptomarket transactions faced significant obstacles, domestic cryptomarkets may have been less affected. The type of drug being sold also played a role in market shifts; for instance, reports from EMCDDA and Europol suggested that COVID-19 had minimal impact on cocaine sales but led to a decline in demand for synthetic drugs (EMCDDA-Europol, 2020). Furthermore, drug prices for most substances increased in cryptomarkets post-pandemic, likely as a result of supply shortages rather than shifts in consumer behavior (EMCDDA-Europol, 2020).

Since many cryptomarket participants are based in Western industrialized nations, the pandemic may have disrupted major players in online drug markets, weakening their competitive advantage. The Netherlands, recognized as a leading supplier of illicit drugs in cryptomarkets (EMCDDA-Europol, 2019), saw a notable decline in its presence following the outbreak (EMCDDA-Europol, 2020), reflecting broader market instability.

3. Law Enforcement Efforts Against Online Drug Trafficking

Globally, law enforcement agencies have primarily targeted the operators of online drug markets, focusing on prosecuting the owners of DarkNet platforms and shutting down cryptomarkets. One of the key strategies involves direct market disruption, with police agents infiltrating illicit platforms by posing as both buyers and sellers. This approach has increased transaction costs and, more importantly, undermined the trust that previously existed between online buyers and dealers. In some cases, officers have instilled further suspicion among sellers by posting fake negative reviews, discouraging transactions (Hutchings & Holt, 2017).

Additional enforcement measures include stricter controls on financial transactions and prosecuting both buyers and dealers exposed through these efforts. However, online drug trade has proven highly resilient to legislative interventions. DarkNet markets remain highly interconnected, allowing users to migrate quickly to new platforms when existing ones are shut down—ensuring that such disruptions have a minimal impact on overall drug prices (Ouellet, Maimon, Howell & Wu, 2022, p. 1518).

The use of DarkNet marketplaces for drug trafficking remains a global issue, with significant growth in recent years—especially in India and Southeast Asian countries, including Indonesia, Thailand, and Vietnam (United Nations Office on Drugs and Crime, 2020). As cryptomarkets continue to evolve, law enforcement agencies worldwide face ongoing challenges in effectively dismantling these platforms and mitigating their influence on international drug trade networks.

4. Methods of Distributing Drugs Purchased Through the DarkNet

While technological innovations have enhanced anonymity in DarkNet marketplaces, drug delivery remains a critical vulnerability, as law enforcement can intercept shipments containing narcotics. To mitigate these risks, buyers in Western countries employ several strategies to avoid detection. These include selecting delivery locations far from home or work, regularly rotating addresses, avoiding postal services that require signatures, and even using real customer names to make packages appear less suspicious (Aldridge & Askew, 2017, p. 102).

Despite these precautions, substances sent via mail are always at risk of seizure. However, interception alone does not necessarily identify the sender, nor does it provide definitive proof that the recipient knowingly purchased drugs online. Sellers further protect their anonymity by excluding return addresses on packages, allowing buyers to claim that any seized drugs were delivered in error (The Washington Post, 2018). Additionally, since mail containing drugs often appears indistinguishable from regular parcels, most shipments do not undergo thorough security checks.

Another distribution method, used less frequently in Western countries but widely adopted elsewhere, is dead drop delivery (Aldridge & Askew, 2017, p. 104). This approach eliminates reliance on postal services and significantly reduces delivery delays, making it a preferred method in many regions.

The online drug trade is more efficient than traditional street markets, exhibiting lower rates of theft and fraud (Bhaskar, Linacre & Machin, 2019). This increased efficiency stems from several technological advancements that enhance market transparency and competition.

One of the major challenges of street-based drug trafficking is the information asymmetry between buyers and sellers regarding drug quality. Illicit street drugs are often mixed with adulterants—including baking soda, sugar, starch, painkillers, talc, milk powder, laundry detergent, caffeine, and even rat poison—which compromises purity and increases health risks (American Addiction Centers, 2019). Consumers purchasing drugs on the street lack the ability to verify quality or file complaints, making fraud and contamination common concerns.

DarkNet marketplaces address these problems by implementing buyer and seller feedback systems, similar to those found on legal e-commerce platforms such as eBay. These systems incentivize vendors to offer higher-quality drugs, as future sales depend on positive customer reviews (Espinosa, 2019, p. 29).

Additionally, the "escrow" system plays a crucial role in ensuring transactional integrity. In this model, DarkNet platforms hold funds until buyers receive their goods. Once the purchase is confirmed, the platform releases the payment to the seller, minimizing fraud and protecting buyers from unreliable dealers.

Since goods on DarkNet marketplaces are paid for upfront, buyers face a significant risk that sellers may fail to deliver the product after receiving payment—a common concern in transactions involving illegal goods. While some platforms implement depositing systems to mitigate fraud, participation in these systems is optional. In certain cases, buyers prefer to pay sellers directly to expedite transactions—a practice known as "Finalize Early", which is typically reserved for trusted sellers (Darknetone, 2021).

It is important to note that feedback and escrow systems were not pioneered by DarkNet markets. Such mechanisms have long been integral to legal online marketplaces such as eBay, Airbnb, and Amazon, where positive feedback plays a crucial role in determining reputation and pricing (Anderson & Magruder, 2012). The escrow system, first implemented by Amazon, has proven effective in enhancing trust between buyers and sellers (Paulou & Geffen, 2004, p. 40).

Trust remains a central issue in online drug sales, given the ethical and legal complexities of the narcotics trade. Buyers often lack certainty regarding the quality of substances until they have used them, creating opportunities for sellers to engage in fraudulent practices, such as mixing drugs with cheaper, low-quality substances.

For buyers seeking reliable connections, the key challenge is identifying sellers who aim to maximize long-term profitability by fostering consistent customer relationships. Only after experiencing a product firsthand do buyers decide whether to continue purchasing from the same seller or seek alternatives.

5. Research on the Operation of DarkNet Platforms for Online Drug Sales

Since their emergence in 2011, DarkNet marketplaces have facilitated the sale of various illegal goods and services, including drugs. Many of these platforms have operated for brief periods before being shut down. Among the most well-known examples are Silk Road, which launched in the United States in 2011, and Hydra, Russia's dominant

DarkNet marketplace. This paper examines the operational structures of these platforms and the mechanisms that sustained their illicit drug trade. Both Silk Road and Hydra were ultimately dismantled—Silk Road in 2013 and Hydra in April 2022—after prolonged evasion of law enforcement.

Silk Road served as the first modern DarkNet marketplace, enabling anonymous transactions for illegal goods and services. Founded by Ross Ulbricht in 2011, it relied on two key technologies to protect user anonymity: the Tor network and Bitcoin (Martin, 2013, p. 351). Bitcoin, introduced in 2009, provided a decentralized currency system that operated without oversight from banks or governments. The security of transactions was ensured through blockchain technology, which records data in sequentially linked blocks, preventing unauthorized modifications (Martin, 2013, p. 353).

Blockchain technology facilitated Silk Road's order processing, payments, and transaction tracking. This system maintained transaction integrity by preventing unauthorized modifications, thus ensuring a transparent record of exchanges. Silk Road hosted a diverse range of illegal products, though by 2013, nearly 70% of purchases were drug-related. The platform's reliance on postal shipments ultimately led to its downfall, as authorities traced and intercepted deliveries, allowing U.S. law enforcement to apprehend Ulbricht's associates and shut down the marketplace (Martin, 2013, p. 358).

Despite the anonymity provided by the Tor network, law enforcement initially struggled to identify the mastermind behind Silk Road. However, U.S. federal agents (FBI) ultimately traced its operations to Ross Ulbricht through a fortunate discovery. Reports suggest that Silk Road's IP address was inadvertently exposed on a Reddit forum, making it visible online. Agents investigated these claims by posting data on Silk Road and utilizing traffic analysis software to pinpoint the IP address (Lacson & Beata, 2016, p. 40).

Ulbricht, operating under the alias "The Dread Pirate Roberts," accessed the network from a public library, which led to his identification and arrest. He was subsequently charged with money laundering, computer hacking, drug trafficking, and conspiracy to murder at least five individuals who allegedly posed a threat to exposing Silk Road's operations. Following trial proceedings, Ulbricht was convicted and received five sentences, including two life sentences without the possibility of parole, along with a $183 million fine (Lacson & Beata, 2016, p. 40).

While much of the discourse surrounding online crime focuses on Western enforcement strategies, the largest DarkNet drug market experienced its most significant expansion in Russia, where the Hydra marketplace operated for seven years. Since its inception in 2015, Hydra evolved into a highly sophisticated platform, with virtually no competition, making it the largest cryptomarket for drug trafficking worldwide (VICE, 2020).

Unlike Western law enforcement agencies, Russian authorities demonstrated limited commitment to shutting down Hydra. While individual couriers were occasionally arrested (VICE, 2020), the main organizers operated freely, allowing Hydra to expand annually, cementing its dominance in the illicit market. No other DarkNet drug marketplace sustained operations for as long as Hydra, which was ultimately shut down in April 2022 after years of evading prosecution.

Hydra enabled anonymous communication between wholesalers, dealers, and end users, facilitated by cryptocurrency payments and a dead-drop delivery system. The platform's self-regulated marketplace included an advertising framework for sellers, as well as reviews and rating mechanisms, ensuring a structured market for illicit transactions. The digitalization of the drug trade, amplified by Hydra's sustained presence, led to a notable increase in the share of online drug trafficking.

Hydra's reach was extensive—its activity spanned 1,129 settlements across every Russian region, covering 69% of the population (Goonetilleke, Knorre & Kuriksha, 2023, p. 735). Larger cities housed a higher concentration of vendors, with broad inventories of narcotics available for sale. Expensive drugs were primarily distributed in wealthier districts, particularly business areas, reflecting the platform's highly competitive nature, both at regional and national levels (Goonetilleke, Knorre & Kuriksha, 2023, p. 736).

The Russian government acknowledged Hydra's role in the drug trade only in 2019, though its closure occurred solely through U.S. and

German intervention. The U.S. government estimated that Hydra facilitated over $5 billion in illicit transactions from 2016 to 2022, accounting for 80% of all DarkNet cryptocurrency transactions in 2021 (United States vs. Pavlov, 2022). The U.S. Department of Justice recognized Hydra as the largest and longest-running DarkNet marketplace globally (United States vs. Pavlov, 2022).

While Hydra remained Russia's dominant drug marketplace, smaller illicit trade hubs—operating via Telegram bots and groups—also existed but were limited to localized transactions. Reports confirm that Hydra was the preferred platform for illegal drug purchases, particularly in Moscow, St. Petersburg, and other major cities. Compared to Western DarkNet platforms, Hydra uniquely operated for seven years without major legal interference. Unlike other marketplaces that rarely survived beyond a year, Hydra's longevity allowed it to develop a structured regulatory framework, introduce quality assurance mechanisms, and implement secure transaction models, reinforcing its influence in the Russian drug trade.

A defining feature that distinguished Hydra from other DarkNet marketplaces in the United States and Europe was its delivery method. Most DarkNet platforms rely on mail-order transactions, with suppliers using postal services or private couriers to disguise drug shipments. However, after Russia introduced a law in 2014 requiring postal inspections for illicit substances, this method became less viable, prompting Hydra to develop an alternative approach.

Instead of postal services, Hydra operated through a dead-drop delivery system, eliminating direct exchanges between buyers and sellers. Before a transaction took place, couriers would conceal drugs in various locations across cities. Sellers listed the type, quantity, approximate location, and price of each item on Hydra's website, allowing buyers to browse availability prior to purchase. Once payment was completed, buyers received precise retrieval instructions, detailing the location of the concealed package.

Hydra employed several methods for hiding drug shipments. One technique involved attaching packages to surfaces using magnets, making them difficult to detect. Another approach required burial in the ground, particularly in parks or public areas, while in colder months, the same method was adapted by burying drugs in snow. Some packages were simply hidden in discreet locations where accidental discovery was unlikely. Additionally, Hydra facilitated pre-order transactions, where customers could purchase wholesale quantities or rare substances, which were concealed only after payment had been finalized.

The marketplace's remote and encrypted communication system between administrators, sellers, couriers, and buyers helped reduce legal risks associated with illicit drug transactions. However, the dead-drop method carried inherent vulnerabilities, as law enforcement could monitor public locations for suspicious activity, such as individuals digging in parks or searching in concealed areas. These behaviors often signaled drug retrieval, increasing the likelihood of detection.

Like other DarkNet markets, Hydra allowed vendors to register and list various narcotics for sale. The marketplace was structured into three key roles: administrators, operators, and couriers. Administrators managed platform settings, financial transactions, and personnel assignments, while operators oversaw customer disputes and mediated interactions. Couriers played a direct role in delivery, ensuring the drugs reached their intended locations.

Customers could anonymously browse Hydra's listings, filtering available substances by drug type, seller, location, price, and quantity. Hydra incorporated a review and rating system similar to those found in legal e-commerce platforms, allowing buyers to assess product quality and vendor reliability. Transactions were conducted exclusively through Bitcoin, with users given two deposit options—either purchasing Bitcoin externally and transferring it to Hydra's market address or using alternative payment methods designed to avoid direct financial institution involvement.

Another payment method available on Hydra was the KIWI wallet, a service provided by the Russian financial company KIWI. This system allowed users to deposit cash at ATM-like terminals across Russia, converting it into Bitcoin, which could then be used for transactions on the platform. Since these terminals did not require identification, this method ensured a high level of anonymity for customers (Goonetilleke et al., 2023, p. 738). The accessibility of KIWI terminals simplified cryptocurrency transactions, making them more convenient compared to Western alternatives.

Once a purchase was completed, Hydra employed an escrow system, holding funds until the transaction was confirmed as successful. Upon payment verification, buyers received detailed information about the drug's dead-drop location, including photos and GPS coordinates for retrieval. This method eliminated the need for physical contact between sellers and buyers, reinforcing the platform's anonymity model (Goonetilleke et al., 2023, p. 738). Additionally, all communication between buyers and sellers took place within the encrypted Tor network, ensuring that financial transactions remained untraceable when processed through Bitcoin or cash deposits at KIWI terminals.

To further enforce security and platform exclusivity, Hydra imposed strict communication rules, prohibiting interactions outside its system. Violations, such as attempting to communicate externally, resulted in a 2 Bitcoin penalty for sellers, while buyers who reported such attempts were rewarded (Saidashev & Meylakhs, 2021, p. 175).

Hydra incorporated an automated review system, requiring customers to leave feedback within 24 hours of making a purchase. The platform's rating system ranged from 0 to 10, with most reviews being overwhelmingly positive. The average rating remained close to 10, while only 4% of orders received scores below this threshold. If a buyer failed to post a review within the given timeframe, Hydra automatically assigned a perfect score, artificially inflating vendor ratings (Goonetilleke et al., 2023, p. 738).

Beyond numerical ratings, buyers could leave written reviews detailing product quality, transaction issues, and potential discrepancies between advertised and delivered goods. Reviews were restricted to verified purchases, preventing fraudulent feedback from competitors.

Hydra allowed customers to file disputes if dissatisfied with the purchasing process or the quality of the goods received (Saidashev & Meylakhs, 2021, p. 176). Disputes typically arose from deliveries that failed to arrive at the specified location or were inaccessible due to police presence. Some issues stemmed from low-quality products or items that deviated from their advertised description.

Initially, buyers and sellers attempted to resolve disputes privately via Hydra's internal messaging system, often leading to refunds, discounts on future purchases, or product replacements. If an agreement could not be reached, a moderator intervened, reviewing the conversation history before making a final decision. Moderators usually ruled in favor of buyers, particularly if they had a history of legitimate transactions with minimal disputes (Goonetilleke et al., 2023, p. 738).

One distinguishing feature of Hydra was its seller ranking system, which allowed vendors to attain special statuses that enhanced their credibility and improved business operations. The Trustworthy Seller status could be purchased if the vendor met specific criteria, including at least 1,000 sales and a dispute rate below 7%. This designation increased customer confidence, improved search ranking visibility, and granted sellers greater authority over dispute resolution before cases were escalated to Hydra's moderators (Goonetilleke et al., 2023, p. 738). Additionally, trusted sellers were permitted to franchise, collaborating with smaller partners who manufactured synthetic drugs or marijuana, or acting as intermediaries in Hydra's marketplace (Saidashev & Meylakhs, 2021, p. 177).

Hydra's revenue streams were structured around monthly fees, commissions, and premium services. Sellers were required to pay both a flat monthly fee and a percentage-based commission on transactions. Additionally, Hydra monetized its homepage bidding system, where sellers could pay for top search rankings. The platform also profited from the sale of premium statuses to larger vendors. As of March 19, 2022, the cost to open a new store on Hydra was approximately $300, with an additional monthly rental fee of $100 (Goonetilleke et al., 2023, p. 740).

On April 5, 2022, Hydra was shut down when German law enforcement seized its servers in a joint operation with U.S. federal agencies (Bloomberg, 2022; Wall Street Journal, 2022). The Federal Criminal Police Office of Germany stated that the investigation had begun in August 2021 (Bundeskriminalamt, 2022). On the same day, the U.S. Department of the Treasury issued sanctions against Hydra (U.S. Department of the Treasury, 2022), and the U.S. Department of Justice indicted its alleged administrator (United States vs. Pavlov, 2022). No evidence has surfaced suggesting that Russian authorities were involved in Hydra's takedown.

Despite speculation that Hydra would resurface on the DarkNet, the marketplace remained defunct for over a year, leading its former users to seek alternatives. In the immediate aftermath, buyers and sellers attempted to trade on DarkNet forums such as LegalRC and RuTor, while others migrated to newer marketplaces that lacked Hydra's extensive infrastructure and user base. Among the platforms that gained traction after Hydra's shutdown, the largest were OMG, Blacksprut, Mega, and Solaris (Chainalysis, 2023). Another marketplace, Kraken, launched in December 2022, positioning itself as Hydra's successor and reportedly operated by former Hydra affiliates.

6. Conclusion

The global fight against online drug trafficking requires strong international cooperation, as encryption and anonymity technologies continue to advance, enabling cybercriminals to evade detection. Law enforcement agencies worldwide are strengthening collaborative efforts to combat these illicit activities, recognizing that online drug sales transcend national borders. Advances in technology and data analysis have empowered security agencies to track online activities, identify digital traces, and expose participants in illegal transactions. As these technologies evolve, they may also help law enforcement counter encryption methods used to obscure drug trafficking networks.

Artificial intelligence plays an increasingly critical role in analyzing complex datasets and assisting security agencies in investigations. Online platforms, financial institutions, and service providers hold valuable information that can aid law enforcement in identifying and tracking drug dealers. Additionally, public awareness campaigns highlighting the dangers of purchasing drugs online can reduce demand, making it more difficult for criminal organizations to operate profitably.

The case of Hydra illustrates how a DarkNet marketplace, if left unchecked, can expand rapidly, achieving high levels of sophistication and market dominance. Given the limited resources available to law enforcement, assessing the long-term impact of shutting down DarkNet platforms is essential. Many DarkNet marketplace users—both buyers and sellers—acquire the necessary expertise to navigate illicit platforms, enabling them to migrate seamlessly when a major market is dismantled. If large-scale DarkNet platforms encourage new users to learn how to operate in these environments, their influence may persist even after enforcement actions. Allowing such markets to expand unchecked could ultimately erode law enforcement's ability to contain online drug trafficking. While narcotics agencies continuously monitor criminal networks, the closure of major marketplaces often has minimal long-term effects, as illicit transactions rapidly shift to alternative platforms, causing overall sales to recover over time.

This research underscores the dedication of those who have relentlessly fought against organized crime, even at great personal cost. Italian judge and prosecutor Giovanni Falcone, a symbol of resistance against the mafia, famously argued that crime is not invincible but rather a system that can be dismantled. His words remind us that society must take a firm stance against organized crime by exposing its underlying mechanisms and challenging its perception of invulnerability. Falcone believed that justice, upheld through accountability and the rule of law, serves as a beacon of transparency, illuminating even the darkest sectors of criminal enterprise. His assertion that "the mafia thrives in darkness, but justice brings light" remains deeply relevant in the modern fight against crime, particularly within the hidden networks of the DarkNet.

To effectively combat online drug trafficking, criminal police and security services must maintain coordinated efforts that prioritize information sharing, advanced data analysis, and strategic infiltration of illicit online communities. Legislative frameworks must evolve to address the complexities of digital drug markets, including harsher penalties for offenders and international agreements fostering joint investigations. While strong legal measures are essential, they must be integrated into a broader strategy that includes technological innovation, criminal intelligence, and public awareness. By uniting all available legal and technological tools, authorities can reinforce the fight against online drug trafficking, ensuring that justice prevails against the evolving landscape of organized crime.

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PREDAJA KAO NAČIN PRENOSA DRŽAVINE NA POKRETNIM STVARIMA

Apstrakt: U uvodnom delu rada autor pažnju posvećuje opštem pojmu pravnog instituta državine, da bi u nastavku bila izložena shvatanja o pojmu predaje. Poseban akcenat stavljen je na osobine predaje i element volje. Srž rada čini upravo deo posvećen vrstama predaje i dejstvu koje one imaju za pravni promet. Zakonom o osnovama svojinskopravnih odnosa regulisani su načini predaje kojima se prenosi državina na pokretnim stvarima. Autor analizom pozitivnopravnih propisa i postojeće sudske prakse pokušava da odgovori na krizu savremene potrebe za postojanjem oblika fiktivne predaje, naročito braneći ovakav vid predaje u slučajevima višestruke prodaje stvari, ali i postavljanjem teze o novijim shvatanjima pojedinih oblika fiktivne predaje. Na samom kraju rada zaključuje se da o predaji ubuduće valja govoriti kao o saglasnosti volje obe (ugovorne) strane, ali i da uslov savesnosti ne treba zahtevati u slučaju višestruke predaje stvari pri sticanju prava svojine.

Ključne reči: *državina, predaja, pokretne stvari, pravo svojine, pravni posao*.

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1. Pojam državine

Državina nije pravo. Obično se u pravnoj teoriji državina objašnjava kroz koncept faktičke vlasti na stvari (Stanković, Orlić, 2014, str. 33). Opšti pojam državine nije prepoznat očima zakonodavca u pozitivnopravnom sistemu Republike Srbije, premda Zakon o osnovama svojinskopravnih odnosa uistinu sadrži odredbe u kojima upućuje na državinu (čl. 70 itd.). Stiče se utisak da je državina dugo vremena u pravnoj teoriji predstavljala izazovno pitanje i kao dinamičan institut stvarnog prava ostavlja otvoreno pitanje da li je uopšte moguće na jedinstven i celovit način definisati pojam državine? Bez zalaženja u dublju doktrinarnu polemiku o pojmu i pravnoj prirodi državine, u nastavku rada će biti izneta samo jedna od mnogobrojnih misli o ovom pravnom institutu.

Prema Vodineliću, definicija pojma državine mogla bi glasiti da je „državina faktička vlast ili faktičko stanje u pogledu stvari koji mogu da odgovaraju pravu svojine (*svojinska državina*), drugom pravu (*državina prava*) ili obavezi (*državina obaveze*) i za koje su primerena pravna pravila o državini, a ne pritežanju“ (Vodinelić, 2013, str. 394). Međutim, nije ni strana misao istog autora da se državina može definisati pribegavajući tipologiji (Vodinelić, 2013, str. 390) ili enumeraciji (Vodinelić, 2013, str. 391). Pokušaj da se pojam državine odredi putem pojmova *(definitio fit per genus proximum et differentias specificas)* ostaje nedovoljno uspešan, imajući u vidu da i ovako definisana državina otvara niz potencijalno spornih pitanja (npr. određenje faktičke vlasti, kako se manifestuje faktička vlast, razlikovanje državinske faktičke vlasti od njemu srodnih pravnih instituta i sl.). Stoga za potrebe ovog rada prihvatićemo svođenje državine na njen uži smisao – faktičku vlast (npr. vremensko-prostorni odnos) ili faktičko stanje (npr. državina naslednika u momentu delacije).

2. Pojam predaje

Predaja se obično shvata kao materijalni akt, faktička radnja svojstvena ljudima. Predaja stvari je akt prenosa državine ili omogućavanja uspostavljanja faktičke vlasti na stvari. Međutim, predaja u pravu je mnogo više od prostog akta, ona je i voljna radnja. S tim u vezi, da bi predaja u pravu proizvela pravna dejstva i ostvarila svoju svrhu ona mora biti: posledica punovažnog ugovora, akt volje prenosioca i akt upravljen na prenos prava (Stanković, Orlić, 2014, str. 66).

Predaja je posledica punovažnog pravnog posla, kao akt obaveze koji je na strani prenosioca. Ovako shvaćena, predaja nije strana pravnim sistemima koji su prihvatili kauzalitet u sticanju stvarnih prava (*iustus titulus* i *modus aquirendi*). Otuda, da bi kupac stekao pravo svojine na pokretnoj stvari, prodavac mora da izvrši akt predaje, tj. da mu prenese državinu (omogući vršenje faktičke vlasti), ali budući da je reč o dvostrukoj saglasnosti, i sticalac stvar mora da primi u državinu. Zatim, predaja je i voljni akt. Da bi predaja proizvela svoje pravno dejstvo, ona predstavlja svojevrsnu manifestaciju volje prenosioca (Popov, 2012, str. 171). Čak i u slučaju kada bi državina bila stečena izostankom elementa voljne predaje, ona bi i dalje bila državina, ali manljiva. U pravnoj teoriji ističe se stav da u zavisnosti od načina sticanja državine valja razlikovati prirodnu volju i „kvalifikovanu volju". Prirodna volja (namera) odgovara prostom shvatanju akta predaje, kao načina prenosa državine, gde je dovoljno postojanje prirodne volje da se izvrši akt faktičke vlasti (Tešić, 2013, str. 60). S druge strane, kada je volja izražena kroz pravni posao, kao osnov sticanja državine, tada se zahteva njena kvalifikovanost u pogledu kvaliteta koje volja mora imati da bi dovela do punovažnosti pravnog posla (Vicković, 2016, str. 117–118). Primetno je da ovako shvaćena volja ujedno upućuje na treću osobinu predaje, da predaja predstavlja akt upravljen na prenos prava (svojine).

3. Vrste predaje

3.1. Fizička (realna) predaja

Fizička (realna) predaja (lat. *traditio vera*) predstavlja način predaje stvari koji se realizuje neposrednom (prostom aprehenzionom (lat. *apprehensio*) radnjom) predajom i često je oslovljavana kao „predaja iz ruke u ruku" (lat. *traditio de manu ad manum*) ili stavljanje na raspolaganje državine sticaocu na neki drugi način. Pokretne stvari, zbog svog pojavnog oblika, pogodne su za klasičnu fizičku predaju za razliku od nepokretnih stvari (npr. zemljište, građevinski objekti) gde se državina prenosi na osnovu saglasnosti volje ugovornih strana. Ostaje da je fizička najstarija tradicija i, kao takva, redovni način prenosa državine (*corpore et facto*), međutim ni ona nije pošteđena nekih spornih pitanja, između ostalog: ocene momenta u kome je stvar fizički predata sticaocu (važno zbog odgovornosti za rizik od eventualne propasti stvari) ili za slučaj kada je izvršena tzv. *nuda traditio*. U slučaju da je akt fizičke predaje lišen volje prenosioca za prenos prava, pravo svojine nije preneto na sticaoca, ali to i dalje ne znači da državina nije preneta, suprotno, sticalac je stekao državinu (ali ne i svojinu) na stvari. Zaključuje se, na osnovu izloženog, da je za fizičku predaju dovoljno stavljanje u mogućnost vršenja faktičke vlasti bez momenta da je zaista ta faktička vlast i zasnovana.

3.2. Simbolička predaja

Simbolička predaja (lat. *traditio simbolica*), kako sam naziv ukazuje, ostvaruje se kroz određene simbole, tj. simboličke radnje koje na jasan i nedvosmislen način ukazuju da je predaja ostvarena, odnosno da je stečena državina na stvari. Simbolička predaja realizuje se prenosom državine hartijom od vrednosti, gestom, simbolom, izdvajanjem i obeležavanjem stvari, uručenjem dela stvari i sl. Uvek kada je fizička predaja nemoguća (što je ređe u praksi), tačnije kada bi fizička predaja bila otežana ili bi prouzrokovala dodatne troškove, strane se mogu usaglasiti da se izvrši simbolička predaja. Trenutak kada se smatra da je izvršena simbolička predaja zavisi ponajviše od okolnosti konkretnog slučaja. Naime, budući da često kod ove predaje izostaje vremensko-prostorni odnos između držaoca i predmeta državine, smatra se da je predaja izvršena u zavisnosti od načina na koji se simbolička predaja ispoljava. U realnosti je nekada i teško svesno ispratiti da je reč o ovom obliku predaje, međutim, ono što se tradicionalno izdvaja je: predaja isprava koje omogućavaju sticaocu uspostavljanje faktičke vlasti na stvari (npr. predajom tovarnog lista simbolično je izvršena predaja robe), predaja dela stvari ili oruđa (npr. predaja ključa koji omogućava stupanje u posed stvari koje se nalaze u toj prostoriji). Takođe, simbolička predaja može se pojaviti kao izdvajanje i označavanje stvari koje se čini određenim znakom ili simbolom (npr. predaja šumskih stabala, predaja određenih grla životinja i sl.).

3.3. Fiktivna predaja

Fiktivna predaja ujedno predstavlja najspecifičniji način tradicije koji uvodi fikciju da je do fizičke predaje zaista i došlo, a samo pravo prenosi se na osnovu pravnog posla (ugovora). Reč je, dakle, o prenosu prava, a ne o promeni na polju državine. Fiktivna predaja je uvek beskontaktna predaja, jer da bi se stvar predala prethodno je lice načelno mora držati. Uz dozu opreza i optimizma za postojanje dovoljnog kapaciteta za buduća istraživanja i detaljniju analizu u nastavku rada biće izloženo svega nekoliko pitanja koja su u neposrednoj vezi sa temom rada. Dakle, fiktivna predaja je voljna predaja gde se pravo svojine (ili neko drugo pravo) prenosi izjavom volje, često manifestovana kroz ugovornu odredbu. Otuda i pitanje da li je fiktivna predaja ništa drugo no jedna klauzula u ugovoru koja stvara fikciju da je do predaje i došlo, odnosno da je pravo preneto translativno ugovorom? Predaja je mnogo više od proste ugovorne odredbe, ona je samostalna i apstraktna radnja, tačnije zakonodavac korišćenjem formulacije „u trenutku zaključenja pravnog posla" sugeriše da je državina preneta upravo u tom momentu i to *ex lege*, što za posledicu ima da ugovorne strane nisu te koje svojom voljom predviđaju ovakav način prenosa državine. Otuda je u svim slučajevima u kojima su uočljivi oblici fiktivne predaje zakonodavac taj koji određuje trenutak u kome se smatra da je predaja izvršena, a volja ugovornih strana ceni se s aspekta uslova punovažnosti ugovora. Predaja je izvršena ne momentom kada su se ugovorne strane usaglasile o predaji, već momentom saglasnosti njihove volje ka zaključenju pravnog posla. Na istom mestu ističemo da je moguće govoriti o fiktivnoj predaji kao supsidijarnom načinu predaje jer autonomija volje dozvoljava ugovornim stranama da odgode momenat u kome će do predaje, kao uspostavljene neposredne faktičke vlasti, doći, ali u meri u kojoj je stavljeno u izgled, tačnije mogućnost da prijemnik i zasnuje faktičku vlast momentom zaključenja ugovora. Analogno, da li se ugovorne strane mogu naknadno usaglasiti da do prenosa prava svojine dođe na jedan od načina fiktivne predaje i da li se u tom slučaju radi o jednom novom sporazumu prema kom se treba ceniti ispunjenost uslova za sticanje prava? Fiktivnu predaju nužno nameću okolnosti u životu ugovornika, otuda i utisak da o ovim pitanjima vredi raspraviti pošto se upoznamo s vrstama fiktivne predaje.

O pojavnim oblicima fiktivne predaje saznajemo iz tri stava čl. 34 Zakona o osnovama svojinskopravnih odnosa i to kao: *constitutum possessorium*, *traditio brevi manu*, *cessio vindicationis*.

Traditio brevi manu (tzv. predaja kratkom rukom) predstavlja takav način fiktivne predaje gde neposredni držalac, koji stvar drži po nekom pravnom osnovu (npr. poslugoprimac), stiče pravo svojine naknadnim ugovorom s dotadašnjim vlasnikom stvari, gde se svojina prenosi zaključenjem ugovora (smatra se da je volja sadržana u formi pravnog posla) i to fiktivno. Upravo kod ove vrste predaje primetno je da pretpostavka da je neposredni držalac ujedno i titular prava svojine ne dejstvuje, jer premda je poslugoprimac neposredni držalac i prema trećim licima može delovati kao vlasnik stvari, on postaje sopstvenik prava svojine (sjedinjenje statusa držaoca i vlasnika) predajom kratke ruke. Naglašavamo da ovde ne dolazi do prenosa državine, već do sticanja prava svojine što za posledicu ima da ovakav način fiktivne predaje nije podoban za prenos državine između posrednog i neposrednog držaoca (neposredni držalac ostaje u istom svojstvu). Međutim, nije tačno ni da se predaja kratkom rukom uvek vezuje za sticanje prava svojine. Naime, u slučaju kada držalac stvar drži mimo pravnog osnova (npr. njegova državina je nezakonita) a zatim naknadno nastane zakonit osnov njegove državine (npr. zaključi se ugovor o posluzi), fiktivnom predajom kratke ruke se stiče državina koja sada omogućava koristi iz takvog ugovornog odnosa. Na terenu prethodnog pitanja javlja se novo: da li je predajom kratke ruke moguće faktičku vlast koja nije državina (detencija) transformisati u pravo svojine? U slučaju kada vozač naknadno stekne pravo svojine na službenom automobilu on je bio detentor na vozilu po osnovu radnog odnosa a zatim i vlasnik (ujedno i neposredni držalac) kupovinom automobila gde nije neophodno izvršiti realnu predaju, već je dovoljna predaja kratkom rukom.

Constitutum possessorium je još jedan od oblika fiktivne predaje koji možemo uslovno okarakterisati *a maiori ad minus*, odnosno slučaj kada dotadašnji vlasnik prenosi svoje pravo svojine na sticaoca, zadržavajući državinu na predmetu svojine, ali sada po nekom užem pravnom osnovu (npr. kao plodouživalac). Zaista, reč je o dva oblika državine na istoj stvari: nesamostalnoj, neposrednoj državini (plodouživalac) i samostalnoj, posrednoj državini (vlasnik stvari) (Gavella et al. 1998, str. 142). Ovakav vid predaje, kao načina sticanja prava, predstavlja logičnu nit da jedino vlasnik stvari može raspolagati istom, odnosno tek vlasnik može konstituisati uže pravo na sopstvenoj stvari. I ovde, ovakav način fiktivne predaje nije moguć između neposrednog i posrednog državaoca. Primera radi, vlasnik pokretne stvari je neposredni državalac koji prodajom i (fiktivnom) predajom stvari postaje plodouživalac tako što i dalje ostaje neposredni držalac. Obično se navodi da se menja obeležje njegove državine, transformacija samostalnog u nesamostalan posed (Klarić, Vedriš, 2009, str. 214). Uporedno, u slučaju fizičke predaje između neposrednog i posrednog državaoca državina se prenosi u potpunosti tako da sada posredni državalac postaje neposredni a dotadašnji neposredni državalac gubi to svoje svojstvo.

Cessio vindicationis, kao poslednji oblik fiktivne predaje, obuhvata tri učesnika u pravnom odnosu: posrednog državaoca (vlasnika stvari), neposrednog državaoca (lice koje stvar drži po nekom užem pravnom osnovu) i treće lice (budući državalac). Naime, i ovde se pravo svojine prenosi zaključenjem ugovora, međutim reč je ipak o nečemu složenijem. U pojednostavljenom obliku, prenosilac i sticalac zaključili su ugovor o prodaji, međutim kako se stvar nalazi kod trećeg lica po nekom pravnom osnovu (npr. ostavoprimac), pravo se prenosi zaključenjem ugovora uz obaveštenje trećeg lica da je došlo do promene na aktivnoj strani i da sada postoji novi poverilac (ujedno i posredni državalac). Dakle, reč je o ugovoru o cesiji, kao redovnom načinu prenosa potraživanja, a nisu nepoznati stavovi da može biti i asignacija (Klarić, Vedriš, 2009, str. 141). Zapravo, ovde je reč o prenošenju ovlašćenja da se zahteva predaja stvari (pravo na *rei vindicatio* tužbu). Važno je napraviti razliku između obligacionopravnog zahteva i stvarnopravnog zahteva. Naime, ustupanjem potraživanja cesionar stiče pravo da od cesusa zahteva ispunjenje potraživanja koje je imao prema cedentu što predstavlja zahtev obligacionog prava. Međutim, da li je moguće da zahtev za predaju stvari cesionar istakne i prema nekom trećem licu kod koga se stvar u datom momentu nalazi? Čini se da ovde nije više reč o istom zahtevu koji postoji po osnovu ugovora o cesiji koji ima obligacionopravnu prirodu, već se smatra da je reč o zahtevu stvarnog prava koji deluje prema svim trećim licima (*erga omnes*). U slučaju da se stvar nalazi kod lica kome je cesus stvar predao cesionar ima pravo da zahteva predaju stvari od trenutnog državaoca, jer je svoje pravo svojine stekao fiktivnom predajom. Momenat sticanja prava svojine obično je okarakterisan kao trenutak zaključenja ugovora o cesiji, međutim stava smo da bi taj momenat trebalo odgoditi i to na trenutak kada je cesus obavešten o zaključenom punovažnom ugovoru o cesiji (obaveza obaveštenja načelno postoji na strani cedenta, premda je uslovno moguće zauzeti stav da cesus treba biti obavešten nezavisno od okolnosti ko će ga obavestiti). Analogno, u slučaju zasnivanja založnog prava na pokretnoj stvari koja je već založena trećem licu i nalazi se u njegovoj državini dovoljno je da zalogodavac obavesti državaoca o postojanju novog ugovora o zalozi i naloži predaju stvari novom zalogoprimcu kada potraživanje prvog bude namireno.

Naročito važno pitanje kod oblika *cessio vindicationis* predaje jeste da li je ovakva predaja nužno vezana samo za posrednu državinu, odnosno slučaj kada posredni držalac prenosi pravo na stvari koja se nalazi u neposrednoj državini trećeg lica koje stvar drži po nekom pravnom osnovu? Tumačenjem zakonske formulacije ne stiče se utisak o ograničenosti ove vrste predaje za posrednu državinu, već se može otići korak dalje i ispitati da li je moguće zamisliti da je došlo do prenosa državine na pokretnoj stvari koja se nalazi kod trećeg lica koji istu drži, ali bez pravnog osnova? Primera radi, da li je moguće prodati i predati ukradenu stvar koja se ne nalazi u državini prodavca? Uz sav rizik na strani kupca prihvatljivo je pozitivno odgovoriti na ovo pitanje. Kako je ovde reč o prenosu ovlašćenja da se zahteva predaja stvari, prenosilac može zaključiti ugovor sa sticaocem o kupovini ukradene stvari gde bi, na osnovu ugovora, došlo i do fiktivne predaje stvari i na taj način sticanja prava na pokretnoj stvari, ali ujedno i državine ukoliko bi ona bila praćena mogućnošću vršenja faktičke vlasti (npr. sticalac zna kod koga se stvar nalazi). U takvom slučaju, sticalac postaje sopstvenik stvari i njemu na raspolaganju stoje pravnozaštitna sredstva, ali sada ne od trenutka kada bi treće lice bilo obavešteno (ili saznalo za ugovor), već trenutkom zaključenja pravnog posla. I zaista, može se kao opravdano uzeti za shodno pitanje da li je ovde uopšte reč o predaji *cessio vindicationis*, shvaćenoj u njenom izvornom smislu, ili je pak reč o jednom novom obliku fiktivne predaje?

U svim prethodno navedenim slučajevima fiktivne predaje prožima se smisao iste. Pravna teorija je iznedrila fiktivnu predaju kao način sticanja prava koji nije praćen zasnivanjem neposredne državine, jer bi krajnje nelogično bilo duplirati akte predaje (Stanković, Orlić, 2014, str. 68). Takođe, fiktivna predaja omogućava pravo zaštite svoje državine, odnosno stečenog prava. Momentom kada je pravo stečeno lice je aktivno legitimisano da štiti svoje pravo (npr. pravo svojine u petitornim postupcima), ali isto tako je ovlašćeno da štiti svoje pravo na državinu (posesorni postupak i samopomoć). Zaključujemo, fiktivna predaja, iako izuzetno važna za pravni promet, ipak ima i svojih nedostataka. Naime, fiktivna predaja često ne doprinosi pravnoj sigurnosti jer da bi ona omogućila, pored akvizitetne funkcije državine, i njenu publicitetnu funkciju (Živković, 2021, str. 16), treća lica moraju znati ili pak biti stavljena u mogućnost da znaju da je do fiktivne predaje i došlo.

4. Predaja u slučaju višestruke prodaje iste stvari

U slučaju višestruke prodaje iste stvari državina je ta koja dovodi do sticanja prava. Naime, neophodno je napraviti razliku između prodaje i predaje stvari. U slučaju kada bi prenosilac zaključio ugovor s jednim licem i njemu prodao stvar, ali istovremeno zaključio drugi ugovor koji bi za svoj predmet imao istu individualizovanu stvar, a zatim tom licu predao stvar, prednost je data državaocu koji je ujedno na taj način postao isključivi vlasnik stvari. Međutim, pravna teorija ovde dodaje još jedan uslov iako on nije predviđen zakonskim tekstom. Reč je o savesnosti trećeg lica, više kao etičkoj premisi (Stanković, Orlić, 2014, str. 66). Otuda, ukoliko bi treće lice (pribavilac) znalo ili iz okolnosti slučaja moralo znati za okolnost da je prenosilac prethodno stvar prodao, njegova potencijalna državina bila bi nesavesna i ujedno nepodobna za sticanje prava svojine. Međutim, ovakvo rešenje nije prihvatljivo. Uslov savesnosti (očigledno pod uticajem francuskog prava) ovde je neopravdano tražiti, jer savesnost ne dovodi do sticanja prava svojine, već čin predaje stvari. Shodno tome, kakav je položaj prvog sticaoca? Na osnovu svega prethodno rečenog moglo bi se zaključiti da on nema pravo na svojinsku zaštitu iz očiglednog razloga, ali ni na državinsku zaštitu upravo iz okolnosti da nikada nije ni zasnovao faktičku vlast na stvari. On ima pravo na naknadu štete, ukoliko su ispunjeni uslovi, i to prema nesavesnom prenosiocu u postupku po jednostranom raskidu ugovora. Dodajemo, ukoliko bi i treće lice bilo nesavesno i svojim postupanjem doprinelo neizvršenju obaveze iz ranijeg ugovornog odnosa između prenosioca i njegovog saugovornika kome je stvar prodata, moguće je uspostaviti i njegovu odgovornost. Naime, mešanjem u obligaciju dvoje pravedno rešenje bilo bi obavezati trećeg za naknadu prouzrokovane štete (poput svojevrsne sankcije za zlonamerno postupanje), iako bi osnov te odgovornosti bila vanugovorna odgovornost. Kako bi se izbegli ovakvi slučajevi u praksi – smatramo da bi baš na ovom mestu fiktivna predaja ostvarila svoj pun potencijal, naročito kada iz nekog razloga sticalac nije u mogućnosti da stvar preuzme odmah. Na ovaj način obezbeđuje se pravna sigurnost tako što se smatra da je do prenosa prava svojine i došlo, što omogućava vlasniku stvari da svoje pravo štiti svojinskim tužbama. U slučaju kada bi istu stvar nesavesni prenosilac otuđio i fizički predao trećem licu, u slučaju sukoba dva osnova, prednost je data prvom i jedinom vlasniku.

5. Zaključak

Predaja stvari, kao način prenosa državine, često je posledica prethodnog pravnog odnosa koji nastaje između strana a koji nužno omogućava nastanak novog prava. Čini se da je upravo predaja graničnik između dva različita dejstva istog pravnog odnosa tako što razdvaja obligacioni od stvarnopravnog aspekta i na taj način dovodi do različitih pravnih posledica. Predaja kojom se državina prenosi prouzrokuje određene efekte, često nezavisno od same svesti (i volje) pravnih subjekata. O značaju predaje govori se iz ugla ugovornih strana, ali i trećih lica u svetlu zaštite sigurnosti. O predaji ubuduće valja govoriti kao o saglasnosti volje obe (ugovorne) strane.

Potreba za različitim vrstama predaje stvari doprinosi značaju iste, imajući u vidu da se u složenosti pravnog prometa i brzine pravnog saobraćaja savremenog društva ne iscrpljuju značaj i praktičnost postojećih oblika predaje. Pored određenih teorijskih postavki, sudska praksa doprinosi boljem razumevanju pojedinih vrsta predaje. Takođe, utiska smo da se često kriterijumi praktičnog i teorijskog razlikovanja oblika predaje gube, što doprinosi pitanjima da li se može očekivati da bi određene vrste predaje mogle opstati ubuduće, ali i kakav je odnos između različitih predaja?

U fokusu rada naročito su istaknuta određena pitanja fiktivne predaje koja nastaje u trenutku zaključenja pravnog posla i mogućnost da kod *cessio vindicationis* ne ograničimo polje razmišljanja isključivo na zahtev posredne (zakonite) državine. Tako, izvesno je da do prenosa državine na pokretnim stvarima oblikom fiktivne predaje dolazi i onda kada se stvar nalazi kod trećeg lica koji istu drži bez pravnog osnova.

I naposletku, u slučaju višestruke prodaje prednost u sticanju prava treba dati licu kome je stvar predata, bez zahteva njegove savesnosti. U slučaju njegove nesavesnosti rešenje koje se čini pravednijim bilo bi uspostavljanje njegove vanugovorne odgovornosti za naknadu prouzrokovane štete u skladu s opštim pravilima obligacionog prava.

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DELIVERY AS A METHOD OF TRANSFERRING POSSESSION OF MOVABLE PROPERTY

Abstract: In the introductory part of the paper, the author focuses on the general concept of the legal institution of possession, followed by an exposition of the concept of delivery. Special emphasis is placed on the characteristics of delivery and the element of intent. The core of the paper is dedicated to the types of delivery and the legal effects they have on property transactions. The Law on Basic Property Relations regulates the methods of delivery by which possession of movable property is transferred. By analysing positive legal regulations and existing judicial practice, the author seeks to address the need in modern society for the existence of forms of symbolic (fictitious) delivery, especially defending this type of delivery in cases of multiple sales of the same item. The author also proposes a thesis on the more recent understanding of certain forms of symbolic delivery. In the concluding section, it is argued that in the future, delivery should be understood as mutual agreement between both (contracting) parties, and that the requirement of good faith should not be insisted on in cases of multiple deliveries when acquiring ownership rights.

Keywords: possession, delivery of goods, movable property, property rights, contract.

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1. The Concept of Possession

Possession is not a right. In legal theory, possession is commonly explained through the concept of actual control over an object (Stanković, Orlić, 2014, p. 33). The general concept of possession is not explicitly recognized by the legislator in the positive legal system of the Republic of Serbia, although the Law on Basic Property Relations does contain provisions referring to possession (Article 70, etc.). It seems that possession has long posed a challenging question in legal theory, and as a dynamic institute of property law, it leaves open the question-whether it is even possible to define possession in a unified and comprehensive way. Without delving into deeper doctrinal debates about the concept and legal nature of possession, this paper will present just one of many thoughts on this legal institute.

According to Vodinelić, possession could be defined as follows: "Possession is actual control or a factual state concerning an object that may correspond to ownership rights (*ownership possession*), another right (*possession of rights*), or an obligation (*possession of obligations*) and which is regulated by the appropriate legal rules on possession, rather than holding, are applicable" (Vodinelić, 2013, p. 394). However, the same author also acknowledges the idea that possession can be defined by resorting to typology (Vodinelić, 2013, p. 390) or enumeration (Vodinelić, 2013, p. 391). Attempts to define possession using general terms (*definitio fit per genus proximum et differentias specificas*) are insufficiently successful, considering that even such a definition of possession raises a number of potentially controversial questions (e.g., defining actual control, the manner in which actual control is manifested, distinguishing possession from related legal institutes, etc.). Therefore, for the purposes of this paper, the definition of possession will be reduced to its narrower meaning - actual control (e.g., a temporal-spatial relationship) or factual state (e.g., possession by heirs at the moment of delation).

2. The Concept of Delivery

Delivery is usually understood as a material act, a factual action characteristic of humans. The delivery of an object is an act of transferring possession or enabling actual control over the object. However, delivery in law is much more than a simple act; it is also an intentional action. In this regard, for delivery to produce legal effects and fulfill its purpose in law, it must be the result of a valid contract, an act of intent by the transferor, and an act directed toward the transfer of rights (Stanković, Orlić, 2014, p. 66).

Delivery is the consequence of a valid legal transaction, as an obligation on the part of the transferor. Such understanding of delivery is not unrecognized by legal systems that have accepted the causal principle in acquiring property rights (*iustus titulus* and *modus aquirendi*). Therefore, for a buyer to acquire ownership of movable property, the seller must deliver the item, i.e., transfer possession (enable the exercise of actual control), but since this is a mutual agreement, the acquirer must also take possession of the object. Furthermore, delivery is an intentional act. For delivery to produce its legal effect, it should represent a manifestation of the transferor's intent (Popov, 2012, p. 171). Even in cases where possession is acquired without the element of intentional delivery, it would still constitute possession, albeit *defective*. In legal theory, it is emphasized that depending on the manner of acquiring possession, one must distinguish between natural intent and "qualified intent". Natural intent (or will) corresponds to the simple understanding of the act of delivery as a way of transferring possession, whereby the performance of the act of actual control is granted solely by the existence of natural intent (Tešić, 2013, p. 60). On the other hand, when intent is expressed through a legal transaction as the basis for acquiring possession, then its quality in terms of leading to the validation of the legal transaction has to be confirmed (Vicković, 2016, pp. 117-118). This conception of intent also points to the third characteristic of delivery. Namely, it represents an act aimed at transferring rights (ownership).

3. Types of Delivery

3.1. Physical (Real) Delivery

Physical (real) delivery (lat. *traditio vera*) represents a method of delivering an object that is realized through direct (simple apprehension) action, often referred to as "hand-to-hand delivery" (lat. *traditio de manu ad manum*) or placing the object at the disposal of the transferee in some other way. Movable objects, due to their nature, are suitable for classical physical delivery, unlike immovable objects (e.g., land, buildings), where possession is transferred based on the agreement of the contracting parties. Physical delivery is the oldest tradition and a regular method of transferring possession (*corpore et facto*). However, it also raises controversial questions, such as: determining the moment when the object is physically delivered to the transferee (this is important because of the risk of potential damage to the object) or in the situation when the so-called *nuda traditio* is performed. If the act of physical delivery lacks the transferor's intent to transfer the right, ownership is not transferred to the transferee, but this does not mean that possession has not been transferred - on the contrary, the transferee has acquired possession (but not ownership) of the object. Based on the aforementioned, it can be concluded that physical delivery is sufficient if it enables the transferee to exercise actual control, without requiring that actual control be fully established.

3.2. Symbolic Delivery

Symbolic delivery (lat. *traditio symbolica*), as the name suggests, is carried out through certain symbols or symbolic actions that clearly and unambiguously indicate that delivery has occurred, i.e., that possession of the object has been acquired. Symbolic delivery is performed by transferring possession through a document of title, gestures, symbols, allocation and marking of the object, partial delivery of the object, etc. Whenever physical delivery is impossible (which is rare in practice), more precisely, when physical delivery would be difficult or would incur additional costs, the parties can agree to perform symbolic delivery. The moment when symbolic delivery is considered to have occurred depends on the specific circumstances of the case. Since this form of delivery often lacks a temporal-spatial relationship between the possessor and the object, it is believed that delivery has occurred depending on how symbolic delivery is manifested. It is sometimes difficult to consciously recognize that symbolic delivery is being performed, but traditionally it includes actions such as the delivery of documents that allow the transferee to establish actual control over the object (e.g., delivery of a bill of lading symbolically constitutes the delivery of goods), partial delivery of the object or tools (e.g., delivery of a key that allows possession of objects located in the room). Symbolic delivery can also appear as the allocation and marking of objects, marked with a specific sign or symbol (e.g., the delivery of forest trees, certain heads of livestock, etc.).

3.3. Fictitious Delivery

Fictitious delivery represents the most specific method of delivery, introducing the fiction that physical delivery has actually occurred, while the right itself is transferred based on a legal transaction (contract). It concerns the transfer of rights, not a change in the possession field. Fictitious delivery is always contactless, as the item must generally be held by the party prior to its transfer. With some caution and optimism for having enough capacity to conduct research in the future and more detailed analysis, in the following sections we will explore only some of the issues directly related to the specified topic. Essentially, fictitious delivery is voluntary, whereby ownership (or another right) is transferred by a declaration of intent, often manifested through a contractual clause. Hence, the following question arises: Is fictitious delivery nothing more than a clause in the contract that creates the fiction that delivery has occurred and that the right has been transferred by the contract itself? Delivery is much more than a simple contractual clause - it is an independent and abstract act. The legislator's use of the term "at the moment of concluding the legal transaction" implies that possession is transferred at that moment, ex lege, meaning that the contracting parties do not determine this method of transferring possession by their own will. Therefore, in all cases where fictitious delivery forms are observed, it is the legislator who determines when delivery is considered to have occurred, while the will of the contracting parties is assessed regarding the validity of the contract. Delivery occurs not at the moment when the parties agree on delivery but at the moment of their mutual agreement to conclude the legal transaction. At the same time, it is possible to view fictitious delivery as a subsidiary method of delivery, as the autonomy of will allows the contracting parties to postpone the moment of delivery as the establishment of direct actual control, but only to the extent that it is feasible for the recipient to establish actual control at the moment of concluding the contract. Analogously, can the contracting parties subsequently agree that ownership rights be transferred by one of the methods of fictitious delivery, and would this constitute a new agreement under which the fulfillment of the conditions for acquiring the right should be assessed? Fictitious delivery is necessarily imposed by the circumstances of the parties' lives. Hence, there is the impression that these questions are worth discussing after becoming familiar with the types of fictitious delivery.

We learn about the various symbolic delivery from Article 34 of the Law on Basic Property Relations. The three forms include *constitutum possessorium*, *traditio brevi manu*, and *cessio vindicationis*.

Traditio brevi manu ("short hand delivery") represents a type of symbolic delivery where the immediate possessor, who holds an item under a legal basis (e.g., a borrower), acquires ownership through a subsequent contract with the previous owner. The ownership is transferred with the conclusion of the contract (it is presumed that the will is expressed through the legal transaction), in a symbolic manner. In this case, it is evident that the assumption that the immediate possessor is also the titleholder of the ownership does not apply. Although the borrower is the immediate possessor and may act as the owner towards third parties, they become the actual owner by means of "short hand delivery". It should be emphasized that no actual transfer of possession occurs here; rather, ownership is acquired, making this type of symbolic delivery unsuitable for transferring possession between the direct and indirect possessor (the immediate possessor retains his/her position). However, it is also incorrect to state that short hand delivery is always associated with the acquisition of ownership. In cases where a holder possesses an item without a legal basis (e.g., his/her possession is unlawful), but later acquires a lawful basis (e.g., through a lending contract), short hand delivery results in the acquisition of possession, allowing the possessor to benefit from the contractual relationship.

Still dealing with the previous issue, the following question can be posed: Can short hand delivery transform mere control (detention) into ownership? In the situation in which a driver subsequently acquires ownership of a company car, they were previously a detentor based on his/her employment, but then became both the owner and immediate possessor upon purchasing the vehicle, with no need for actual delivery. In this situation, short-hand delivery is enough.

Constitutum possessorium is another form of symbolic delivery, which can be described conditionally as *a maiori ad minus*. In this case, the former owner transfers his/her ownership to the new owner, retaining possession of the item under a narrower legal basis (e.g., as a usufructuary). Here, two types of possession are present: dependent, immediate possession (usufructuary) and independent, indirect possession (owner) (Gavella et al., 1998, p. 142). This type of delivery logically implies that only the owner can manage his/her property and that only the owner can establish a narrower right over his/her own property. Again, this type of symbolic delivery is not possible between the immediate and indirect possessor. For example, the owner of a movable item, who is also the immediate possessor, may sell and symbolically transfer the item, but remain as the usufructuary, thereby retaining immediate possession. It is commonly stated that the nature of his/her possession changes, transforming independent into dependent possession (Klarić, Vedriš, 2009, p. 214). In contrast, in cases of physical transfer between the immediate and indirect possessor, possession is fully transferred, and the indirect possessor becomes the immediate possessor, while the former immediate possessor loses his/her status.

Cessio vindicationis, the third form of symbolic delivery, involves three parties in a legal relation: the indirect possessor (the owner), the immediate possessor (someone holding the item according to a narrower legal basis), and a third party (the future possessor). Namely, in this form too, ownership is transferred by concluding a contract, but this situation is more complex. In simplified terms, the transferor and the acquirer conclude a sales contract, but as the item is held by a third party under a legal basis (e.g., a depository), ownership is transferred upon the conclusion of the contract, with the third party being notified of the change. This is a contract of cession, a common way of transferring claims, and there are views that it can also be assignment (Klarić, Vedriš, 2009, p. 141). Essentially, this involves transferring the right to demand delivery of the item (the right to file a *rei vindicatio* lawsuit). It is important to distinguish between a contractual and a real-property claim. By transferring the claim, the cessionary gains the right to demand fulfillment from the debtor, which is a contractual claim. However, can the cessionary demand delivery of the item from a third party who holds the item at that time? It seems that this is no longer the same claim arising from the cession contract (which is of a contractual nature), but rather a real-property claim, which applies against all third parties (*erga omnes*). If the item is with a person to whom the debtor has transferred it, the cessionary has the right to demand delivery from the current possessor because they have acquired ownership through symbolic delivery. The moment of acquiring ownership is usually considered to be the conclusion of the cession contract, but we believe that this moment should be delayed until the debtor is notified of the validly concluded contract (notification is typically the cedent's obligation, although one might argue that the debtor should be notified regardless of who informs them). Analogously, when establishing a pledge over a movable item already pledged to a third party in his/her possession, it suffices for the pledgor to notify the possessor of the new pledge contract and instruct them to deliver the item to the new pledgee once the first claim is satisfied.

A particularly important question regarding *cessio vindicationis* is whether this delivery is necessarily tied only to indirect possession, that is, when the indirect possessor transfers ownership of an item in the immediate possession of a third party holding it under a legal basis. From the legal formulation, it does not appear that this type of delivery is limited to indirect possession. Instead, it can be extended to examine whether it is possible to transfer possession of a movable item held by a third party without a legal basis. For example, is it possible to sell and deliver a stolen item not in the seller's possession? Despite the risk to the buyer, the answer can be positive. Since this involves transferring the right to demand delivery, the transferor can conclude a sale contract for the stolen item, resulting in symbolic delivery and the acquisition of ownership, and possibly possession, if accompanied by the ability to exercise control (e.g., the acquirer knows where the item is). In such a case, the acquirer becomes the rightful owner with legal protection, but now not from the moment when the third party is informed (or learns about the contract), but rather at the moment when the legal transaction is concluded. It is worth questioning whether this is truly a case of *cessio vindicationis* or a new form of symbolic delivery.

In all the previously described cases of fictitious delivery we have seen its crucial characteristics. Legal theory has developed fictitious delivery as a way of acquiring rights without establishing immediate possession, as duplicating delivery acts would be highly illogical (Stanković, Orlić, 2014, p. 68). Also, fictitious delivery enables protection of both possession and acquired rights. From the moment the right is acquired, the person is legally entitled to protect his/her right (e.g., ownership in petitory actions) and also his/her possession (through possessory proceedings and self-help). We conclude that, despite its significance in legal transactions, fictitious delivery has some drawbacks. It often does not lead to legal certainty, as for fictitious delivery to serve both acquisition and publicity functions (Živković, 2021, p. 16), third parties must know or have the opportunity to know that the delivery has occurred.

4. Delivery in Case of Multiple Sales of the Same Item

In the event of multiple sales of the same item, possession is what leads to the acquisition of ownership rights. Specifically, it is important to distinguish between the sale and the delivery of an item. If the seller enters into a contract with one party and sells the item to them, but at the same time concludes another contract for the same individualized item with a different party, and subsequently delivers the item to that party, preference is given to the party in possession, who thereby becomes the sole owner of the item. However, legal theory adds another condition, even though it is not stipulated in the legal text. This condition refers to the good faith of the third party, seen more as an ethical premise (Stanković, Orlić, 2014, p. 66). Thus, if the third party (the acquirer) knew or should have known, based on the circumstances, that the seller had previously sold the item, his/her potential possession would be in bad faith and insufficient for acquiring ownership rights. However, this solution is not acceptable. The requirement of good faith (obviously influenced by French law) is unjustifiably demanded here, as good faith does not lead to the acquisition of ownership rights, but rather the act of delivery does. Accordingly, what is the position of the first acquirer? Based on the aforementioned, it could be concluded that they do not have the right to ownership protection for obvious reasons, nor the right to possession protection, precisely because they never established factual control over the item. They have the right to claim damages if the conditions are met, and this would be directed at the seller in bad faith in a process of unilateral contract termination. Additionally, if the third party acted in bad faith and contributed to the failure of fulfilling the obligation arising from the prior contractual relationship between the seller and the original buyer, the third party's responsibility could also be established. Namely, by interfering in the obligation of two parties, a fair solution would be to hold the third party liable for the damages caused (similar to a sanction for malicious conduct), even though the basis for such liability would be extra-contractual. To avoid such cases in practice, we believe that this is precisely where fictitious delivery could reach its full potential, especially when, for some reason, the acquirer is unable to take possession of the item immediately. This method ensures legal certainty by presuming that the transfer of ownership has occurred, allowing the owner to protect his/her right through ownership lawsuits. If the same item were sold by a dishonest seller and physically delivered to a third party, in the event of a conflict between two claims, priority would be given to the first and only rightful owner.

5. Conclusion

The delivery of an item as a means of transferring possession often results from a prior legal relationship between the parties, which necessarily enables the creation of a new right. Delivery appears to be the dividing line between two different effects of the same legal relationship, separating the contractual from the property law aspect and thus leading to different legal consequences. Delivery, by which possession is transferred, produces certain effects, often independent of the awareness (and will) of the legal subjects. The importance of delivery is discussed from the perspective of the contracting parties as well as third parties, in light of the protection of legal certainty. In the future, delivery should be viewed as mutual consent of both (contracting) parties.

The need for different types of delivery adds to its importance, considering that in the complexity of legal transactions and the speed of legal commerce in modern society, the significance and practicality of existing forms of delivery are not exhausted. Besides certain theoretical concepts, judicial practice contributes to a better understanding of various forms of delivery. Additionally, we have the impression that the criteria for the practical and theoretical distinction of delivery forms are often blurred, raising the question: Can we expect that certain types of delivery persist in the future, and what is the relationship between different forms of delivery?

The focus of this paper particularly highlights certain issues regarding fictitious delivery, which occurs at the moment of contract conclusion, and the possibility that in the case of *cessio vindicationis*, we should not limit our thinking solely to the demand for indirect (legal) possession. Thus, it is evident that the transfer of possession of movable items through fictitious delivery also occurs when the item is in the hands of a third party who holds it without legal basis.

Finally, in the case of multiple sales, priority in acquiring rights should be given to the party to whom the item has been delivered, without the requirement of his/her good faith. In the event of his/her bad faith, a more just solution would be to establish extra-contractual liability for compensation for the damages caused, in accordance with the general rules of obligation law.

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ZNAČAJ USVOJENJA U NASLEDNOM PRAVU SRBIJE

Apstrakt: Iako usvojenje u pravu Republike Srbije predstavlja značajan institut porodičnog prava, u smislu zaštite prava i interesa maloletnog deteta bez roditeljskog staranja, u naslednom pravu je od važnosti, pre svega, u smislu kruga lica koja spadaju u zakonske naslednike. Polazeći od koncepta usvojenja, koje je u porodičnopravnom zakonodavstvu od 2005. godine prihvaćeno kao potpuno usvojenje, izjednačavajući novonastale pravne odnose usvojitelja i usvojenika sa krvnim srodstvom u međusobnim pravima i obavezama, u naslednom pravu Srbije je, pored potpunog usvojenja, i dalje zadržan koncept nepotpunog usvojenja, odnosno regulisane su pravne posledice koje proizlaze iz već prethodno zasnovanog nepotpunog usvojenja pre donošenja Porodičnog zakona. S obzirom na to da nepotpuno usvojenje ne predstavlja trajni pravni odnos, za razliku od instituta poptunog usvojenja, domaći zakonodavac je u oblasti naslednog prava opravdano zadržao odredbe o naslednopravnom položaju usvojioca i usvojenika iz nepotpunog usvojenja. Takvom regulativom se u svakom smislu izbegava postojanje pravne praznine i dovodi do veće pravne sigurnosti, kada se radi o pravima, obavezama i pravnom statusu srodnika iz nepotpunog usvojenja. Ovakvo rešenje, u naslednopravnom smislu, u velikoj meri utiče na tri ključne stvari, te se postavljaju tri osnovna i najvažnija pitanja: koja lica će spadati u krug zakonskih naslednika, obim naslednih prava, odnosno koliki će da bude njihov nasledni deo i pod kojim uslovima? U radu će biti analiziran značaj usvojenja u naslednom pravu Republike Srbije sa kratkim istorijskim osvrtom.

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Ključne reči: *potpuno usvojenje, nepotpuno usvojenje, adoptivno srodstvo, zakonsko nasleđivanje, Zakon o nasleđivanju.*

1. Uvod – pojam i oblici usvojenja

U uvodnim razmatranjima ovoga rada najpre će se izložiti teorijski pojam ustanove usvojenja, kao i oblici usvojenja koji egzistiraju u zakonodavnom okviru Republike Srbije. Srodstvo po usvojenju, odnosno adoptivno ili građansko srodstvo, predstavlja posebno pravno relevantnu činjenicu u naslednom pravu Republike Srbije, naročito zbog čitavog niza pravnih, tačnije naslednopravnih posledica koje nastaju uspostavljanjem porodičnih odnosa, odnosno srodničkog i roditeljskog odnosa pravnim putem.

Pre svega, adoptivno srodstvo, naglašava Cvejić Jančić (2009, str. 66), nastaje pravnim putem, usvajanjem tuđeg maloletnog deteta, zasnivanjem ne samo roditeljskog odnosa između usvojioca i usvojenika, nego i šireg srodničkog odnosa koji zavisi od toga da li se radi o potpunom ili nepotpunom usvojenju. Usvojenje, kako Kovaček (2009, str. 343) navodi, predstavlja oblik zaštite dece bez roditeljskog staranja koji ima individualni karakter za razliku od institucionalnog smeštaja koje je grupno, a takođe predstavlja i najbolji vid zaštite, jer dete dobija porodicu sa istim funkcijama koje ima i prirodna, biološka porodica. Pojedini autori ističu dvostruki karakter ustanove usvojenja u savremenim pravnim sistemima[2], jer, kako Jović (2005) ističe, istovremeno predstavlja najpotpuniji oblik porodičnopravne zaštite dece bez roditeljskog staranja i formu kojom se ostvaruje roditeljski odnos između usvojioca i usvojenika. U uvodnom delu će se jasno razgraničiti razlika u pogledu potpunog i nepotpunog usvojenja, kao pravnih instituta porodičnog prava koji imaju veliki značaj i u naslednopravnim odnosima.

[2] Opširnije o usvojenju u uporednom pravu videti: Krstinić M., Dalibor; Vasiljković Z., Jovana (2020). Institut usvojenja u uporednom pravu. *Strani pravni život*, god. LXIV (1), 113–125.

Značajna razlika između potpunog i nepotpunog usvojenja, kao oblika zaštite, jeste u uspostavljanju užeg ili šireg srodničkog odnosa, pitanju trajnosti, odnosno raskidivosti i pitanju odnosa usvojenika sa svojim biološkim roditeljima i ostalim krvnim srodnicima. U kontekstu nastupanja naslednopravnih dejstava i posledica usvojenja od velike je važnosti da li se radi o potpunom ili nepotpunom usvojenju.

Kada je u pitanju potpuno usvojenje, Cvejić Jančić (2009, str. 67) podseća da se srodnički odnos zasniva između usvojioca i svih njegovih krvnih srodnika, sa jedne strane, i usvojenika i svih njegovih potomaka, sa druge strane, što dovodi do toga da usvojenik u ovom slučaju prekida sve odnose sa svojim prirodnim, odnosno biološkim roditeljima, kao i sa svojim ostalim krvnim srodnicima. Ovo potvrđuje i odredba člana 104 Porodičnog zakona (2005) u kojoj je regulisano da se usvojenjem između usvojenika i njegovih potomaka i usvojitelja i njihovih srodnika zasnivaju jednaka prava i dužnosti kao između deteta i roditelja, odnosno drugih srodnika. Usvojenik u potpunosti, kako navodi Cvejić Jančić (2009, str. 67), stupa u porodične odnose i porodicu usvojenika, usled čega nastaje neraskidiv i trajan odnos u kojem usvojenik dobija status bračnog deteta. Ako se desi životna situacija da iz nekog razloga postoji nemogućnost da dete živi sa svojim roditeljima, a istovremeno ne postoji mogućnost da se ono zbrine u porodici srodnika, usvojenje, prema Čović (2023), jeste sledeće najbolje rešenje, jer predstavlja trajni oblik zaštite koji detetu pruža mogućnost da u potpunosti izgradi osećanje pripadnosti i zajedništva sa usvojiteljima. Ovo je pogotovo slučaj kada se radi o potpunom usvojenju, konceptu koji je trenutno jedino zakonom prihvaćeno rešenje u skladu sa odredbama članova 88–109 Porodičnog zakona (2005) kojima su regulisani uslovi za zasnivanje usvojenja, nadležnost, dejstva usvojenja i prestanak usvojenja.

Međutim, u slučaju nepotpunog usvojenja koje je bilo moguće zasnovati sve do donošenja, tačnije do početka primene Porodičnog zakona, u skladu sa odredbama ranije važećeg Zakona o braku i porodičnim odnosima (1980)[3], a koje ne predstavlja trajan odnos i karakteriše ga

[3] Opširnije o samom zakonu videti u: Mitić, M. (1981). Zakon o braku i porodičnim odnosima SR Hrvatske i SR Srbije. Zbornik radova Pravnog fakulteta u Nišu, XXI, 59–77 i Mitić, M. (1982). Zakon o braku i porodičnim odnosima

raskidivost, naslednopravna dejstva su sužena. Ovaj institut ima i dalje ima veliki značaj u naslednopravnom smislu, s obzirom na to da prethodno zasnovana nepotpuna usvojenja još uvek proizvode pravno dejstvo. Za razliku od potpunog usvojenja, nepotpuno usvojenje zasniva se samo između usvojioca, sa jedne strane, i usvojenika i njegovih potomaka, sa druge strane, dok srodnici usvojioca, podseća Cvejić Jančić (2009, str. 67), ne stupaju ni u kakve pravne ni srodničke veze sa usvojenikom i njegovim potomcima, čime se stvara znatno uži srodnički odnos. Još jedna veoma značajna činjenica, možda i najznačajnija kada se radi o nepotpunom usvojenju, jeste da se zasnivanjem ovakve vrste srodstva ne prekidaju odnosi usvojenika sa svojim biološkim roditeljima i ostalim krvnim srodnicima, a pogotovo imajući u vidu da je tadašnjim važećim zakonom predviđena raskidivost ovog oblika usvojenja.[4]

2. Kratak istorijski osvrt na značaj usvojenja u rimskom pravu

Za potrebe ovog rada naučnim istraživanjem biće obuhvaćena sumarna analiza ustanove usvojenja od njegovog pravnog začetka u rimskom pravu.

Ustanova usvojenja seže u daleku prošlost i datira još iz perioda gentilne organizacije kada nisu postojali ni pravo ni pravni poredak, prvenstveno, podseća Čović (2023), iz razloga zadovoljavanja interesa gensa, odnosno roda, s tim da su interesi usvojenika i usvojioca bili zanemareni i zapostavljeni u odnosu na interese i potrebe društvene zajednice.

Međutim, kako navodi Antić (2014, str. 115), cilj usvojenja se menjao[5] kroz vekove u skladu sa potrebama i shvatanjima društva, odno-

SR Hrvatske i SR Srbije: (nastavak iz prethodnog broja Zbornika). Zbornik radova Pravnog fakulteta u Nišu, XXII, 63–81 (o usvojenju videti str. 76).

[4] Detaljnije o razlikama između potpunog i nepotpunog usvojenja videti u: Ćeranić, D. (2015). Potpuno vs. nepotpuno usvojenje. Zbornik radova „Odnos prava u regionu i prava Evropske unije“, 170–183.

[5] Opširnije o razvoju ustanove usvojenja od rimskog do savremenog prava: Kitanović, T., Ignjatović, M. (2013). Evolucija ustanove usvojenja od rimskog

sno konkretnog javnog poretka. Tako se cilj i svrha usvojenja menjaju u starom Rimu[6], te ono prestaje da služi zaštiti interesa gensa i prerasta u vid zaštite pojedinačnih interesa, odnosno interesa usvojioca i njegove porodice, s obzirom na to da se usvojenje, podseća Čović (2023), shvata kao način produženja porodice i kulta porodice, ali i kao prelazak imovine *pater familiasa* koji nema potomstvo na usvojenika i na taj način kasnije postaje preteča modernog koncepta usvojenja.

Rimsko pravo, prema Zakonu XII tablica, poznavalo je, kako navode Kitanović i Ignjatović (2013), dve vrste usvojenja – adrogaciju (*adrogatio*) za usvajanje lica *sui iuris* i adopciju (*adoptio*) za usvajanje lice *alieni iuris*. U prvom slučaju je, prema Antiću (2014, str. 115), cela porodica usvojenika potpadala pod vlast usvojioca, dok je u drugom slučaju usvojenik prelazio u porodicu usvojioca kao da je i rođen u njoj, dok je sa biološkom porodicom prekidao sve pravne veze. Međutim, Justinijanovom kodifikacijom bila su predviđena dva nova oblika usvojenja, *adoptio plena*, što bi predstavljalo potpuno usvojenje, i *adoptio minus plena*, što bi bilo nepotpuno usvojenje.[7]

Zakonsko, odnosno intestatsko nasleđivanje je, prema *ius civile*, bilo uređeno Zakonom XII tablica i postojala su, podseća Udovičić (2019), tri reda naslednika: *sui heredes, proximus agnatus* i *gentiles*. Stoga, prema Udovičić (2019), *sui heredes*, koji predstavljaju najbliže agnatske srodnike ostavioca koji su pod vlašću *pater familiasa*, pripadali su prvom zakonskom naslednom redu, a kojem su, pored žene u *manus* braku, pripadala i deca ostavioca, bilo rođena bilo usvojena, odnosno adrogirana ili adoptirana, ali i unuci prethodno umrlih ili emancipovanih sinova. U krug naslednika u drugom naslednom redu, kako navodi Udovičić (2019), spadali su *proximus agnatus*, odnosno srodnici koji nisu živeli u istoj porodici, ali su nekad zajedno sa ostaviocem pripadali istoj po-

do savremenog prava. Zbornik radova Pravnog fakulteta u Novom Sadu. 4, 163–184.

[6] Detaljnije o usvojenju u rimskom pravu videti kod: Babić, I. (2011, str. 49), zatim videti i Antić, O. (2014, str. 115). Detaljnije o oblicima usvojenja u starom Rimu videti i: Čović, A. (2023, str. 47–50).

[7] Detaljnije o ovim oblicima usvojenja u rimskom pravu videti: Antić, O. (2014, str. 115) i Kitanović, T., Ignjatović, M. (2013, str. 167, 168).

rodičnoj zajednici, odnosno porodičnom domaćinstvu, a među njima su bili braća i sestre ostavioca, kao i njihovi potomci. Treći zakonski nasledni red su, kako navode Kovačević (2019) i Husenspahić i Oruč (2020), činili *gentiles*, oni koji su nosili zajedničko ime roda, odnosno bili pripadnici istog roda, ali je, prema navodima Malenice (2003, str. 236), nasleđivanje naslednika iz ovog reda bila više teorijska nego praktična mogućnost. U Justinijanovoj kodifikaciji usvojenje se, kako Babić (2015, str. 60) ističe, približilo prirodnom odnosu roditelja i dece, a takođe se, prema Udovičić (2019), uzimalo u obzir kada se postavljalo pitanje zakonskog nasleđivanja tako da su u prvi zakonski nasledni red ulazila i usvojena deca koja su imala pravo nasleđivanja. Ovom kodifikacijom je, kako navodi Marković (1977), krvno srodstvo bilo predviđeno kao osnov za nasleđivanje, vršeći podelu srodnika u tri klase: potomke, pretke i kolaterale i po tome određujući zakonski nasledni red, a što je kasnije preuzelo i pandektno pravo, kao i ostala savremena zakonodavstva.

3. Kratak istorijski osvrt na značaj usvojenja u naslednom pravu Srbije

U ovom poglavlju će ukratko biti izložena komparativna analiza naslednopravnog značaja usvojenja regulisanog odredbama prethodno važećih zakona u oblasti naslednog prava, odnosno normativno uređenje adoptivnog srodstva u naslednom pravu nakon Srpskog građanskog zakonika iz 1844. godine do trenutno važećeg zakona kojim se uređuje oblast naslednog prava.

Zakonom o nasleđivanju FNRJ (1955) regulisane su naslednopravne posledice isključivo nepotpunog usvojenja, imajući u vidu da je taj oblik bio jedino zakonom prihvaćeno rešenje u skladu sa odredbama tada važećeg Osnovnog zakona o usvojenju FNRJ (1947). Shodno ovome, usvojenik i njegovi potomci su imali zakonsko pravo nasleđivanja prema usvojiocu, ali ne i prema njegovim srodnicima, iako su se, prema odredbama Osnovnog zakona o usvojenju, samim aktom usvojenja ta prava mogla ograničiti ili u potpunosti isključiti ukoliko bi usvojilac imao svoju biološku decu, dok usvojilac i njegovi srodnici, podseća Vidić (2006), nisu mogli biti zakonski naslednici usvojenika.

Zakonom o nasleđivanju SR Srbije (1974) takođe su normirane naslednopravne posledice samo nepotpunog usvojenja na veoma sličan način kako je to bilo regulisano prethodno važećim zakonom, sve do donošenja Zakona o usvojenju (1976) kojim je uvedena ustanova potpunog usvojenja. Dakle, zasnivanje usvojenja nije značilo gubitak zakonskog naslednog prava između usvojenika i njegovih krvnih srodnika, ali su ipak bila normirana izvesna ograničenja koja nisu bila predviđena prethodnim saveznim zakonom. Po pravilu, a kako navode Đorđević (1974) i Antić (2014, str. 122), usvojenik i njegovi potomci su na osnovu zakona imali pravo da naslede samo usvojioca, ne i njegove srodnike, dok usvojilac nije mogao da nasledi usvojenika iz nepotpunog usvojenja, uz postojanje izuzetka ukoliko usvojilac nema nužnih sredstava za život, te bi u slučaju postojanja važnih razloga, koje ocenjuje sud, imao prema usvojeniku i njegovim potomcima ista nasledna prava koja ima prema svojim potomcima, čime se praktično isključuje zakonsko nasledno pravo bioloških roditelja usvojenika. Nakon uvođenja ustanove potpunog usvojenja, odredbama Zakona o nasleđivanju SR Srbije (1974) potpuno usvojenje je bilo izjednačeno sa krvnim srodstvom i, u tom smislu, proizvodilo je identične naslednopravne posledice.

4. Naslednopravna dejstva usvojenja u Republici Srbiji

Usvojenje, prema srpskom pozitivnom naslednom pravu, predstavlja važnu činjenicu za zasnivanje naslednopravnih odnosa, odnosno osnov za nasleđivanje, ali će od oblika zasnovanog usvojenja, potpunog ili nepotpunog, zavisiti naslednopravni položaj adoptivnih srodnika. Trenutno je na snazi Zakon o nasleđivanju Republike Srbije (1995) kojim su normirane naslednopravne posledice kako potpunog, tako i nepotpunog usvojenja, imajući u vidu da su u to vreme na snazi bile odredbe članova 151–199 Zakona o braku i porodičnim odnosima (1980) kojima su bila regulisana oba pomenuta oblika usvojenja. Tek 2005. godine, usvajanjem Porodičnog zakona koji trenutno predstavlja pozitivno pravo, normiran je samo jedan oblik usvojenja, a to je potpuno usvojenje, koje je u potpunosti izjednačeno sa krvnim srodstvom i odnosom između roditelja i deteta. Odredbe Zakona o nasleđivanju (1995) koje se tiču naslednopravnog položaja adoptivnih srodnika iz nepotpunog usvojenja primenjivaće se u slučajevima nepotpunog usvojenja koja su zasnovana pre početka primene Porodičnog zakona (2005), a koja još uvek proizvode pravno dejstvo.

Zakonodavac je normirao potpuno usvojenje kao neraskidiv odnos, izjednačavajući pravni položaj usvojenika sa pravnim položajem biološkog deteta usvojioca. Porodičnim zakonom je normiran međusobni odnos između usvojenika i usvojioca, kao i između usvojenika i roditelja. Naime, članovima 104 i 105 predviđeno je da se usvojenjem između usvojenika i njegovih potomaka i usvojitelja i njihovih srodnika zasnivaju jednaka prava i dužnosti kao između deteta i roditelja, odnosno drugih srodnika, dok istovremeno prestaje roditeljsko pravo roditelja, osim u slučaju usvojenja od strane supružnika ili vanbračnog partnera roditelja deteta, a prestaju i prava i dužnosti deteta prema njegovim srodnicima i obrnuto.

Shodno tome, izjednačenost sa krvnom srodstvom, prema članu 34 Zakona o nasleđivanju (1995), znači da usvojenik iz potpunog usvojenja, njegovi potomci i njegovi usvojenici iz potpunog usvojenja i njihovi potomci nasleđuju usvojioca i njegove srodnike isto kao što deca i njihovi potomci nasleđuju svoje roditelje i njihove srodnike, što za posledicu ima da usvojenik i njegovi potomci ne mogu biti zakonski naslednici usvojenikovih krvnih srodnika i obrnuto. Ovakav naslednopravni odnos je reciprocitetan, pa tako, prema članu 37 Zakona o nasleđivanju (1995), i usvojilac iz potpunog usvojenja i njegovi srodnici nasleđuju usvojenika i njegove potomke kao što i roditelji i njihovi srodnici nasleđuju svoju decu i njihove potomke.

Za razliku od potpunog usvojenja, nepotpuno usvojenje, kako navodi Đurđević (2023, str. 100), deluje *inter partes*, jer se tim putem zasniva srodnički odnos isključivo između usvojioca i usvojenika i njegovih potomaka, dok se između usvojenika i usvojiočevih srodnika ne zasniva nikakav srodnički odnos. Stoga, naslednopravne posledice nepotpunog usvojenja možemo posmatrati dvojako, kao naslednopravni položaj usvojenika i kao naslednopravni položaj usvojioca iz nepotpunog usvojenja. Ograničenost naslednopravnih posledica se, prema članu 35 stavu 1 Zakona o nasleđivanju (1995), ogleda u tome da usvojenik iz nepotpunog usvojenja, njegovi potomci i njegovi usvojenici iz potpunog usvojenja i njihovi potomci nasleđuju samo usvojioca, ne i srodnike usvojioca, isto kao što deca i njihovi potomci nasleđuju svoje roditelje ako ta prava pri usvojenju nisu ograničena ili isključena. Samim tim, zasnivanjem nepotpunog usvojenja se ne dira u zakonska nasledna prava između usvojenika i njegovih krvnih srodnika.[8] Prethodnim Zakonom o braku i porodičnim odnosima (1980) normirano je u kom slučaju prava usvojenika kod nepotpunog usvojenja mogu biti ograničena ili isključena, pa tako, prema članu 176 stavu 1, ako usvojilac ima rođene dece nasledna prava usvojenika prema usvojiocu se mogu ograničiti ili sasvim isključiti, s tim da je postojala zakonska mogućnost da se ograničenje ili isključenje naslednih prava, ukoliko su bračni drugovi zajednički usvojili, različito odredi prema svakom od njih.

Sa druge strane, prema članu 38 stavu 1 i 2 Zakona o nasleđivanju (1995), pravilo je da usvojilac iz nepotpunog usvojenja i njegovi srodnici ne nasleđuju usvojenika, međutim zakonodavac je predvideo izuzetak samo uz ispunjenje određenih uslova i to u slučaju da usvojilac nema nužnih sredstava za život, dok istovremeno usvojenik nema naslednika iz prvog naslednog reda i ako u momentu usvojenja nasledna prava usvojenika nisu bila isključena. U ovom slučaju usvojilac, u skladu sa čl. 38 st. 2 i 3 Zakona o nasleđivanju (1995), može u roku od jedne godine od smrti usvojenika da zahteva doživotno plodouživanje na delu zaostavštine, pri čemu sud prilikom odlučivanja uzima u obzir dužinu trajanja usvojenja, obim usvojenikovih naslednih prava, vrednost zaostavštine i imovno stanje naslednika koji se pozivaju na nasleđe. Prema čl. 38 st. 4 Zakona o nasleđivanju (1995), ako bi se desilo da usvojilac umre pre nego što je ostvario pravo na nasleđivanje, to pravo neće prelaziti na njegove naslednike imajući u vidu da institut doživotnog plodouživanja predstavlja ličnu službenost i vezuje se za ličnost koja je koristi, ono bi smrću usvojioca prestalo. Zakonodavac je u članu 36 Zakona o nasleđivanju (1995) propisao još jedan slučaj isključenja, odnosno gubitka zakonskog naslednog prava usvojenika i njegovih potomaka prema usvojiocu ukoliko bi usvojilac podneo zahtev za prestanak usvojenja

[8] Ovo proizlazi iz odredbe čl. 35 st. 2: „Nepotpuno usvojenje ne smeta nasleđivanju između usvojenika i njegovih krvnih srodnika".

za koji bi se nakon njegove smrti utvrdilo da je bio osnovan. Sa druge strane, kako kritički posmatra Đurđević (2023, str. 103), nije normirana obrnuta situacija, te nije predviđena mogućnost da naslednici usvojenika nakon njegove smrti nastave postupak za raskid usvojenja koji je usvojenik za života pokrenuo a u cilju utvrđivanja osnovanosti zahteva, što bi moglo da utiče na eventualni gubitak zakonskog naslednog prava usvojioca.

5. Zaključak

Ustanova usvojenja, njeni oblici, svrha i ciljevi zbog kojih se zasniva su se kroz istorijski prikaz, od rimskog prava do savremenog prava današnjice, menjali i evoluirali, pa se stoga i naslednopravni položaj adoptivnih srodnika menjao. U kontekstu savremenog naslednog prava ustanova usvojenja predstavlja značajan pravni osnov za primenu pravila zakonskog nasleđivanja. Pozitivnim pravom Republike Srbije normirano je isključivo potpuno usvojenje, dok se kao relikt prethodno važećeg zakonodavstva pojavljuje i nepotpuno usvojenje koje se moglo zasnovati sve do usvajanja i početka primene Porodičnog zakona iz 2005. godine a kojem su priznata naslednopravna dejstva u skladu sa odredbama Zakona o nasleđivanju iz 1995. godine. Potpuno usvojenje proizvodi identične naslednopravne posledice kao i krvno srodstvo, čime se u naslednom pravu položaj usvojenika i njegovih potomaka izjednačava sa položajem biološkog deteta usvojioca i njegovih potomaka, a položaj usvojioca i njegovih krvnih srodnika sa položajem roditelja i sa ostalim usvojenikovim krvnim srodnicima. Međutim, naslednopravna dejstva nepotpunog usvojenja su uža, uz postojanje određenih zakonskih ograničenja koja izričito moraju biti naglašena prilikom zasnivanja ovog vida usvojenja. Stoga, zasnivanjem nepotpunog usvojenja ne dira se u naslednopravne odnose usvojenika i njegovih krvnih srodnika, dok po pravilu usvojilac nema nikakva nasledna prava prema usvojeniku, uz postojanje određenih odstupanja koje je zakonodavac predvideo.

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THE IMPORTANCE OF ADOPTION IN SERBIAN INHERITANCE LAW

Abstract: Although adoption in the legal system of the Republic of Serbia is primarily recognized as a key institution of family law—particularly in safeguarding the rights and interests of minor children without parental care—it also holds significance in inheritance law, especially in delineating the circle of intestate heirs. Since the enactment of the Family Law Act in 2005, Serbian legislation has embraced the concept of full adoption, equating the legal relationship between adoptive parents and adoptees with that of biological kin in terms of mutual rights and obligations. Nonetheless, Serbian inheritance law continues to recognize the concept of incomplete adoption, regulating the legal consequences arising from such relationships established prior to the Family Law Act. Unlike full adoption, incomplete adoption does not constitute a permanent legal relationship. Accordingly, the continued application of provisions governing the inheritance status of adoptive parents and adoptees under incomplete adoption is both legitimate and necessary. This legislative approach avoids legal gaps and contributes to greater legal certainty regarding the rights, obligations, and legal status of relatives within incomplete adoptive relationships. In the context of inheritance law, this framework significantly affects three key issues: who qualifies as an intestate heir, the scope of inheritance rights, including the size of the inheritance share, and the conditions under which these rights are exercised. This paper analyzes the role of adoption in Serbian inheritance law, with a brief historical overview.

Keywords: full adoption, incomplete adoption, adoptive kinship, intestate succession, Inheritance Act

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1. Introduction: Concept and Forms of Adoption

The introductory section of this paper first outlines the theoretical concept of the institution of adoption, as well as the forms of adoption recognized within the legislative framework of the Republic of Serbia. Kinship by adoption—also referred to as adoptive or civil kinship—constitutes a legally relevant category in Serbian inheritance law, particularly due to the range of legal, more precisely inheritance-related, consequences that arise from the establishment of family relationships, i.e., kinship and parental ties created through legal means.

Adoptive kinship, as noted by Cvejić Jančić (2009, p. 66), is established through legal procedure—namely, the adoption of another's minor child—thereby creating not only a parental relationship between the adopter and the adoptee, but also a broader kinship network, the scope of which depends on whether the adoption is full or incomplete. As Kovaček (2009, p. 343) notes, adoption represents a form of protection for children without parental care that is individual in character, in contrast to institutional placement, which is collective. Moreover, adoption is considered the most effective form of protection, as the child is placed within a family that fulfills the same functions as a natural, biological family.

Several authors underscore the dual nature of the institution of adoption in contemporary legal systems[2]. As Jović (2005) observes, adoption simultaneously constitutes the most comprehensive form of family-law protection for children without parental care and the legal mechanism through which a parental relationship between adopter and adoptee is established.

This introductory section will clearly distinguish between full and incomplete adoption as legal institutions of family law, both of which carry significant implications for inheritance relationships.

A key distinction between full and incomplete adoption, as forms of child protection, lies in the establishment of either a narrower or broad-

[2] For more on adoption in comparative law see Krstinić M., Dalibor; Vasiljković Z., Jovana (2020). Adoption Institute in Comparative Law. *Strani pravni život*, LXIV (1), 113–125.

er kinship network, the question of permanence versus revocability, and the nature of the adoptee's relationship with their biological parents and other blood relatives. In the context of inheritance-related effects and consequences of adoption, it is of considerable importance whether the adoption is full or incomplete.

In the case of full adoption, Cvejić Jančić (2009, p. 67) notes that kinship is established between the adopter and all their blood relatives on one side, and the adoptee and all their descendants on the other. The adoptee, therefore, severs all ties with their biological parents, as well as with other blood relatives. This is affirmed by Article 104 of the Family Law Act (2005), which stipulates that adoption establishes equal rights and duties between the adoptee and their descendants, and the adopter and their relatives, as those existing between a child and parent, or among other kin.

The adoptee, as Cvejić Jančić (2009, p. 67) further emphasizes, fully enters into the family relationships and familial structure of the adopter, thereby forming a permanent and irrevocable bond in which the adoptee acquires the status of a marital child. In life situations where, for various reasons, a child cannot live with their parents and cannot be cared for within the extended family, adoption, as Čović (2023) claims, represents the next best solution. It provides a permanent form of protection that enables the child to fully develop a sense of belonging and shared identity with the adoptive family. This is especially true in the case of full adoption, which is currently the only legally recognized model under Articles 88–109 of the Family Law Act (2005), which regulate the conditions for establishing adoption, jurisdiction, legal effects, and termination of adoption.

However, in the case of incomplete adoption—which could be established until the enactment and, more precisely, the entry into force of the Family Law Act, pursuant to the provisions of the previously applicable Marriage and Family Relations Act (1980)[3]—the relationship is not

[3] For a detailed discussion of the law, see: Mitić, M. (1981). Zakon o braku i porodičnim odnosima SR Hrvatske i SR Srbije. Zbornik radova Pravnog fakulteta u Nišu, XXI, 59–77; and Mitić, M. (1982). Zakon o braku i porodičnim odnosima SR Hrvatske i SR Srbije: nastavak iz prethodnog broja Zbornika. Zbornik radova Pravnog fakulteta u Nišu, XXII, 63–81 (see p. 76 for adoption).

permanent and is characterized by revocability, resulting in a narrower scope of inheritance-related effects. This legal institution continues to hold considerable significance in inheritance law, given that previously established incomplete adoptions still produce legal effects.

Unlike full adoption, incomplete adoption is established solely between the adopter, on one side, and the adoptee and their descendants, on the other. As Cvejić Jančić (2009, p. 67) reminds us, the adopter's relatives do not enter into any legal or kinship relationship with the adoptee or their descendants, thereby creating a significantly narrower kinship network.

Another highly important feature—perhaps the most important in the context of incomplete adoption—is that the establishment of this form of kinship does not sever the adoptee's ties with their biological parents and other blood relatives. This is especially relevant given that the legislation in force at the time explicitly provided for the revocability of this form of adoption[4].

2. Significance of Adoption in Roman Law: A Brief Historical Overview

This paper includes a concise analysis of the institution of adoption from its earliest legal origins in Roman law.

Adoption as a legal institution reaches far back into history, originating in the period of gentile organization—before the emergence of law and legal order in the modern sense. At that time, as Čović (2023) reminds us, adoption primarily served the interests of the gens, or clan, while the interests of the adoptee and adopter were neglected and subordinated to the needs of the broader social community.

However, as Antić (2014, p. 115) notes, the purpose of adoption evolved over the centuries[5] in accordance with societal needs and pre-

[4] For more details on the differences between full and incomplete adoption, see: Ćeranić, D. (2015). Potpuno vs. nepotpuno usvojenje. Zbornik radova „Odnos prava u regionu i prava Evropske unije", 170–183.

[5] For a detailed discussion of the evolution of adoption as a legal institution from Roman to modern law, see: Kitanović, T., Ignjatović, M. (2013). Evolucija

vailing conceptions of public order. In ancient Rome[6], the aim and function of adoption underwent a significant transformation: it ceased to serve the interests of the gens and instead became a means of protecting individual interests—particularly those of the adopter and his family. Adoption, as Čović (2023) again emphasizes, came to be understood as a way of extending the family line and preserving the family cult, but also as a legal mechanism for transferring the property of a *pater familias* without biological heirs to an adoptee. In this way, Roman adoption laid the groundwork for the modern concept of adoption, which increasingly affirms individual interests and familial autonomy.

Roman law, according to the Law of the Twelve Tables, recognized two forms of adoption, as noted by Kitanović and Ignjatović (2013): *adrogatio* (adrogation), used for adopting a person *sui iuris*, and *adoptio* (adoption), used for adopting a person *alieni iuris*. In the first case, as Antić (2014, p. 115) explains, the entire family of the adoptee came under the authority (*potestas*) of the adopter. In the second case, the adoptee entered the adopter's family as though born into it, severing all legal ties with their biological family.

However, under Justinian's codification, two new forms of adoption were introduced: *adoptio plena*, which represented full adoption, and *adoptio minus plena*, which constituted incomplete adoption[7].

Statutory, or intestate, succession under *ius civile* was regulated by the Law of the Twelve Tables, which, as Udovičić (2019) notes, recognized three orders of heirs: *sui heredes*, *proximus agnatus*, and *gentiles*. Accordingly, *sui heredes*—the closest agnatic relatives of the decedent who were under the authority (*potestas*) of the *pater familias*—belonged to the first order of statutory heirs. This group included not only the wife in a *manus* marriage and the decedent's children, whether biological or

ustanove usvojenja od rimskog do savremenog prava. Zbornik radova Pravnog fakulteta u Novom Sadu. 4, 163–184.

[6] For a detailed discussion of adoption in Roman law, see: Babić, I. (2011, p. 49), and Antić, O. (2014, p. 115). For more details on adoption forms in Ancient Rome, see also: Čović, A. (2023, pp. 47–50).

[7] For a detailed discussion of these forms in Roman law, see: Antić, O. (2014, p. 115) and Kitanović, T., Ignjatović, M. (2013, pp. 167-168).

adopted (through *adrogatio* or *adoptio*), but also the grandchildren of previously deceased or emancipated sons (Udovičić, 2019).

The second order of heirs, *proximus agnatus*, comprised relatives who no longer lived within the same household but had once belonged to the same familial community as the decedent. This group included the decedent's siblings and their descendants (Udovičić, 2019).

The third order of statutory heirs consisted of the *gentiles*—those who bore the common name of the clan and were members of the same gens. However, as Malenica (2003, p. 236) observes, inheritance by heirs of this order was more a theoretical possibility than a practical one (Kovačević, 2019; Husenspahić & Oruč, 2020).

Under Justinian's codification, adoption, as Babić (2015, p. 60) emphasizes, was brought closer to the natural relationship between parent and child. Moreover, as Udovičić (2019) notes, adoption was taken into account in matters of statutory succession, such that adopted children were included in the first order of heirs and granted inheritance rights.

This codification, as Marković (1977) explains, established blood kinship as the basis for inheritance, dividing relatives into three classes—descendants, ascendants, and collaterals—and determining the statutory order of succession accordingly. This structure was later adopted by Pandect law and subsequently by modern legal systems.

3. Significance of Adoption in Serbian Inheritance Law: A Brief Historical Overview

This chapter presents a concise comparative analysis of the inheritance-related significance of adoption, as regulated by the provisions of previously applicable laws in the field of inheritance law. It focuses on the normative framework governing adoptive kinship from the enactment of the Serbian Civil Code of 1844 to the currently applicable legislation regulating inheritance matters.

The Inheritance Act of the Federal People's Republic of Yugoslavia (1955) governed only the inheritance consequences of incomplete adoption, given that this form was the sole legally recognized arrangement under the provisions of the then-valid Basic Adoption Act of the FPRY (1947). Accordingly, the adoptee and their descendants were granted statutory inheritance rights in relation to the adopter, but not in relation to the adopter's relatives. Although the act of adoption itself, pursuant to the provisions of the Basic Adoption Act, could limit or entirely exclude such rights in cases where the adopter had biological children, the adopter and their relatives, as Vidić (2006) notes, could not be statutory heirs of the adoptee.

Under the Inheritance Act of the Socialist Republic of Serbia (1974), the inheritance-related consequences of adoption were regulated exclusively in relation to incomplete adoption, in a manner largely consistent with the provisions of the previously applicable law. This remained the case until the enactment of the Adoption Act (1976), which introduced the legal institution of full adoption. Thus, the establishment of an adoptive relationship did not entail the loss of statutory inheritance rights between the adoptee and their biological relatives; however, certain limitations were introduced that had not been foreseen in earlier federal legislation.

As a rule, and as noted by Đorđević (1974) and Antić (2014, p. 122), the adoptee and their descendants were entitled by law to inherit only from the adopter, not from the adopter's relatives, while the adopter could not inherit from the adoptee in cases of incomplete adoption. An exception was provided in circumstances where the adopter lacked the means necessary for subsistence; in such cases, and upon the court's assessment of compelling reasons, the adopter could be granted the same inheritance rights in relation to the adoptee and their descendants as they would have toward their own biological descendants. This effectively excluded the statutory inheritance rights of the adoptee's biological parents.

Following the introduction of full adoption, the provisions of the Inheritance Act of the Socialist Republic of Serbia (1974) equated full adoption with blood kinship, thereby producing identical inheritance consequences.

4. Inheritance Effects of Adoption in the Republic of Serbia

Under the current Serbian inheritance law, adoption constitutes a significant legal basis for establishing inheritance relationships. However, the inheritance status of adoptive relatives depends on the form of adoption—whether full or incomplete. The currently applicable Inheritance Act of the Republic of Serbia (1995) regulates the inheritance consequences of both full and incomplete adoption, taking into account that, at the time of its enactment, Articles 151–199 of the Marriage and Family Relations Act (1980) were in force, which governed both forms of adoption.

It was only in 2005, with the adoption of the Family Law Act—currently the applicable law—that a single form of adoption was codified: full adoption. This form is entirely equated with blood kinship and the legal relationship between parent and child.

The provisions of the Inheritance Act (1995) concerning the inheritance status of adoptive relatives arising from incomplete adoption remain applicable in cases where such adoptions were established prior to the entry into force of the Family Act (2005) and continue to produce legal effects.

The legislator has codified full adoption as an indissoluble relationship, equating the legal status of the adoptee with that of the biological child of the adopter. The Family Act regulates the mutual relationship between the adoptee and the adopter, as well as between the adoptee and the biological parents. Specifically, Articles 104 and 105 stipulate that adoption establishes equal rights and duties between the adoptee and their descendants and the adopter and their relatives, as between a child and parent or other relatives. At the same time, parental rights of the biological parents cease, except in cases of adoption by the spouse or extramarital partner of the child's parent, and the rights and duties of the child toward their biological relatives, and vice versa, also cease.

In accordance with this, the equivalence with blood kinship—under Article 34 of the Inheritance Act (1995)—means that an adoptee from a full adoption, their descendants, and their adoptees from full adoption and their descendants inherit from the adopter and the adopter's relatives in the same manner as children and their descendants inherit from their parents and their relatives. As a consequence, the adoptee and their descendants cannot be legal heirs of the adoptee's blood relatives, and vice versa. This inheritance relationship is reciprocal, so that—under Article 37 of the Inheritance Act (1995)—the adopter from a full adoption and their relatives inherit from the adoptee and their descendants in the same way that parents and their relatives inherit from their children and their descendants.

Unlike full adoption, incomplete adoption, as noted by Đurđević (2023, p. 100), operates *inter partes*, as it establishes a kinship relationship exclusively between the adopter and the adoptee and their descendants, without creating any kinship ties between the adoptee and the adopter's relatives. Therefore, the inheritance consequences of incomplete adoption can be viewed in two ways: as the inheritance status of the adoptee and as the inheritance status of the adopter in cases of incomplete adoption.

The limited inheritance consequences are reflected—under Article 35, paragraph 1 of the Inheritance Act (1995)—in the fact that the adoptee from an incomplete adoption, their descendants, and their adoptees from full adoption and their descendants inherit only from the adopter, not from the adopter's relatives, in the same way that children and their descendants inherit from their parents, provided that such rights were not limited or excluded at the time of adoption. Accordingly, the establishment of incomplete adoption does not affect the statutory inheritance rights between the adoptee and their blood relatives[8].

The previous Marriage and Family Relations Act (1980) regulated the circumstances under which the rights of adoptees in cases of incomplete adoption could be limited or excluded. Thus, under Article 176, paragraph 1, if the adopter had biological children, the inheritance rights of the adoptee toward the adopter could be limited or entirely excluded. Moreover, there was a statutory possibility for such limitation or exclusion of inheritance rights, if the spouses jointly adopted the child, to be determined differently for each of them.

[8] This follows from the provision of Article 35, paragraph 2: "Incomplete adoption does not interfere with inheritance between the adoptee and their blood relatives."

Under Article 38, paragraphs 1 and 2 of the Inheritance Act (1995), the general rule is that an adopter in an incomplete adoption, as well as their relatives, do not inherit from the adoptee. However, the legislator has provided an exception, contingent upon the fulfillment of specific conditions: namely, if the adopter lacks the means necessary for subsistence, while the adoptee has no heirs from the first order of succession, and if the adoptee's inheritance rights were not excluded at the time of adoption. In such cases, pursuant to Article 38, paragraphs 2 and 3 of the Inheritance Act (1995), the adopter may, within one year of the adoptee's death, request a lifelong usufruct over a portion of the estate. In deciding on such a request, the court considers the duration of the adoption, the scope of the adoptee's inheritance rights, the value of the estate, and the financial circumstances of the heirs claiming succession.

According to Article 38, paragraph 4 of the Inheritance Act (1995), if the adopter dies before exercising the right to inherit, that right does not transfer to their heirs. Given that the institution of lifelong usufruct constitutes a personal servitude tied to the individual who enjoys it, it ceases upon the adopter's death.

Additionally, Article 36 of the Inheritance Act (1995) prescribes another instance of exclusion or loss of the adoptee's statutory inheritance rights, along with those of their descendants, toward the adopter, in cases where the adopter had filed a request for termination of adoption, and where, after the adopter's death, it is determined that the request had been well-founded.

On the other hand, as Đurđević critically observes (2023, p. 103), the reverse situation is not regulated: there is no provision allowing the adoptee's heirs to continue the proceedings for termination of adoption initiated by the adoptee during their lifetime, with the aim of establishing the merits of the claim. Such a possibility could potentially affect the adopter's statutory inheritance rights.

5. Conclusion

The institution of adoption—its forms, purposes, and underlying objectives—has evolved over time, from Roman law to contemporary legal systems. Accordingly, the inheritance status of adoptive relatives has also undergone transformation. Within the framework of modern inheritance law, adoption constitutes a significant legal basis for the application of statutory inheritance rules.

Under the positive law of the Republic of Serbia, only full adoption is legally recognized. However, as a remnant of previously applicable legislation, incomplete adoption may still appear in legal practice. This form of adoption could be established until the enactment and entry into force of the Family Act in 2005, and its inheritance effects are acknowledged in accordance with the provisions of the Inheritance Act of 1995.

Full adoption produces inheritance consequences identical to those arising from blood kinship. In inheritance law, this means that the legal position of the adoptee and their descendants is fully equated with that of the adopter's biological child and their descendants, while the adopter and their blood relatives assume the legal position of parents and other blood relatives of the adoptee.

By contrast, the inheritance effects of incomplete adoption are more limited, subject to specific statutory restrictions that must be explicitly emphasized at the time this form of adoption is established. As a result, incomplete adoption does not affect the inheritance relationships between the adoptee and their blood relatives. As a rule, the adopter has no inheritance rights with respect to the adoptee, except in certain exceptional cases provided by the legislator.

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KONCEPT SLOBODE I ULOGA ŽENE VIĐENE OČIMA MARGARET ATVUD I ELENE FERANTE

Apstrakt: Ovaj rad se bavi analizom koncepta slobode u književnom stvaralaštvu Elene Ferante i Margaret Atvud, sagledanim kroz prizmu feminističke teorije. Iako pripadaju različitim geografskim, kulturnim i žanrovskim kontekstima, obe autorke dosledno problematizuju pitanje šta znači biti slobodna žena, na koji način se ta sloboda gradi i u kojim uslovima biva ugrožena ili osporena. Rad osvetljava kako obe autorke promišljaju o granicama lične i kolektivne autonomije kroz narativne strukture koje naglašavaju žensko iskustvo, telo, jezik i identitet kao ključna mesta političkog otpora. Kroz uporednu analizu razlika između američkog i evropskog feminizma, kao i specifičnih odrednica italijanskog feminizma, rad ukazuje na to kako se feministički diskurs oblikuje u skladu s lokalnim društveno-istorijskim okolnostima. Elena Ferante, oslonjena na emocionalnu introspekciju, tematizuje klasne tenzije, institucionalno i porodično nasilje, jezičku hijerarhiju i telesnu ambivalenciju, kao elemente borbe za subjektivitet. Sa druge strane, Atvudova kroz distopijsku naraciju i spekulativnu fikciju istražuje mehanizme institucionalne kontrole, represije i otpora, otvarajući prostor za tumačenje političke dimenzije ženskog pripovedanja. Cilj rada je da pokaže kako se sloboda u ovim delima ne shvata kao zadatak, već kao dinamičan, često protivrečan proces koji podrazumeva preispitivanje, otpor i permanentno (samo)definisanje.

Ključne reči: *sloboda, feminizam, Atvud, Ferante, identitet*

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1. Uvod

Elena Ferante (Elena Ferrante) i Margaret Atvud (Margaret Atwood) spisateljice su čiji se opusi razlikuju ne samo po vremenu i mestu nastanka, već i po dominantnim stvaralačkim žanrovima po kojima su i prepoznatljive. Ipak, ono što nesumnjivo predstavlja zajedničku neuralgičnu tačku u njihovom stvaralaštvu jeste ideja slobodne žene – pitanje šta za ženu predstavlja sloboda, na koji način se ona stiče ili osvaja, ali i koliko može biti krhka i podložna ugrožavanju. Stoga, kada se na istoj kontemplativnoj ravni susretnu žene i ideja slobode, najlogičniji zaključak vodi ka konceptu feminizma, pa je zbog toga upravo to prizma kroz koju ćemo analizirati ovu problematiku. S obzirom na to da je Margaret Atvud kanadska autorka koja živi i stvara na severnoameričkom kontinentu, a Elena Ferante italijanska spisateljica koja piše i deluje u evropskom kontekstu, feminističke perspektive koje iz njih proističu osvetljene su kroz prizmu specifičnih društveno-istorijskih uslova u kojima su autorke formirane.

Ovaj rad ima za cilj da osvetli izvesne feminističke aspekte koje Ferанteova i Atvudova problematizuju u svom književnom opusu, analizirajući na koji način se određeni koncepti drugovalnog feminizma odražavaju u delima ove dve, prema mišljenju mnogih, feminističke spisateljice *par excellence*. Imajući u vidu jasno uočljive razlike u feminističkim pristupima unutar njihovih poetika, ukazaćemo na zajedničke tematske elemente o kojima obe autorke promišljaju i koje problematizuju, kao i na mesta njihovih teorijskih, stilskih i poetskih mimoilaženja.

2. Koncept slobode i feminizam

Sloboda žena kako u istorijskoj, tako i u globalnoj perspektivi oblikovana je duboko ukorenjenim društvenim, pravnim i ekonomskim strukturama koje su često ograničavale njihovu autonomiju i pravo na samoodređenje. Daleko od univerzalno priznatog prava, sloboda žena neretko je bila predmet osporavanja, oslikavajući šire dinamike moći unutar različitih društava. U svojim ranim fazama, feminizam je, kao pokret, bio usmeren ka ostvarivanju jednakosti između muškaraca i žena, međutim, izborivši se za pravo glasa, s vremenom se težište pomera ka identifikaciji onih faktora koji razlikuju žene od muškaraca, ali istovremeno omogućavaju međusobnu solidarnost među ženama u zajedničkom projektu promene svog društveno-političkog položaja. Ovaj pravac nastaje u drugoj polovini XX veka i poznat je kao **drugi talas feminizma** a sloboda koju afirmiše ne odnosi se prvenstveno na liberalno shvaćenu slobodu, kao odsustvo spoljašnjih ograničenja, već podrazumeva osećaj lične sigurnosti, dostojanstva i prihvatanja sopstvenog identiteta. U tom smislu, „sloboda znači osećati se dobro, sigurno i lepo kao žena u svetu, imati slobodu za istraživanje seksualnog identiteta, bez stega kulturnih normi, seksualne represije i predrasuda vezanih za ženu kao inferiorno biće" (Đorđević, 2023, str. 17). Jačanje i uticaj drugovalnog feminizma odvija se istovremeno u Severnoj Americi i u Evropi i, premda je u osnovi obe struje dominantan emancipatorski impuls, i u samom teorijsko-filozofskom pristupu, ali i u njegovoj primeni postoje i izvesne razlike i razmimoilaženja.

2.1. Američki feminizam drugog talasa

Američki feminizam drugog talasa razvijao se tokom 1960-ih i 1970-ih godina i bio je prvenstveno usmeren na institucionalnu jednakost i pravnu borbu za ravnopravnost žena unutar postojećeg sistema. Pokret je bio snažno inspirisan liberalnim vrednostima koje u tom periodu dobijaju na značaju na društveno-političkoj sceni Severne Amerike, te je težio ostvarivanju ženskih prava kroz političke i zakonodavne reforme, naročito u oblastima obrazovanja, zapošljavanja, reproduktivnih prava i borbe protiv rodno zasnovanog nasilja. Ideološki i kulturni zaokreti koji se tada dešavaju stvaraju plodno tlo za rađanje feminističke književne kritike koja svojom nekonvencionalnom smelošću uspeva snažno da uzdrma temelje dotadašnjih književnoteorijskih normi. Američka feministička kritika, u svojoj prvoj fazi, fokusira se na ženu kao čitateljku – konzumenta književnosti, koju su mahom stvarali muškarci. U tom kontekstu, ona nastoji da razotkrije ideološke mehanizme koji podržavaju patrijarhalne narative: mizogine stereotipe, isključivanje žena iz književnog kanona, eksploataciju i manipulaciju ženskom čitalačkom publikom, posebno u domenima popularne kulture i filma, kao i tretman žene kao pukog označitelja unutar semiotičkog sistema (Showalter, 1985, str. 128). U drugoj fazi razvoja, feministička kritika pomera fokus sa žene kao pasivne recipijentkinje značenja na ženu kao njegovog aktivnog agensa, pri čemu se u centar analize postavlja pitanje ženskog autorstva. Kritika tada teži ne samo revidiranju literarnog kanona, već i artikulaciji sopstvenog, autentičnog ženskog izraza. Cilj je, kako navodi jedna od najznačajnijih teoretičarki ovog perioda Ilejn Šouvolter (Elaine Showalter), „pronaći novi način čitanja koji može da integriše našu inteligenciju i naša iskustva, našu svrhu i našu patnju, naš skepticizam i našu viziju“ (Showalter, 1985, str. 141–142). U tom smislu, feministička kritika postaje ne samo teorijski promišljena, već i praktična u svojoj subverzivnosti – često do granice militantnosti – jer pokušava da dekonstruiše temelje dominantne muške tradicije i izgradi novu epistemološku osnovu za razumevanje književnosti.

2.2. Evropski feminizam

Premda je nastajao u gotovo istim društveno-istorijskim okolnostima, evropski feminizam se razvijao u teorijski složenijem i filozofski kompleksnijem pravcu. Za razliku od američkog feminizma koji je često zadržavao racionalistički i empirijski pristup, evropske feminističke misli – posebno francuski feminizam – razvijale su se u dodiru sa psihoanalizom, poststrukturalizmom i marksizmom, nastojeći da dekonstruišu premise falogocentrične doktrine. Autorke, poput Liz Irigare (Luce Irigaray) i Elen Siksu (Hélène Cixous), bavile su se analitičkom kritikom jezika, identiteta i telesnosti, problematizujući samu osnovu falogocentričnog diskursa, tragajući za „ženskim pismom“ (écriture féminine) koje bi izrazilo specifično žensko iskustvo koje nastaje i dela izvan okvira patrijarhalnog simboličkog poretka i muške logičke reprezentacije. Koncept ženskog pisma koji afirmiše drugost, smatra Siksu, nije nužno sadržan u polu autora, već u polu samog pisma, te predstavlja diskurzivni efekat u tekstu koji se realizuje izlaskom iz patrijarhalnog koncepta falogocentrizma (Đorđević, 2023, str. 23). Francuske feministkinje tvrdile su da je žensko nesvesno sasvim drugačije od muškog, te da je upravo ta psihoseksualna specifičnost izvor potencijala za subverziju maskulinih ideologija i kreaciju novog, ženskog diskursa (Jones, 1985, str. 365).

Jedna od ključnih novina u odnosu na američku feminističku kritiku ogleda se u načinu na koji se promišlja o odnosu prema majci, majčinom telu i jeziku. Tako Liz Irigare poziva na približavanje svom polu, „svojoj majci, našoj majci u nama i među nama" (Irigaray, prema Lešić, 2003, str. 132). Tim pozivom ona uspostavlja temelj konceptu ženskog sestrinstva – ideji međusobne ženske bliskosti i solidarnosti koja će feministkinje drugog talasa rado prigrliti kako na evropskom, tako i na severnoameričkom tlu.

Uprkos razlikama u teorijskim i praktičnim pristupima, i američki i kontinentalni feminizam doprineli su razvoju bogatog korpusa ideja i metoda kako u okviru feminističke teorije, tako i u domenu književne kritike. Američke feministkinje često su zamerale francuskoj struji preteranu teorijsku apstrakciju, optužujući ih za egzibicionističku intelektualnu aroganciju i za tendenciju da mistifikuju pojam ženskog do tačke njegove semantičke praznine. S druge strane, francuske feministkinje kritikovale su američku orijentaciju ka racionalnosti i jasnoći izlaganja, smatrajući da takav pristup ne predstavlja istinsku pretnju patrijarhalnom poretku.

Italijanski feminizam, iako se razvijao u okviru kontinentalne intelektualne tradicije, nastao je u dinamičnom dijalogu sa globalnim progresivnim pokretima, posebno pod uticajem afroameričke borbe za građanska prava i feminističkih koncepata oblikovanih u Severnoj Americi. Italijanske feministkinje su, prepoznajući da se u lokalnom kontekstu privilegija manifestuje prvenstveno kao rodna a ne rasna kategorija, razvile specifičan politički odgovor kroz napuštanje mešovitih političkih kolektiva i uspostavljanje autonomnih ženskih udruženja. Ova separatistička praksa, inspirisana američkim modelima političke borbe marginalizovanih grupa, igrala je značajnu ulogu u konstituisanju italijanskog feminizma koji se distancirao od tradicionalnih militantnih i klasno zasnovanih formi aktivizma. Aspekti severnoameričke borbe za rasnu i rodnu pravdu – poput intersekcionalnosti, političkog subjektiviteta i otpora institucionalnoj moći – u italijanskom kontekstu nisu funkcionisali kao puka imitacija, već kao mreža prevođenja i prilagođavanja globalnih teorijskih i estetskih principa lokalnim iskustvima. Na razvoj ovog pravca značajno su uticali i širi kulturni faktori – uključujući američku „meku moć" posredovanu kroz Maršalov plan[2] – koji su, uz ekonomsku pomoć omogućili intenzivnu transatlantsku razmenu kulturnih sadržaja, obrazovnih modela i feminističkih diskursa (Gardner, 2012). Projekti medijske propagande i kulturna saradnja pod Maršalovim planom omogućili su cirkulaciju filmova, diskursa i obrazovnih materijala koji su oblikovali percepciju modernog identiteta (Bullaro, 2016, str. 25). U ovom transatlantskom dijalogu simbolički uticaji su imali jednaku težinu kao i teorijski – slogan *Black is beautiful* direktno je inspirisao italijanski feministički moto *Donna è bello*, simbolizujući afirmaciju marginalizovanog identiteta kao političkog i kulturnog čina (Anabasi, 1972). Reč je, dakle, o dinamičnoj razmeni kulturnih i ideoloških tokova, a ne o jednostavnom, linearnom modelu inspiracije.

U tom duhu, prve feminističke grupe u Italiji nastaju spontano i decentralizovano, bez hijerarhijske strukture, sa ciljem da osnaže žene kroz razmenu iskustava. Ključnu ulogu u ovom pristupu imale su teoretičarke i filozofkinje sa severa Italije koje insistiraju na važnosti ženskog glasa i genealogiji odnosa među ženama kao osnovi političkog delovanja. U ovom procesu oblikovan je distinktivni teorijski i identitetski okvir utemeljen na politici razlike (*la politica della differenza*) unutar kojeg se ženski subjekt ne definiše kroz jednakost s muškarcima, kao što je slučaj u američkom feminizmu, već kroz afirmaciju razlike i konstrukciju sopstvenog simboličkog poretka.

Jedna od najuticajnijih figura ovog talasa jeste Adriana Kavarero (Adriana Cavarero), osnivačica grupe *Diotima*, koja usmerava svoju filozofiju ka analizi jezika, identiteta i subjektiviteta. Kritikujući zapadnu filozofsku tradiciju zbog isključivanja ženskog subjekta, ona insistira na

[2] Džordž Maršal (George Marshal) bio je američki oficir i državnik, vojni savetnik Frenklina Ruzvelta, a za vreme mandata predsednika Harija Trumana osmislio je plan pomoći Evropi za koji je 1953. godine dobio Nobelovu nagradu za mir. Ovim projektom velika suma novca uložena je u razvoj gotovo svih zapadnoevropskih država u cilju preporoda i poboljšanja životnog standarda, što je za posledicu imalo značajnu amerikanizaciju privrede i tehnike, kao i veliko popularizovanje Amerike u Evropi (Testa et al., 2001, str. 120).

važnosti ženskog glasa i naracije, te kroz reinterpretaciju ženskih figura iz antičke mitologije predlaže koncept pluralnog subjektiviteta. Luiza Muraro (Luisa Muraro), takođe članica *Diotime*, zalaže se za uspostavljanje ženske genealogije misli i simboličkog poretka majke, oštro se suprotstavljajući tradicionalnim filozofskim interpretacijama majčinstva i insistirajući na priznavanju majčine uloge kao konstitutivne za oblikovanje ženskog jezika, identiteta i simboličkog okvira. Karla Lonci (Carla Lonzi) pak, osnivačica grupe *Rivolta Femminile* (*Ženska pobuna*), svojim delom *Pljunimo na Hegela* kritikuje falocentričnu kulturu, psihoanalizu i marksizam, pozivajući na afirmaciju klitoralne seksualnosti kao izraza ženske emancipovane autonomije. Lonci se na prilično radikalan način suprotstavlja feminizmu jednakosti, zalažući se za feminizam razlike, gde se seksualna razlika tumači kao egzistencijalna, a ne zakonska ili biološka kategorija. Zajednički cilj ovih teoretičarki svakako je bio dekonstrukcija patrijarhalnog simboličkog poretka i afirmacija ženskog iskustva, tela i jezika kao legitimnih osnova filozofskog mišljenja i društvene transformacije.

Centralne teme italijanskog feminizma obuhvataju pitanja jezika, subjektiviteta, materinstva i naracije, pri čemu se ženski identitet ne shvata kao univerzalan, već kao pluralan i kontekstualno određen. Ovakvo poimanje identiteta oslanja se na ključne teorijske osnove pokreta, kao što su koncepti *autocoscienza* (samospoznaja), *affidamento* (poverenje jedne žene drugoj) i *partire da sé* (poći od sebe), koji naglašavaju introspektivno i relaciono polazište ženskog subjektiviteta, kao i značaj ličnog iskustva u procesu političke emancipacije. *Samospoznaja*, nastala unutar grupe *Rivolta femminile*, podrazumeva kolektivnu praksu razmene iskustava u isključivo ženskom prostoru punom poverenja (*affidamento*), pri čemu govor o sebi postaje čin političke artikulacije kao i kognitivnog i emotivnog oslobađanja. *Poći od sebe* pak, prema Luizi Muraro, znači raskinuti sa postojećim poretkom simboličke muške dominacije i inicirati političku subjektivizaciju kroz afirmaciju ženske razlike i reciprociteta (Muraro, 1996).

Uprkos unutrašnjim razlikama i kritikama o elitizmu, italijanski feminizam je uspeo da prevede teorijski diskurs u konkretne društvene promene, izgradio je jak kolektivni identitet, pokrenuo transformaciju društvene svesti i stvorio osnove za dalji razvoj ženskih prava u Italiji.

Ovaj period obeležen je transformacijom privatne sfere u političko polje, uz izražen pomak ka kulturnom i simboličkom redefinisanju ženskog identiteta i mesta žene u društvu.

3. Genijalne spisateljice – Elena Ferante i Margaret Atvud

Elena Ferante je *nom de plume* italijanske književnice koji ona koristi još od izdavanja svog prvog romana 1992. godine. Međutim, zbog činjenice da se o njenom identitetu polemiše isto koliko i o sadržaju njenih knjiga, postavlja se pitanje: zašto je toliko važno dati lik prepoznatljivom glasu koji kategorički odbija da se otkrije? S druge strane, kontroverze koje su pratile anonimnost Feranteove osvetljavaju i šire pitanje odnosa između autora, teksta i čitalaca, kao i dvostruke standarde koji se dovode u vezu sa autorstvom u kontekstu roda. Ukoliko pretpostavimo da njen pseudonim predstavlja eksperimentalni kreativni prostor u kom odsustvo autora dozvoljava potpunu slobodu, sasvim legitimno nameće se ipak i pitanje: da li Elena Ferante krije svoj identitet zato što ne dozvoljava da ni čitaoci ni kritika upadnu u prostor njene slobode i odluke da ostane anonimna ili zaista veruje, kako navodi u svojoj zbirci eseja *Frantumalja* (*Frantumaglia*, 2016), da je „'pravi način čitanja' izmišljotina akademika i kritičara" (Ferante, 2021a, str. 204)?

Moja genijalna prijateljica (L'amica geniale, 2011*)* prvi je od četiri romana u serijalu koji će čitaoci i kritika nazvati *Napuljska tetralogija. Napuljska tetralogija* je u osnovi bildungsroman koji prati odrastanje, sazrevanje i zrelo doba protagonistkinje Elene Greko i njene „genijalne" prijateljice Lile kroz surovu atmosferu posleratnog Napulja ogrezlog u siromaštvu, kriminalu, neobrazovanosti i nasilju. Međutim, prateći njihovo odrastanje, prijateljstvo, rivalstvo i suočavanje sa brojnim životnim izazovima, dobijamo i izrazito jasan politički, kulturološki i društveni prikaz Italije kroz period takozvanog *ekomonskog čuda (boom economico)* tokom pedesetih godina XX veka, preko perioda revolucije studentskih i sindikalnih protesta, buđenja feminističke svesti šezdesetih godina, sve do političkih nemira i terorističkih napada tokom *godina olova* (*anni di piombo*) kroz sedamdesete i osamdesete godine XX veka. Stoga, *Napuljska tetralogija* predstavlja palimpsestični tekst koji ruši sve stereotipe o ženskom pisanju o prijateljstvu, zavisti i ljubavi koje nužno mora biti lišeno kulturno-političkog prikaza i dubine.

Margaret Atvud je kanadska književnica čiji je opus obeležen stalnim promišljanjem granica moći, jezika, identiteta i roda. S vremenom se afirmisala kao jedan od najvažnijih glasova savremene feminističke misli u književnosti, kombinujući društvenu kritiku sa književnim eksperimentima, a u prilog tome svedoče brojne prestižne nagrade, uključujući Bukerovu. Najpoznatija je po svom romanu *Sluškinjina priča* (*The Handmaid's Tale*, 1985), u kom gradi svet imaginarnog totalitarnog teokratskog režima Republike Galad, gde su žene institucionalno lišene prava, te svedene na zadate uloge u službi ekstremne radikalne patrijarhalne ideologije. Premda je radnja smeštena u fikcionalnu budućnost, Atvudova je isticala da nijedan oblik represije u knjizi nije izmišljen, već istorijski dokumentovan (Atwood, 2017). Na taj način, roman funkcioniše kao upozorenje na krhkosti ženskih sloboda i opasnosti od institucionalizovanog, ali i religijskog i kulturološkog mizoginog nasilja. *Sluškinjina priča* prepoznaje se kao feministička distopija upravo zato što ne prikazuje samo gubitak individualnih prava, već sistemsku eroziju ženskog subjektiviteta i društvene moći sa snažnim akcentom na telesnu submisiju kao osnovu političke kontrole.

4. Koncepti slobode kod Elene Ferante i Margaret Atvud

Koncept slobode kod Elene Ferante i Margaret Atvud oblikovan je kroz feminističku optiku koja osvetljava višeslojne odnose između tela, identiteta i patrijarhalnih struktura moći, ukazujući da sloboda nije univerzalna kategorija, već uvek kontekstualna, rodno obeležena i relaciona. U *Napuljskoj tetralogiji* Feranteova tematizuje proces ženskog osnaživanja kroz prizmu odrastanja u tradicionalnoj napuljskoj sredini, gde telo žene funkcioniše kao primarni označitelj njene društvene pozicije – bilo kroz iskustva nasilja, kontrole ili pokušaj samoaktualizacije. Ideja slobode u ovom narativu neraskidivo je povezana sa konceptom klasne (ne)mobilnosti koja se u velikoj meri ostvaruje (ili onemogućava) kroz pristup obrazovanju. Premda je uzdizanje na klasnoj lestvici putem obrazovanja važno i za muške i za ženske likove, Elena Ferante se fokusira pre svega na ženske subjekte, koji osim klasne trpe i rodnu represiju. Ta se dinamika ogleda već u najranijem detinjstvu kada se pristup znanju dovodi u pitanje isključivo na osnovu pola: „Učenje? Zašto, da li sam ja možda učio? [...] A da li si ti učio školu? A zašto onda treba da uči tvoja sestra, koja je žensko?" (Ferante, 2021b, str. 66) Lila i Elena vrlo rano uviđaju da im upravo obrazovanje pruža jedinu mogućnost da pobegnu iz mizoginog i siromašnog okruženja koje oblikuje njihova tela i sudbine, međutim samo je jednoj od njih taj put i stvarno omogućen: „Položiću veliku maturu, prijaviću se na neke konkurse, proći ću na nekom od njih, izvući ću se iz ove bede i otići ću što dalje mogu" (Ferante, 2021b, str. 321), dok je drugoj, samo zato što je žensko, to pravo uskraćeno.

Feministički diskurs drugog talasa ne samo da prožima tekst kroz eksplicitna referenciranja, poput manifesta Karle Lonci *Pljunimo na Hegela* (Ferante, 2021d, str. 289), već i oblikuje unutrašnje borbe protagonistkinja koje, napuštajući represivne porodične i društvene modele, streme drugačijim oblicima života, dekonstruišući transgeneracijsku patrijarhalnu matricu. Sloboda se kod Elene Ferante razvija postepeno – kao *sloboda od* (patrijarhata, autoriteta, društvenih očekivanja), ali i kao *sloboda da* (izabere sebe, piše, utiče na druge žene).

Kod Margaret Atvud pak, u *Sluškinjinoj priči*, sloboda je predstavljena unutar distopijskog režima koji radikalno suspenduje ljudska prava, a ženska tela svodi na reproduktivne funkcije. Iako se čini da su svi podložni represiji, jasno je da žene trpe višeslojnu opresiju – ne samo da su im oduzeta politička i građanska prava, već i osnovni elementi identiteta: ime, govor, sećanje, telo. U tom kontekstu, sloboda se transformiše iz političke kategorije u telesno-psihološki doživljaj. Ako pođemo od pretpostavke da je stvarnost konstruisana kroz društveni konsenzus i neprestano potvrđivana kroz dominantne diskurse, tada možemo uočiti da se u svetu Galada formira stabilna i ponavljajuća interpretativna matrica koja oblikuje način na koji žene, naročito Sluškinje, doživljavaju sebe i sopstveno okruženje: „Služimo za rasplod: nismo konkubine, gejše, kurtizane [...] Dvonožne smo utrobe, ništa više: sveti sasudi, pokretni putiri" (Atvud, 2006, str. 150). Sluškinje, među kojima je i naratorka, nemaju pravo na lični identitet, obrazovanje ili slobodno kretanje, što ukazuje na dehumanizaciju kroz kontrolu tela, govora, ali i mišljenja, kao vidom najperfidnijeg načina dominacije. Ovaj sistem dovodi do pojave kognitivne disonance – unutrašnjeg konflikta između onoga što žene instinktivno osećaju kao moralno ili istinito i onoga što im režim neprestano nameće kao jedinu prihvatljivu stvarnost. U takvom kontekstu, psihološki mehanizmi prilagođavanja, potiskivanja i racionalizacije postaju ključni za očuvanje mentalne stabilnosti, ali istovremeno i alatke koje održavaju opresivni poredak. Upravo iz tog unutrašnjeg rascepa između subjektivne istine i društvene norme proizlazi specifičan doživljaj slobode kod protagonistkinje – sloboda više nije univerzalno pravo, već intimna, krhka i povremena mogućnost da se misli drugačije, da se sačuva sećanje na sopstveni identitet ili čak da se pobuni makar u tišini. Međutim, paradoksalno, sloboda se neretko doživljava i kroz prizmu smrti – kao najosetljiviji ali i najradikalniji čin otpora ili jedini izlaz iz totalne kontrole, što se odražava u protagonistkinjinom promišljanju o samoubistvu, kao aktu oslobađanja: „Ali pazite se, Zapovedniče, kažem mu u sebi. Imam vas na oku. Jedan pogrešan potez i mrtva sam“ (Atvud, 2006, str. 101).

Džudit Batler (Judith Butler) u knjizi *Tela koja nešto znače* (1993) ističe da su i telo i identitet proizvodi diskurzivnih praksi koje ih čine kulturno čitljivim i politički regulisanim, oblikujući ne samo naše razumevanje tela i identiteta, već i određujući koje forme tela i identiteta postaju društveno prihvatljive i prepoznate (Butler, 1993, str. 1). U tom svetlu sloboda podrazumeva mogućnost da se te norme poremete i performativno promene, što vidimo kako kod Elene Ferante – u pokušaju da se pobegne iz rodno određenih identiteta kroz obrazovanje i pisanje – tako i kod Atvudove, gde protagonistkinja koristi jezik, sećanje i ironiju kao subverzivne strategije očuvanja sopstva. Adriana Kavarero, s druge strane, u delu *Ti koja me gledaš, ti koja pripovedaš o meni* (*Tu che mi guardi, tu che mi racconti,* 1997) naglašava da se identitet ne gradi iznutra, već u susretu sa drugom ženom, kroz narativnu konstrukciju koja nas potvrđuje kao jedinstvena bića. Žena na taj način počinje da shvata *ko* je, što predstavlja ontološku kategoriju, za razliku od toga *šta* je (kćerka, supruga, majka), što simbolizuje njeno empirijsko postojanje (Cavarero, 1997, str. 76). Ova ideja posebno je relevantna u poetici Elene Ferante, čije junakinje Elena i Lila neprestano preispituju sopstveni identitet u relaciji sa drugom ženom, pričajući priču jedna drugoj, ali i jedna o drugoj u najintimnijoj formi ženske solidarnosti, ali i zavisti, straha i međusobnog oblikovanja. Permanentnom oscilacijom dve tačke viđenja dobijamo uvid u Eleninu priču o svojoj prijateljici Lili, dok u isto vreme Lila priča o njoj, te na taj način one prave biografske narative jedna od drugoj, tvoreći ono što Kavarero naziva *relacioni subjektivitet* (Pinto, Milkova, Cavarero 2020, str. 239): „Osećala sam potrebu [...] da joj kažem: vidiš kako smo bile bliske, jedna u dve, dve u jedno [...] ona i ja, neprekidno oblikovane, izmenjene, i potom preoblikovane (Ferante 2021c, str. 464, 465) [...] više nisam u stanju da napravim razliku između onoga što je njeno i onoga što je moje (Ferante 2021e, str. 481). Sloboda kod ovih junakinja ne označava samo odsustvo spoljašnjih ograničenja, već mogućnost da se redefinišu osnovne premise identiteta, odnosa i značenja – pravo da se bude drugačija, da se postoji u tekstu, telu i govoru kao sopstveni subjekt, uprkos silama koje pokušavaju da ih ućutkaju, instrumentalizuju ili ponište.

4.1. Narativna sloboda i pouzdanost pripovedanja

U kontekstu pripovedne strukture, i Elena Ferante i Margaret Atvud problematizuju granice između istine, sećanja i fikcionalizacije stvarnosti, ali na bitno različite načine. Elena Ferante, iako govori o slobodi žena i njenom mukotrpnom osvajanju, čini to kroz naraciju koja je gotovo hermetična u svom emocionalnom intenzitetu i dubini introspektivne iskrenosti. Njen naratorski glas, oblikovan kroz lik protagonistkinje Elene Greko, ne ostavlja mnogo prostora za sumnju u verodostojnost pripovedanog. Iskrenost je radikalna, gotovo brutalna, i zbog toga deluje kao neoboriva istina. Ipak, postavlja se pitanje: u kojoj meri je ta istina objektivna, a u kojoj meri proizvod subjektivne narativne konstrukcije? Feranteova, svesno ili ne, koristi naraciju kako bi uspostavila kontrolu nad istinom koju saopštava, ne ostavljajući mesta za sumnju u pouzdanost glasa koji pripoveda. Njena narativna moć izvire iz osećaja autentičnosti koji čitaoca stavlja u poziciju saglasnosti, a ne otpora. Posebno je zanimljiva činjenica da na samom kraju prvog toma autorka otvara epistemološku aporiju, gde se dovodi u pitanje odnos moći između dve protagonistkinje i sam identitet one koju nazivamo „genijalnom prijateljicom". Naime, ova igra značenjem dodatno je naglašena originalnim naslovom prvog dela – *L'amica geniale* (*Genijalna prijateljica*), koji, za razliku od engleskog – *My brilliant friend* i srpskog prevoda *Moja genijalna prijateljica,* ostaje dvosmislen i time zadržava interpretativnu tenziju. U tom smislu, njen narativni stil stvara privid potpunog samorazotkrivanja i verodostojnosti, ali upravo ta potpuna ogoljenost zatvara prostor za interpretativnu slobodu čitaoca, kada je u pitanju identitet one koju smatramo genijalnom.

S druge strane, Margaret Atvud u *Sluškinjinoj priči* svesno destabilizuje narativnu pouzdanost. Junakinja otvoreno priznaje da pripoveda iz sećanja, da su određeni detalji možda iskrivljeni ili nedovoljno precizni i time eksplicitno poziva čitaoca da zauzme interpretativnu poziciju. Zahvaljujući ovakvom naratorskom okviru omogućena je šira interpretativna sloboda, ali i relativizacija same istine, premeštajući težište sa verifikacije događaja na njihovu emocionalnu autentičnost. Ipak, kao što ukazuje Umberto Eko, svaka priča, pa i ona ispripovedana fragmentarno i iz pozicije traume, mora na kraju zadobiti određeni narativni okvir koji sprečava proliferaciju nedoslednih značenja, jer, kako tvrdi, „između nedostižne namere autora i upitne namere čitaoca postoji transparentna namera teksta, koja poriče neodrživa tumačenja" (Eco, 2004, str. 78). Junakinja, iako otvara prostor za višeznačnost, zatvara narativ simboličkim okvirom koji upućuje na širu strukturu znanja o Galadu, čime se uspostavlja balans između slobode interpretacije i stabilnosti teksta. Osim toga, u njenoj priči se veoma često oseća spekulativni ton i u samom prisećanju na događaje, što ona ne krije: „To sam izmislila. Nije se tako desilo. Evo šta se desilo [...] Nije se ni tako desilo. Nisam sigurna kako se desilo; ne tačno. Mogu samo da se nadam rekonstrukciji" (Atvud, 2006, str. 283, 285). Ova svesna narativna nepouzdanost ujedno je poziv čitaocu da aktivno tumači, sumnja i preispituje. Time što ostavlja prostor za različita čitanja i ne pruža jednoznačne odgovore, Atvudova, u izvesnom smislu, upućuje na ideju da je sloboda – pa i ona interpretativna – ključna vrednost koju treba neprestano osvajati, štititi i promišljati u svakom segmentu iskustva.

4.2. Brak i ljubav kao temeljna mesta ispitivanja slobode

U *Napuljskoj tetralogiji* brak i ljubav predstavljaju ključne prostore u kojima se odvija borba za slobodu, ali i prostore u kojima se ta sloboda nužno problematizuje. Brak se u narativu često pojavljuje kao beg od autoritarnog roditeljskog doma i nasilja – prvenstveno očevog – ali se pokazuje da je reč o prividnoj slobodi, jer ženina potčinjenost samo menja oblik, međutim ne i suštinu. Elena Ferante prikazuje instituciju braka kao mesto reprodukcije patrijarhalnih obrazaca, pri čemu se ljubavni odnos retko kada pokazuje kao autentično slobodan izbor, već pre kao egzistencijalna strategija. Promene koje se odvijaju kroz četiri toma tetralogije, kao što su pravo na obrazovanje, razvod, kontracepciju i majčinstvo van braka, predstavljaju konkretne emancipatorske pomake, ali one ne brišu nasilnu matricu u kojoj su žene primarno definisane kroz odnose sa muškarcima. Brak, kako ga Feranteova literarno gradi, može se čitati i kao metafora prodora muškog sveta u žensko iskustvo: on je čin u kome muškarac ne samo da ulazi u fizički i emotivni prostor žene, već istovremeno preoblikuje njenu individualnost, narušava granice njenog identiteta i preuzima delove njene subjektivnosti. U nižim slojevima napuljskog predgrađa muška dominacija se ogleda u brutalnom fizičkom gušenju ženskog identiteta: „Kao da su ih progutala tela sopstvenih muževa, očeva, braće, na koje su svakim danom sve više ličile, da li zbog teškog rada, dolaska starosti, bolesti. Kada je počinjao taj preobražaj? S kućnim poslovima? S trudnoćama? S batinama?" (Ferante, 2021c, str. 102) Nasilje koje Elena Ferante prikazuje kroz Lilin brak nije samo fizičko, već i verbalno, psihološko i emotivno, usmereno ka potpunoj razgradnji njenog identiteta: „Ne želi više da imam jednu jedinu misao koja je samo moja, i ako otkrije da sam mu prećutala bilo kakvu nevažnu stvar, prebije me" (Ferante, 2021c, str. 406). Odnos prema nasilju nije prikazan sa moralizatorske pozicije, jer se nasilje prikazuje kao očekivano i normalizovano, te pokazuje do koje mere dovodi do poništavanja ženskog subjektiviteta. Feranteova, međutim, ukazuje i na suptilnije oblike kontrole unutar buržoaskih porodica. U višim klasama nasilje se ne odvija nužno fizički, već kroz emocionalno iscrpljivanje i potiskivanje ženskih potreba. Premda je muž voli, Elena u tom odnosu ne pronalazi ni istinsku podršku ni intimnost. On odbija kontracepciju, emocionalno je udaljen i implicitno potcenjuje njenu kreativnost, smatrajući da će, ukoliko želi da piše i stvara, to učiniti i kao majka: „Kada neko zaista ima šta da napiše, to će i učiniti, bilo da čeka dete ili ne" (Ferante, 2021d, str. 231). Ljubav, koja bi potencijalno mogla biti prostor slobodnog izbora i emocionalne autonomije, prikazana je kao afektivni impuls koji je, u siromašnom i rigidno strukturiranom svetu junakinja, često kompromitovan društvenim, ekonomskim i kulturnim pritiscima. Time ova autorka ukazuje da se kontrola nad ženskom subjektivnošću u patrijarhalnom sistemu ne vrši isključivo nasiljem, već i kroz ljubav, obrazovanje i brak – institucije koje bi u idealnim uslovima trebalo da omoguće slobodu.

U distopijskom režimu Galada, s druge strane, institucije ljubavi i braka radikalno su redefinisane kako bi služile političkoj kontroli i reproduktivnoj funkciji države. Brak više nije izraz slobodne volje, ljubavi ili partnerstva, već postaje oruđe društvene kontrole i disciplinovanja ženskog tela. Sistematska depersonalizacija žena ogleda se u načinu na koji ih društvo percipira i tretira – ne kao osobe sa individualnim identitetom, već kao bezlične funkcije u službi poretka. „Gleda nas kao da popisuje inventar. Jedna žena u crvenom što kleči, jedna žena u plavom što sedi, dve u zelenom što stoje" (Atvud, 2006, str. 99). Ovim zapažanjem naratorka osvetljava način na koji Zapovednik percipira žene, ukazujući na potpunu emocionalnu distancu i odsustvo empatije, posmatrajući ih isključivo kroz prizmu uloge i uniforme, a ne ličnosti. Vrhunac te institucionalizovane dehumanizacije prikazan je kroz tzv. Ceremoniju – ritualizovani čin prisilnog seksa između Zapovednika i Sluškinje, kojem formalno prisustvuje i njegova Supruga, držeći Sluškinju u krilu, kao svojevrsni živi okvir. Scena Ceremonije sumira paradigmatski brak Gileada – čin bez empatije i bez pristanka, gde je reprodukcija institucionalni zadatak, a ne prostor lične veze, slobode ili afektivne razmene. U opisu Ceremonije, naratorka posmatra Suprugu koja u tom trenutku pasivno učestvuje u činu: „Pre nego što se okrenem, ona ispravlja plavu suknju, steže noge; nastavlja da leži i pilji u baldahin nad sobom, ukočena i prava kao lutka. Za koju je od nas dve ovo gore?" (Atvud, 2006, str. 108) Ovaj prizor ukazuje na to da ni Supruge, iako formalno privilegovane u društvenoj hijerarhiji, nisu pošteđene emocionalnog otuđenja i telesne rigidnosti koje diktira sistem. U tom smislu, roman ne samo da kritikuje patrijarhalnu instrumentalizaciju braka, već pokazuje i kako njegovo lišavanje afektivne dimenzije postaje sredstvo za totalno disciplinovanje žene, njene prošlosti, tela i jezika. U tom, strogo strukturiranom poretku, ljubav kao afektivna i individualna odluka gotovo da ne postoji – ono što junakinja pokušava da zadrži kroz sećanja na muža i kćerku predstavlja intimni prostor emotivne slobode, a upravo je to ono što sistem Galada pokušava da izbriše iz njenog iskustva. Galad suzbija ljubav, jer u sistemu gde su individualnost i pravo na subjektivnost krajnje subverzivni, ljubav predstavlja vrhunski izraz slobode, a samim tim i pretnju po destabilizaciju poretka.

4.3. Jezik kao instrument kontrole i slobode

U delima Elene Ferante i Margaret Atvud jezik ne predstavlja samo sredstvo komunikacije, već temeljni mehanizam kroz koji se oblikuju identitet, subjektivnost i društvena dinamika moći. Dok Feranteova koristi jezik kao introspektivni vid samospoznaje i autentičnog izraza unutrašnjih konflikata, Atvudova prikazuje jezik kao oruđe represije i sistemske kontrole.

Kod Elene Ferante jezik je intiman, sirov i afektivno zasićen. On oslikava psihološku unutrašnjost njenih junakinja, prepun kontradikcija i emocionalne fragmentacije, posebno ako se sagleda kontrastna upotreba dijalekta i standardnog italijanskog jezika u samom tekstu. Dijalekt u narativu služi i kao stilsko sredstvo opisa socijalne pripadnosti, ali i kao eho, znak lokalnog kulturnog nasleđa i klasne šizme za mnoge likove u romanima. Posebna pažnja posvećena je nastojanju protagonistkinje za otklonom od upotrebe dijalekta koji doživljava kao jezik i doslovnog i kulturološkog siromaštva, i težnji da se kroz obrazovanje i poznavanje standardnog italijanskog jezika uspne na klasnoj lestvici. U permanentnoj opoziciji dijalekta i standardnog jezika junakinja nastoji da se distancira od dijalekta koji povezuje s nasiljem, videći u standardnom jeziku mogućnost dekonstruisanja transgeneracijskog niza potčinjenih, nepismenih i ućutkanih žena čiji je identitet uvek u poziciji objekta, jer je izgrađen isključivo u relaciji sa nekim muškarcem. Na taj način, jezik ne funkcioniše samo kao sredstvo komunikacije, već i kao prostor ideološke borbe i simboličke emancipacije.

Margaret Atvud, s druge strane, radikalno drugačije pristupa jeziku. U Galadu jezik je temeljni stub totalitarne moći – on je cenzurisan, ideološki obojen i ritualizovan. Ženama je oduzeta sloboda govora, kao i pristup pisanom jeziku: čitanje je zabranjeno a književnost, novine i časopisi sistematski uništeni. Jezikom se manipuliše ne samo putem eksplicitnih zabrana, već i kroz njegove simboličke i religiozne registre. Biblijske fraze se reinterpretiraju i koriste kao opravdanje za represivne prakse, čime vlast demonstrira totalnu kontrolu nad značenjem. U takvom kontekstu gubitak jezika znači i gubitak identiteta – žene bivaju svedene na funkcije koje obavljaju i imena koja su im dodeljena – Sluškinja, Žena, Marta, čime se briše njihova individualnost i mogućnost artikulacije sopstvenog subjektiviteta.

Atvudova problematizuje i kognitivnu i emocionalnu dimenziju jezika – žene u Galadu ne mogu slobodno ni da misle, jer nemaju rečnik kroz koji bi svoje misli formulisale. U tom kontrastu obe autorke različito pristupaju jeziku u kontekstu slobode. Elena Ferante ga koristi kao prostor samopotvrđivanja, intelektualne slobode i introspektivne istine, dok Margaret Atvud prikazuje kako se upravo jezik može pretvoriti u instrument potpunog porobljavanja. Feranteova daje glas potisnutim emocijama i intimnim traumama, dok Atvudova upozorava na opasnost gubitka jezika kao sredstva otpora. Obe autorke, svaka na svoj način, potvrđuju tezu Mišela Fukoa da diskurs nije samo ono što prenosi značenje, već i ono što proizvodi moć, ako uzmemo u obzir da Fukoovo poimanje korelacije između moći i znanja potvrđuje da znanje i njegove diskurzivne manifestacije utiču na moć i na prostor čiste podložnosti oblikovanju (Butler, 1997, str. 90).

5. Zaključna razmatranja

U delima Margaret Atvud i Elene Ferante sloboda nije predstavljena kao statičan i univerzalan ideal, već kao složen, višeslojan i duboko kontekstualizovan pojam koji se neprekidno preispituje kroz prizmu ženskog iskustva, jezika, tela i pripadnosti. Kod Feranteove sloboda se ostvaruje kroz procese samospoznaje, obrazovanja i otklona od patrijarhalnih obrazaca koji su duboko ukorenjeni u porodičnim, klasnim i kulturnim strukturama. Nasuprot tome, u distopijskoj viziji Margaret Atvud sloboda je ono što je već oduzeto – artikulisana kroz gubitak glasa, identiteta i kontrole nad sopstvenim telom, što čini prostor otpora još važnijim i subverzivnijim. Iako žanrovski i stilski različite, obe autorke uspostavljaju književni prostor u kojem se sloboda ne podrazumeva, već se stalno osvetljava kao krhka, nesigurna, ali neophodna mogućnost – koja se gradi kroz jezik, pamćenje, pisanje i međusobnu solidarnost među ženama.

Cilj ovog rada bio je da se kroz komparativnu analizu književnih svetova Margaret Atvud i Elene Ferante ispita na koji način se koncept slobode oblikuje i prelama kroz žensko iskustvo, uzimajući u obzir društvene, jezičke i političke kontekste u kojima junakinje deluju. Analizom reprezentacija tela, jezika, braka, ljubavi i narativne pozicije pokazano je da sloboda kod obe autorke nije data kategorija, već proces koji se neprekidno gradi, ugrožava i menja. Kod Feranteove, sloboda se stiče kroz raskid sa nasilnim nasleđem i klasnim ograničenjima, dok kod Atvudove ona nastaje kao otpor u prostoru represije, kroz očuvanje sećanja, jezika i subjektivnosti. Iako pripadaju različitim poetikama, obe autorke artikulišu feministički prostor u kojem se sloboda percepira i gradi kao delatna snaga, a ne kao data vrednost. Time ovaj rad pokazuje da je književnost moćan alat ne samo za analizu društvenih mehanizama kontrole, već i za imaginaciju otpora i mogućih emancipatorskih horizonata.

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THE CONCEPT OF FREEDOM AND THE ROLE OF WOMEN THROUGH THE EYES OF MARGARET ATWOOD AND ELENA FERRANTE

Abstract: This paper analyzes the concept of freedom in the literary works of Elena Ferrante and Margaret Atwood through the lens of feminist theory. Although rooted in different geographical, cultural, and genre contexts, both Ferrante and Atwood consistently interrogate what it means to be a free woman, how such freedom is constructed, and under what conditions it becomes threatened or denied. The paper explores how both authors reflect on the limits of personal and collective autonomy through narrative structures that foreground female experience, the body, language, and identity as central sites of political resistance. Through a comparative analysis of the differences between American and European second wave feminism, as well as the specific features of Italian feminism, the study highlights how feminist discourse is shaped in relation to local socio-historical contexts. Ferrante, drawing on emotional introspection, addresses class tensions, institutional and domestic violence, linguistic hierarchies, and bodily ambivalence as elements in the struggle for subjectivity. Atwood, by contrast, uses dystopian narratives and speculative fiction to explore mechanisms of institutional control, repression, and resistance, opening space for interpreting the political dimensions of women's storytelling. The aim of this paper is to demonstrate that freedom, in the works of both authors, is not presented as a given, but rather as a dynamic and

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often contradictory process that entails questioning, resisting, and continuously (re)defining the self.

Key words: freedom, feminism, Ferrante, Atwood, identity

1. Introduction

Elena Ferrante and Margaret Atwood are authors whose bodies of work differ in their temporal and geographical contexts, as well as in the literary genres most closely associated with them. Nevertheless, a recurring thematical concern in their writing is the concept of the free woman—the question of what freedom means for a woman, how it is attained or claimed, and how fragile it can be. Exploring the relationship between women and freedom inevitably leads to a feminist framework, which will shape the approach to this analysis. Margaret Atwood, writing from a North American context, and Elena Ferrante, shaped by European cultural and historical conditions, inevitably offer feminist perspectives that reflect the distinct socio-historical environments in which they developed. This paper aims to shed light on certain feminist aspects that Ferrante and Atwood engage with in their literary work, analyzing how specific concepts of second-wave feminism are reflected in the writings of these two authors, widely regarded as feminist writers *par excellence*. While their respective poetics reveal clearly discernible differences in feminist approaches, this analysis will highlight the thematic concerns they share and jointly explore, as well as the points at which their theoretical, stylistic, and poetic trajectories diverge.

2. Freedom and Feminism

Women's freedom, both historically and globally, has been shaped by deeply entrenched social, legal, and economic structures that have often restricted their autonomy and right to self-determination. Far from being a universally recognized right, women's freedom has frequently been contested, reflecting broader dynamics of power across different societies. In its early stages, feminism as a movement was oriented toward achieving equality between men and women. However, after securing the right to vote, its focus gradually shifted toward identifying the factors that distinguish women from men, while simultaneously fostering solidarity among women in a shared project of transforming their socio-political status. This orientation emerged in the second half of the twentieth century and is known as the second wave of feminism. The notion of freedom in the second-wave feminism does not primarily refer to a liberal understanding of freedom as the absence of external constraints, but rather encompasses a sense of personal safety, dignity, and acceptance of one's identity. In this regard, “freedom means feeling good, safe, and beautiful as a woman in the world; having the freedom to explore one's sexual identity without the constraints of cultural norms, sexual repression, and prejudices that portray women as inferior beings” (Đorđević, 2023, p. 17). The rise and influence of second-wave feminism unfolded simultaneously in North America and Europe. Although both currents are driven by a dominant emancipatory impulse, there are notable differences and divergences in their theoretical-philosophical approaches as well as in their practical applications.

2.1. Second-wave Feminism in the U.S.A

Second-wave feminism in the United States developed during the 1960s and 1970s, with a primary focus on institutional equality and legal advocacy for women's rights within the existing system. The movement was strongly inspired by liberal values, which gained prominence on the socio-political stage of North America during that period. It sought to advance women's rights through political and legislative reforms, particularly in the areas of education, employment, reproductive rights, and the fight against gender-based violence.

The ideological and cultural shifts of the time created fertile ground for the emergence of feminist literary criticism, which—with its unconventional boldness—managed to profoundly unsettle the foundations of prevailing literary-theoretical norms. In its initial phase, American feminist criticism centered on the woman as reader—a consumer of literature predominantly produced by men. Within this framework, it aimed to expose the ideological mechanisms that sustain patriarchal narratives: misogynistic stereotypes, the exclusion of women from the literary canon, the exploitation and manipulation of female readership—especially in popular culture and film—and the treatment of woman as a mere signifier within the semiotic system (Showalter, 1985, p. 128). In its second phase, feminist criticism shifted its focus from woman as a passive recipient of meaning to woman as its active agent, placing the question of female authorship at the heart of analysis. The aim was not only to revise the literary canon but also to articulate an authentic female literary voice. As one of the most prominent theorists of this period, Elaine Showalter, writes: "to find a new way of reading that can integrate our intelligence and our experience, our purpose and our suffering, our skepticism and our vision" (Showalter, 1985, pp. 141–142). In this sense, feminist criticism becomes not only theoretically rigorous but also practically subversive—at times approaching militancy—as it seeks to deconstruct the foundations of dominant male literary tradition and build a new epistemological framework for understanding literature.

2.2. European Feminism

Although it emerged under nearly identical socio-historical circumstances, European feminism developed along a more theoretically intricate and philosophically complex trajectory. In contrast to American feminism, which often retained a rationalist and empirical orientation, European feminist thought, particularly French feminism, evolved in interaction with psychoanalysis, poststructuralism, and Marxism, seeking to deconstruct the premises of phallogocentric doctrine.

Thinkers such as Luce Irigaray and Hélène Cixous engaged in analytical critiques of language, identity, and embodiment, interrogating the very foundations of phallogocentric discourse and searching for a "women's writing" (*écriture féminine*) that could express a specifically female experience, one that arises and acts outside the framework of patriarchal symbolic order and masculine logic of representation. The concept of women's writing, which affirms alterity, is not necessarily contained in the gender of the author, argues Cixous, but in the gender of the writing itself. It represents a discursive effect within the text, realized through a departure from the patriarchal concept of phallogocentrism (Đorđević, 2023, p. 23). French feminists asserted that the female unconscious is fundamentally different from the male, and that this psychosexual distinction is precisely the source of potential for subverting masculine ideologies and creating a new, female discourse (Jones, 1985, p. 365).

One of the key innovations compared to American feminist criticism lies in the way the relationship to the mother, the maternal body, and maternal language is conceptualized. Thus, Luce Irigaray calls for a return to one's sex, "to our mother, our mother within us and among us" (Irigaray, as cited in Lešić, 2003, p. 132). With this invocation, she lays the foundation for the concept of female sisterhood—a notion of mutual female closeness and solidarity that second-wave feminists would readily embrace both in Europe and in North America.

Despite differences in theoretical and practical approaches, both American and European feminism contributed to the development of a rich corpus of ideas and methods within feminist theory and literary criticism. American feminists often criticized the French school for excessive theoretical abstraction, accusing it of intellectual exhibitionism and a tendency to mystify the concept of the feminine to the point of semantic emptiness. Conversely, French feminists reproached the American emphasis on rationality and clarity of exposition, arguing that such an approach fails to pose a genuine threat to the patriarchal order.

Although it developed within the broader continental intellectual tradition, Italian feminism emerged through a dynamic dialogue with global progressive movements, particularly under the influence of the African American civil rights struggle and feminist concepts shaped in North America. Italian feminists, recognizing that in the local context privilege manifested primarily as a gendered rather than racial category, formulated a specific political response by withdrawing from mixed political collectives and establishing autonomous women's associations. This separatist practice, modeled after American strategies of political resistance among marginalized groups, played a significant role in shaping Italian feminism, which distanced itself from traditional militant and class-based forms of activism. Elements of North American struggles for racial and gender justice, such as intersectionality, political subjectivity, and resistance to institutional power, did not function in the Italian context as mere imitation, but rather as a process of situated reinterpretation and ideological reconfiguration of global theoretical and aesthetic principles to local experiences. The development of this trajectory was also shaped by broader cultural factors, including American "soft power" mediated through the Marshall Plan[2], which, alongside economic aid, enabled an intensive transatlantic exchange of cultural content, educational models, and feminist discourses (Gardner, 2012). Media propaganda projects and cultural cooperation under the Marshall Plan facilitated the circulation of films, discourses, and educational materials that helped shape perceptions of modern identity (Bullaro, 2016, p. 25).

In this transatlantic dialogue, cultural imagery and affective codes were as transformative as intellectual models—the slogan *Black is beautiful* directly inspired the Italian feminist motto *Donna è bello*, symbolizing the affirmation of marginalized identity as both a political and cultural act (Anabasi, 1972). This represents a dynamic interplay of cultural and ideological forces, rather than a straightforward, linear trajectory of influence.

In this spirit, the first feminist groups in Italy emerged spontaneously and in a decentralized manner, without hierarchical structures, with the aim of empowering women through the exchange of lived experiences. A key role in this approach was played by theorists and philosophers from northern Italy, who emphasized the importance of the female voice and the genealogy of relationships among women as the foundation of political action.

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[2] George Marshall was an American officer and statesman, military advisor to Franklin D. Roosevelt, and during President Harry Truman's administration, the architect of the European recovery plan for which he was awarded the Nobel Peace Prize in 1953. Through this initiative, a substantial sum of money was invested in the development of nearly all Western European countries, aiming to foster renewal and improve living standards. As a result, the project led to significant Americanization of industry and technology, as well as widespread popularization of American culture across Europe (Testa et al., 2001, p. 120).

Through this process, a distinctive theoretical and identity-based framework was shaped, grounded in the politics of difference (*la politica della differenza*), within which the female subject is not defined through equality with men, as is often the case in American feminism, but through the affirmation of difference and the construction of a symbolic order of her own.

One of the most influential figures of this wave is Adriana Cavarero, founder of the Diotima group, whose philosophy centers on the analysis of language, identity, and subjectivity. Criticizing the Western philosophical tradition for its exclusion of the female subject, she insists on the importance of the female voice and narrative, and through reinterpretations of female figures from ancient mythology, she proposes the concept of plural subjectivity. Luisa Muraro, also a member of Diotima, advocates for the establishment of a female genealogy of thought and a symbolic order of the mother, sharply opposing traditional philosophical interpretations of motherhood and insisting on the recognition of the maternal role as constitutive in shaping female language, identity, and symbolic frameworks. Carla Lonzi, founder of the group *Rivolta Femminile* (*Female Revolt*), in her work *Let's Spit on Hegel*, critiques phallocentric culture, psychoanalysis, and Marxism, calling for the affirmation of clitoral sexuality as an expression of emancipated female autonomy. Lonzi radically opposes equality-based feminism, advocating instead for a feminism of difference, in which sexual difference is interpreted as an existential rather than legal or biological category.

The shared goal of these theorists was, without question, the deconstruction of the patriarchal symbolic order and the affirmation of female experience, embodiment, and language as legitimate foundations for philosophical thought and social transformation.

The central themes of Italian feminism encompass questions of language, subjectivity, motherhood, and narration, with female identity understood not as universal, but as plural and contextually situated. This conception of identity draws on key theoretical foundations of the movement, such as the concepts of *autocoscienza* (self-awareness), *affidamento* (one woman's trust in another), and *partire da sé* (starting from oneself), which emphasize the introspective and relational grounding of female subjectivity, as well as the importance of personal experience in the process of political emancipation.

Self-awareness, developed within the *Rivolta Femminile* group, entails a collective practice of experience-sharing in an exclusively female space built on trust (*affidamento*), where speaking about oneself becomes an act of political articulation and a form of cognitive and emotional liberation. *Starting from oneself*, according to Luisa Muraro, means breaking with the existing order of symbolic male domination and initiating political subjectivation through the affirmation of female difference and reciprocity (Muraro, 1996).

Despite internal differences and criticisms of elitism, Italian feminism succeeded in translating theoretical discourse into concrete social change. It built a strong collective identity, catalyzed a transformation of social consciousness, and laid the groundwork for the continued advancement of women's rights in Italy. This period was marked by the transformation of the private sphere into a political field, accompanied by a pronounced shift toward the cultural and symbolic redefinition of female identity and the place of women in society.

3. Elena Ferrante and Margaret Atwood: Two Brilliant Authors

Elena Ferrante is the *nom de plume* of an Italian writer, used since the publication of her first novel in 1992. However, given that debates surrounding her identity have become as prominent as discussions of her books' content, one must ask: why is it so important to assign a face to a recognizable voice that categorically refuses to be revealed? On the other hand, the controversies surrounding Ferrante's anonymity illuminate broader questions about the relationship between author, text, and reader, as well as the double standards associated with authorship in the context of gender. If we assume that her pseudonym constitutes an experimental creative space in which the absence of the author allows for complete freedom, it is nonetheless legitimate to ask: does Ferrante conceal her identity in order to prevent readers and critics from intruding upon the space of her freedom and her decision to remain anonymous, or does she truly believe, as she writes in her essay collection *Frantumaglia* (2016), that "'the right way to read' is a fabrication of academics and critics" (Ferrante, 2021a, p. 204)?

My Brilliant Friend (*L'amica geniale*, 2011) is the first of four novels in the series that readers and critics have come to call *The Neapolitan Tetralogy*. At its core, the tetralogy is a *bildungsroman* that traces the childhood, adolescence, and adulthood of the protagonist Elena Greco and her "brilliant" friend Lila, set against the harsh backdrop of postwar Naples steeped in poverty, crime, illiteracy, and violence. Yet by following their growth, friendship, rivalry, and confrontation with numerous life challenges, the narrative also offers a strikingly clear political, cultural, and social portrait of Italy—from the era of the so-called economic miracle (*boom economico*) in the 1950s, through the period of student and labor protests and the awakening of feminist consciousness in the 1960s, to the political unrest and terrorist attacks of the *Years of Lead* (*anni di piombo*) throughout the 1970s and 1980s.

As such, *The Neapolitan Tetralogy* constitutes a multilayered narrative that dismantles prevailing stereotypes about women's writing—particularly the notion that narratives of friendship, envy, and love must necessarily be devoid of cultural-political depth and representation.

Margaret Atwood is a Canadian writer whose works have consistently engaged with the shifting boundaries of power, language, identity, and gender. Over the years, she has emerged as one of the most influential voices in contemporary feminist literary discourse, blending incisive social commentary with formal innovation, an achievement reflected in her receipt of numerous prestigious awards, including the Booker Prize. She is best known for her novel *The Handmaid's Tale* (1985), describing the fictional totalitarian theocratic regime of the Republic of Gilead, where women are institutionally stripped of their rights and reduced to predetermined roles in service of an extreme, radical patriarchal ideology. Although the narrative is set in a fictional future, Atwood has emphasized that none of the forms of repression depicted in the book are invented—they are all historically documented (Atwood, 2017). In this way, the novel functions as a warning about the fragility of women's freedoms and the dangers of institutionalized, religious, and cultural misogynistic violence. *The Handmaid's Tale* is a feminist dystopia precisely because it does not merely depict the loss of individual rights, but the systemic erosion of female subjectivity and social power, with a strong emphasis on bodily submission as the foundation of political control.

4. Ferrante's and Atwood's Concepts of Freedom

Freedom, as portrayed in the works of Elena Ferrante and Margaret Atwood, emerges through a feminist perspective that brings into focus the intricate interplay between the body, identity, and patriarchal power structures. Freedom is not a universal category, but one that is always contextual, gendered, and relational. In the *Neapolitan Tetralogy*, Ferrante explores the process of female empowerment through the lens of growing up in a traditional Neapolitan environment, where the female body functions as the primary signifier of a woman's social position, whether through experiences of violence, control, or attempts at self-actualization. The idea of freedom in this narrative is inextricably linked to the concept of class (im)mobility, which is largely determined—or denied—through access to education.

Although upward mobility through education is important for both male and female characters, Ferrante focuses primarily on female subjects, who endure not only class-based oppression but also gendered repression. This dynamic is evident from early childhood, when access to knowledge is questioned solely based on gender: "Studying? Why, did I ever study? [...] And did you go to school? Then why should your sister study, when she's a girl?" (Ferrante, 2021b, p. 66).

Lila and Elena quickly realize that education offers the only viable escape from the misogynistic and impoverished environment that shapes their bodies and destinies. Yet only one of them is truly granted that path: "I'll graduate, send out applications, land a position, escape this misery, and get as far away as I can." (Ferrante, 2021b, p. 321), while the other is denied that right solely because she is a girl.

Feminist discourse of the second wave permeates Ferrante's text through explicit references—such as Carla Lonzi's manifesto *Let's Spit* *on Hegel* (Ferrante, 2021d, p. 289)—and through the protagonists' internal struggles, as they reject repressive familial and social models in pursuit of alternative ways of living and actively dismantle the transgenerational patriarchal structures. In Ferrante's work, freedom develops gradually, both as *freedom from* (patriarchy, authority, societal expectations) and as *freedom to* (choose oneself, write, influence other women).

In *The Handmaid's Tale*, Margaret Atwood examines the concept of freedom within a dystopian regime that radically suspends human rights and reduces women's bodies to reproductive functions. Although repression appears to affect all citizens, it is evident that women endure a multilayered form of oppression—not only are their political and civil rights revoked, but the fundamental elements of identity are stripped away: name, speech, memory, body.

Within this context, freedom is transformed from a political category into a somatic and psychological experience. If we begin from the premise that reality is constructed through social consensus and continuously reinforced by dominant discourses, we can observe that the Gilead society generates a strict and repetitive interpretive matrix that shapes how women, especially Handmaids, perceive themselves and their surroundings: "We are for breeding purposes: we're not concubines, geisha girls, courtesans [...] We are two-legged wombs, that's all: sacred vessels, ambulatory chalices" (Atwood, 2006, p. 150).

The Handmaids, including the narrator, are denied personal identity, education, and freedom of movement, pointing to a process of dehumanization enacted through control of the body, speech, and thought, arguably the most insidious form of domination. This system gives rise to cognitive dissonance: an internal conflict between what women instinctively feel to be moral or true and what the regime relentlessly imposes as the only acceptable reality.

In such a context, psychological mechanisms of adaptation, suppression, and rationalization become essential for maintaining mental stability, yet simultaneously serve as tools that sustain the oppressive order. It is precisely from this internal rupture—between subjective truth and social norm—that the protagonist's experience of freedom emerges: no longer a universal right, but an intimate, fragile, and intermittent possibility to think differently, to preserve the memory of one's identity, or even to rebel, if only in silence.

Paradoxically, freedom is often experienced through the lens of death—as the most vulnerable yet most radical act of resistance, or the only escape from total control. This is reflected in the protagonist's contemplation of suicide as an act of liberation: "But watch out, Commander, I tell him in my head. I've got my eye on you. One false move and I'm dead." (Atwood, 2006, p. 101).

Judith Butler, in *Bodies That Matter* (1993), argues that both the body and identity are products of discursive practices that render them culturally legible and politically regulated. These practices shape not only our understanding of bodies and identities, but also determine which forms become socially recognized and accepted (Butler, 1993, p. 1). In this sense, freedom entails the possibility of disrupting and performatively reconfiguring these norms, a dynamic evident in Elena Ferrante's work, where the protagonists attempt to escape gendered identities through education and writing, and in Atwood's narrative, where the protagonist employs language, memory, and irony as subversive strategies for preserving the self.

Adriana Cavarero, in *Tu che mi guardi, tu che mi racconti* (*You Who Look at Me, You Who Tell Me About Me*, 1997), emphasizes that identity is not constructed from within, but emerges in encounter with another woman, through a narrative act that affirms us as singular beings. In this framework, a woman begins to understand *who* she is, which constitutes an ontological category, as opposed to *what* she is (daughter, wife, mother), which reflects her empirical existence (Cavarero, 1997, p. 76).

This idea is particularly resonant in Ferrante's poetics, where the protagonists Elena and Lila continuously interrogate their identities in relation to one another, telling stories to and about each other in a form of intimate female solidarity, but also envy, fear, and mutual . Through the constant oscillation between two perspectives, we gain insight into Elena's narrative about her friend Lila, while Lila simultaneously narrates Elena, creating biographical narratives of one another and enacting what Cavarero calls relational subjectivity (Pinto, Milkova, Cavarero, 2020, p. 239): "I felt the need [...] to tell her: see how close we were, one in two, two in one [...] she and I, continuously shaped, altered, and then reshaped" (Ferrante, 2021c, pp. 464–465); "I can no longer distinguish between what is hers and what is mine" (Ferrante, 2021e, p. 481).

For these protagonists, freedom does not merely signify the absence of external constraints, but the possibility of redefining the fundamental premises of identity, relationship, and meaning—the right to be different, to exist in text, body, and speech as one's own subject, despite the forces that seek to silence, instrumentalize, or erase them.

4.1. Narrative Freedom vs. Reliability

In terms of narrative structure, both Elena Ferrante and Margaret Atwood explore and challenge the boundaries between truth, memory, and the fictionalization of reality, although in markedly different ways. Ferrante's portrayal of women's hard-won struggle for freedom is conveyed through a narrative so intensely personal and emotionally saturated that its sincerity feels both unyielding and hermetically contained. Her narrative voice, shaped through the character of Elena Greco, leaves little room for doubt regarding the truthfulness of what is told. The narrator's honesty is radical, almost brutal, and thus comes across as irrefutable truth.

Yet one must ask: to what extent is this truth objective, and to what extent is it the product of a subjective narrative construction? Ferrante, consciously or not, uses narration as a means of asserting control over the truth she conveys, leaving no space for questioning the reliability of the voice that speaks. Her narrative power stems from a sense of authenticity that places the reader in a position of agreement rather than resistance.

Particularly striking is the fact that at the very end of the first volume, the author creates a moment of epistemic tension that destabilizes the reader's grasp of truth, calling into question the power dynamic between the two protagonists and the identity of the one referred to as the "brilliant friend." This play of meaning is further emphasized by the original Italian title—*L'amica geniale*—which, unlike the English *My Brilliant Friend* and the Serbian *Moja genijalna prijateljica*, remains ambiguous and thus preserves interpretive tension.

In this sense, Ferrante's narrative style creates the illusion of complete self-exposure and credibility, yet it is precisely this radical transparency that constrains the reader's interpretive freedom when it comes to identifying who, in fact, is the brilliant one.

Margaret Atwood, on the other hand, deliberately destabilizes narrative reliability in *The Handmaid's Tale*. The protagonist openly admits that she is recounting events from memory, acknowledging that certain details may be distorted or imprecise, thus explicitly inviting the reader to adopt an interpretive stance. This narrative framework enables broader interpretive freedom, while also relativizing the notion of truth itself, shifting the emphasis from factual verification to emotional authenticity.

Yet, as Umberto Eco points out, every story, even one told fragmentarily and from a position of trauma, must ultimately acquire a narrative frame that prevents the proliferation of incoherent meanings. As he argues, "between the unreachable intention of the author and the questionable intention of the reader, there exists the transparent intention of the text, which rejects unsustainable interpretations" (Eco, 2004, p. 78). The protagonist, while opening space for ambiguity, closes the narrative with a symbolic frame that gestures toward a broader epistemic structure concerning Gilead, thereby establishing a balance between interpretive freedom and textual stability.

Moreover, her account frequently adopts a speculative tone, even in the act of remembering: "I made that up. It didn't happen that way. Here is what happened […] It didn't happen that way either. I'm not sure how it happened; not exactly. All I can hope for is a reconstruction" (Atwood, 2006, pp. 283, 285). This conscious narrative unreliability is simultaneously an invitation for the reader to interpret, question, and reassess. By leaving room for multiple readings and withholding definitive answers, Atwood gestures toward the idea that freedom, including interpretive freedom, is a vital value that must be continually claimed, protected, and reflected upon in every dimension of experience.

4.2. Marriage and Love: Battlefields of Freedom

In the *Neapolitan Tetralogy*, marriage and love emerge as central arenas in the struggle for freedom and as spaces where that very freedom is inevitably challenged. Within the narrative, marriage often appears as an escape from an authoritarian parental home and domestic violence—primarily paternal—but ultimately reveals itself to be a form of illusory freedom, as female subjugation merely shifts in form, not in essence. Ferrante portrays the institution of marriage as a site for the reproduction of patriarchal patterns, where romantic relationships rarely constitute authentically free choices, but rather function as existential strategies. The changes that occur across the four volumes—such as access to education, divorce, contraception, and motherhood outside of marriage—represent concrete emancipatory advances, yet they do not erase the enforced structures in which women are primarily defined through their relationships with men.

Marriage in Ferrante's work can also be read as a metaphor for the intrusion of the male world into female experience: it is an act in which a man not only enters the physical and emotional space of a woman, but simultaneously reshapes her individuality, breaches the boundaries of her identity, and appropriates fragments of her subjectivity. In the lower-class suburbs of Naples, male domination manifests as the brutal physical erasure of female identity: "As if they had been swallowed by the bodies of their husbands, fathers, brothers, whom they resembled more and more each day—perhaps because of hard labor, aging, illness. When did this transformation begin? With housework? With pregnancies? With beatings?" (Ferrante, 2021c, p. 102). The violence in Lila's marriage is not only physical, but also verbal, psychological, and emotional, aimed at the total dismantling of her identity: "He no longer wants me to have a single thought that is mine alone, and if he discovers I've kept even the most trivial thing from him, he beats me" (Ferrante, 2021c, p. 406). Ferrante does not question the ethics of domestic violence; rather, violence is depicted as expected and normalized, revealing the extent to which it erases female subjectivity. At the same time, Ferrante draws attention to more subtle forms of control within bourgeois families. In upper-class contexts, violence does not necessarily manifest physically, but through emotional exhaustion and the suppression of women's needs. Although Elena's husband loves her, she finds neither genuine support nor intimacy in the relationship. He refuses contraception, remains emotionally distant, and implicitly undermines her creativity, believing that if she truly has something to write, she will do so regardless of motherhood: "If someone really has something to write, they'll write it, whether they're expecting a child or not" (Ferrante, 2021d, p. 231). Love, which might otherwise represent a space of free choice and emotional autonomy, is portrayed as an affective impulse that, in the impoverished and rigidly structured world of Ferrante's protagonists, is often compromised by social, economic, and cultural pressures. In this way, Ferrante suggests that control over female subjectivity within a patriarchal system is not exercised solely through violence, but also through love, education, and marriage—institutions that, in ideal conditions, ought to enable freedom.

In Gilead's dystopian regime, the institutions of love and marriage are radically redefined to serve political control and the reproductive function of the state. Marriage is no longer an expression of free will, love, or partnership, but becomes a tool of social control and the disciplining of the female body. The systematic depersonalization of women is reflected in the way society perceives and treats them—not as individuals with personal identities, but as faceless functions in service of the regime. "He looks us over as if taking inventory. One kneeling woman in red, one seated woman in blue, two in green, standing" (Atwood, 2006, p. 99). With this observation, the narrator illuminates the Commander's perception of women, revealing a complete emotional detachment and lack of empathy, viewing them solely through the lens of role and uniform, rather than personality. The culmination of this institutionalized dehumanization is depicted through the so-called Ceremony—a ritualized act of coerced sex between the Commander and the Handmaid, formally attended by his Wife, who holds the Handmaid in her lap, serving as a kind of living frame.

The Ceremony scene encapsulates the paradigmatic marriage of Gilead—an act devoid of empathy and consent, where reproduction is an institutional task rather than a space of personal connection, freedom, or affective exchange. In describing the Ceremony, the narrator observes the Wife's passive participation in the act: "Before I turn away I see her straighten her blue skirt, clench her legs together; she continues lying on the bed, gazing up at the canopy above her, stiff and straight as an effigy. Which one of us is it worse for, her or me?" (Atwood, 2006, p. 108). This scene suggests that even the Wives, though formally privileged within the social hierarchy, are not spared from the emotional alienation and bodily rigidity dictated by the system. The novel thus critiques the patriarchal instrumentalization of marriage and shows how stripping it of its affective dimension becomes a means of total disciplining of the woman's past, body, and language. Within this strictly structured order, love as an affective and individual choice scarcely exists. What the protagonist tries to preserve through memories of her husband and daughter represents an intimate space of emotional freedom—precisely what the Gilead regime seeks to erase from her experience. Gilead suppresses love because, in a system where individuality and the right to subjectivity are profoundly subversive, love becomes the ultimate expression of freedom—and thus a threat to the stability of the regime.

4.3. Language: Instrument of Control / Freedom

In the works of Elena Ferrante and Margaret Atwood, language is not merely a means of communication, but a fundamental tool which shapes identity, subjectivity, and the social dynamics of power. While Ferrante employs language as an introspective mode of self-discovery and an authentic expression of inner conflict, Atwood presents it as a tool of repression and systemic control.

In Ferrante's writing, language is intimate, raw, and emotionally charged. It reflects the psychological interiority of her female protagonists—marked by contradiction and emotional fragmentation—especially when viewed through the contrasting use of dialect and standard Italian. Dialect functions as a stylistic device to signal social belonging, but also as an echo of local cultural heritage and a marker of class divide for many characters in her novels.

Particular attention is given to the protagonist's effort to distance herself from the dialect, which she perceives as the language of both literal and cultural poverty, and her aspiration to ascend the social ladder through education and mastery of standard Italian. In the ongoing opposition between dialect and standard language, the protagonist seeks to detach herself from the dialect she associates with violence, seeing in the standard language a possibility to deconstruct the inherited legacy of female subjugation: the oppressed, illiterate, and silenced women whose identities are always positioned as objects, constructed solely in relation to a man. Thus, language functions not only as a communicative tool, but also as a site of ideological struggle and symbolic emancipation.

Margaret Atwood, by contrast, approaches language in a radically different way. In Gilead, language is a foundational pillar of totalitarian power—censored, ideologically charged, and ritualized. Women are stripped of their freedom of speech and denied access to written language: reading is forbidden, and literature, newspapers, and magazines are systematically destroyed. Language is manipulated not only through explicit prohibitions, but also via its symbolic and religious registers. Biblical phrases are reinterpreted and used to justify repressive practices, allowing the regime to demonstrate total control over meaning. In such a context, the loss of language entails the loss of identity—women are reduced to the functions they perform and the names assigned to them: Handmaid, Wife, Martha. Their individuality and capacity to articulate their own subjectivity are erased.

Atwood challenges both the cognitive and emotional dimensions of language—women in Gilead cannot even think freely, as they lack the vocabulary through which to formulate their thoughts. In this contrast, both authors approach language through the lens of freedom in markedly different ways. Elena Ferrante uses it as a space of self-affirmation, intellectual autonomy, and introspective truth, while Margaret Atwood reveals how language itself can be transformed into an instrument of total subjugation.

Ferrante gives voice to suppressed emotions and intimate traumas, whereas Atwood warns of the danger posed by the loss of language as a means of resistance. Each author, in her own way, affirms Michel Foucault's thesis that discourse is not merely a vehicle for meaning, but also a producer of power—especially if we consider Foucault's understanding of the correlation between power and knowledge, which asserts that knowledge and its discursive manifestations shape power and the space of pure susceptibility to its formation (Butler, 1997, p. 90).

5. Concluding Remarks

In the works of Margaret Atwood and Elena Ferrante, freedom is not presented as a static or universal ideal, but as a complex, multilayered, and deeply contextualized concept that is continuously interrogated through the lens of female experience, language, embodiment, and belonging. In Ferrante's writing, freedom is achieved through processes of self-discovery, education, and a departure from patriarchal patterns deeply rooted in familial, class-based, and cultural structures. In contrast, within Margaret Atwood's dystopian vision, freedom is something already taken—articulated through the loss of voice, identity, and bodily autonomy, which renders the space of resistance all the more vital and subversive. Despite their generic and stylistic differences, both authors construct literary spaces in which freedom is never assumed, but constantly illuminated as a fragile, uncertain, yet necessary possibility—one that is forged through language, memory, writing, and solidarity among women.

The aim of this paper was to examine, through a comparative analysis of the literary worlds of Margaret Atwood and Elena Ferrante, how the concept of freedom is shaped and refracted through female experience, taking into account the social, linguistic, and political contexts in which their protagonists live. Through an analysis of representations of the body, language, marriage, love, and narrative position, it has been shown that freedom, in both authors' work, is not a given category, but a process—one that is continually constructed, threatened, and transformed.

In Ferrante's case, freedom is won by breaking down violent legacies and class constraints. In Atwood's work, freedom emerges as resistance within a space of repression, through the preservation of memory, language, and subjectivity. Although they belong to different poetics, both authors articulate a feminist space in which freedom is perceived and cultivated as an active force rather than a given value. The paper demonstrates that literature is a powerful tool not only for analyzing social mechanisms of control, but also for imagining resistance and envisioning emancipatory horizons.

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O EKOCIDU U SAVREMNOJ KNjIŽEVNOSTI: *SLUŠKINjINA PRIČA* MARGARET ATVUD, LE KLEZIOOVA *ALMA* I *ŠEFERVILSKI TAROT* FELIČE MIHALI

Apstrakt: U radu se razmatra prikaz značaja zdravog ekosistema, kao i njegova degradacija i ekocid kao krajnji stadijum te degradacije, u nekoliko dela savremene francuske i frankofone književnosti (Ž. M. G. Le Klezio, Alma, i F. Mihali, *Šefervilski tarot*), kao i kod čuvene kanadske spisateljice Margaret Atvud (*Sluškinjina priča*, *Zaveštanja*). U radu se daje i dijahroni prikaz zastupljenosti brige o životnoj sredini u francuskoj književnosti, kao i u savremenoj popularnoj kulturi. Analizom sadržaja datih romana zaključujemo da degradacija i uništenje životne sredine ostavljaju duboke posledice kako na prirodu, tako i na stanovništvo i pojedince.

Ključne reči: *ekocid, francuska književnost, Žan-Mari Gistav Le Klezio, Feliča Mihali, Margaret Atvud*

1. Pojam *ekocid* i njegovo prisustvo u savremenoj kulturi

Kao jedan od najvećih i najslabije rešivih problema savremenog društva – odnos prema životnoj sredini i njena devastacija predstavljaju značajnu inspiraciju umetnika i poziv za delanje aktivista. Kao neslavna „kruna“ potencijalno trajnog razaranja prirode javio se pojam *ekocid*

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kao krajnji stadijum njene degradacije. Ovaj termin popularizovan je od sedamdesetih godina XX veka. Nezavisni panel stručnjaka za pravnu definiciju ekocida definiše ga kao „protivzakonita ili namerna dela počinjena sa znanjem da postoji značajna verovatnoća da će doći do ozbiljnog i obimnog ili dugotrajnog oštećenja životne sredine kao posledica tih dela" (Stop Ecocide International, 2021). Program UN za životnu sredinu (UNEP) ističe da od 2021. postoji pravna borba da se ekocid posmatra kao krivično delo u međunarodnom pravu, zajedno sa krivičnim delima zločinima protiv čovečnosti, genocidom i agresijom (UNICRI, 2012). Godine 2024. u Krivični zakonik Belgije uvedena je odredba da je ekocid zločin međunarodnih razmera (Stop Ecocide International, 2025).

Na temu ekocida, kao značajnu temu koja uznemirava širu javnost, nailazimo u nekim delima popularne kulture nastalim krajem prošlog i tokom ovog veka, od kojih su neka doživela veliku popularnost. Tako, u pesmi „Na Zapadu ništa novo" (album *Mrtva priroda*, objavljen 1981. godine), rok pesnik Borisav Bora Đorđević izgovara „fabrike truju okolinu", dok u muzičkom spotu on i članovi grupe nose gas-masku. Spominje se da je ovu pesmu sastavio čitajući naslove iz novina, a ukazujući, uz njemu svojstven humor i društvenu satiru, na goruće probleme tadašnjeg (ispostaviće se i sadašnjeg) društva. Poznato je da rok muzika traži socijalnu pravdu i skreće pažnju na goruće probleme savremenog društva (Gajić 2021, Dilan 2024), što ova pesma i potvrđuje ukazujući upravo na zagađenje kao na jedan od glavnih problema još s početka davnih osamdesetih, a prema čemu društvo ipak pokazuje pasivnu reakciju. Potom, planetarno popularan film „Apokalipto" (Apocalypto, 2006) reditelj Mel Gibson (Mel Gibson) započinje citatom velikog istoričara i filozofa, Vila Djuranta (Will Durant), koji govori o tome da velike civilizacije padaju tek kada su uništene iznutra[2], ukazujući time na opasnost od uništavanja prirode i nenamenskog odnosa prema radnoj snazi u vidu strahovitog zagađenja kome su ratnici iz prašume bili izloženi; jedna od tema je i prinošenje ljudskih žrtava. Veliki i traumatični deo filma posvećen je upotrebi ljudi otetih iz plemena u prašumi na radu u nezdravim uslovima u gradu.

[2] A great civilization is not conquered from without until it has destroyed itself from within."

Možda je u ovom smislu najjasnije artikulisan film „Mutne vode“ (Dark Waters) iz 2019. godine koji govori o istinitom događaju o kome je pisao „Njujork Tajms“ (Rich, 2016), o sudskom procesu koji je advokat Robert Bajlot (Robert Bilott) dobio protiv giganta hemijske industrije „Dipon“ (DuPont), proizvođača teflona, i nagodbama (u vrednosti koja prevazilazi 753 milijarde dolara), budući da je ova velika korporacija neadekvatno odlagala otpad i ugrožavala zdravlje ljudi, ali i okolinu. Film govori o pravnoj borbi i svim njenim izazovima, kao i o poslovima koje korporacije vode ne obazirući se ni na zdravlje svojih zaposlenih, niti stanovništva, kao ni na životnu sredinu. U tom smislu, film je izuzetno ilustrativan, dokumentuje takođe podatke o ireverzibilnom hemijskom zagađenju – neka sintetička jedinjenja ne mogu se, naime, eliminisati iz organizma.

Turobnu situaciju izmene i ugroženosti ekosistema i apsolutnog nesnalaženja u tome možda najbolje ilustruje odlomak iz priče Davida Albaharija „Učenje ćirilice“ u kojoj se autodijegetički (potencijalno i autobiografski) narator, imigrant u Kanadi, sprijateljuje sa starosedeocem koga sreće i saznaje nešto o njegovoj porodičnoj i plemenskoj istoriji (zbirka *Drugi jezik*, objavljena 2003. godine):

> „Olujni Oblak i ja sedimo u biblioteci. Pred nama se nalazi gomila knjiga o severnoameričkim Indijancima. Olujni Oblak mi pokazuje fotografiju Kroufuta, najvećeg poglavice Siksika. Na njoj se vide Kroufut, verovatno njegova žena, te osmoro dece. Fotografija je snimljena 1884, piše u legendi ispod slike, a u narednih šest godina skoro svi od njih su poumirali od tuberkuloze i drugih bolesti, uključujući Kroufuta. Zamišljam sve te bolesti, sve te brze i spore smrti, reči zakovitlane u bunilu, gubljenje nade, odsustvo utehe, ogromnu preriju koja odjednom više ne nudi nikakvu zaštitu. Mogao si da sedneš na najbržeg konja i da jašeš sve dok se ne sruši od iscrpljenosti, kaže Olujni Oblak, a opet ne bi mogao da pobegneš od bolesti. I to je, nastavlja on, najstrašniji užas koji je beli čovek doneo sa sobom, ta mogućnost da ubija na blizinu i daljinu, i kad je tu i kad ga nema. Mi se nismo bojali smrti, kaže Olujni Oblak, ali to se odnosilo na časnu smrt, smrt u boju ili od rane ili pak od starosti, kada se telo vraća stvoritelju, a sada smo morali da se suočimo sa smrću koja je ubijala samo ubijanja radi,

> kao da uživa u tome. Olujni Oblak zaćuta, spusti dlanove na sto. Napolju pada sneg" (str. 235–236).

Akcenat pisaca i humanističkih nauka upućen je ka emotivnim posledicama, kao i, šire posmatrano, na mentalno zdravlje, što je izmicalo zahuktalom kapitalizmu.

U analitičkom prikazu čovekovog dejstva na životnu sredinu, kao i o kritičkom stavu prema tome, prednjači svakako književna produkcija naučnofantastičnog žanra, veoma prisutna u proteklih nekoliko decenija, a koja zaslužuje podrobniji prikaz i analizu u zasebnom radu[3]. U ovome radu ćemo se, nadalje, baviti nekim popularnim delima skorijim po nastanku u francuskoj, frankofonoj i kanadskoj anglofonoj književnosti, koja takođe u prvi plan stavljaju degradaciju okoliša i njene posledice i koja aktivno pozivaju na razmišljanje o tome.

2. O ekocidu u francuskoj i frankofonim književnostima: Le Klezioova *Alma* i *Šefervislki tarot* Feliče Mihali

U književnosti na francuskom jeziku, ideja o značaju ekosistema javila se veoma rano. Naime, još u francuskoj srednjovekovnoj junačkoj pesmi (*chanson de geste*) „Putovanje Karla Velikog u Jerusalim i Carigrad" (*Le Voyage de Charlemagne à Jérusalem et à Constatntinople*)[4], nastaloj sredinom XII veka, postoji ideja o tome da je nenadoknadiv, a samim tim i najviše strašan, gubitak ekosistema. Ovaj komični spev prikazuje suparništvo Franačke i Vizantije[5], bezazleno se podsmevajući

[3] O statusu naučnofantastičnog žanra u kvebečkoj književnosti, na primer, i o njenoj popularnosti poslednjih nekoliko decenija može se konsultovati izvor Beaulieu, 2018. Popularni su, na primer, romani J. D. Kurtness, *Aquariums* (2019) i Andréa Renaud-Simard, *Le livre ardent* (2021).

[4] Ova, komična, junačka pesma poznata je i pod nazivom „Hodočašće Karla Velikog" (*Le Pèlerinage de Charlemagne*).

[5] Kao razvijeno i tehnološki napredno carstvo, takođe i udaljeno, Vizantijsko carstvo privlačilo je neki vid kritičkog razmatranja od strane zapadnog srednjeg veka. U tom pravcu se može čitati i čuvena srednjovekovna poslanica „Pismo prezvitera Jovana" (*La lettre du prêtre Jean*), koja opisuje velelepni Istok i koja

Karlu Velikom i njegovim vitezovima (čija junačka dela su u drugim pesmama ovoga žanra slavljena), a istovremeno ističući njihovu veru i prostodušnost. Tako, u nadmetanju Karla Velikog i franačkih velmoža, sa jedne, i vizantijskog cara Hugona Moćnog, sa druge strane, posle čuvene scene hvalisanja Franaka («la scène des gabs»), Vizantinci primoravaju Franke da sve ono čime su se hvalili i ostvare. Bog im pristupa u pomoć, ali Vizantinci ne posustaju, i pored neverovatnih podviga Franaka koji prevazilaze granice mogućeg; prelomni momenat je kada su se reke, po nalogu jednog franačkog viteza, izlile iz korita i izazvale velike poplave, a car sa svitom bio prinuđen da se spasava na vrhu zamka (lese XLVII–XLIX):

> „A slavni Gospod na nebesima sazda čudesa
> te se sva ogromna reka izli iz svog korita
> i svi videše kako poteče preko polja,
> uđe u grad i napuni podrume
> i ljudstvo kralja Hugona dobro pokvasi.
> Kralj se ipak uspe, bežeći, na najvišu kulu“ (st. 774–779).

Kako je ovo bilo najjače iskušenje kome su bili izloženi Vizantinci, i pored brojnih čudesa koja su im Franci neposredno pre toga priredili (kojima su nadmašivali zakonitosti prirode), oni tek ovde ovde kapituliraju i priznaju primat Francima, pošto se priroda ne da ukrotiti.

Koliko god da je drevan i poučan, ovaj primer nije imao onoliko odjeka koliko Ronsarova elegija „Protiv drvoseča gastinske šume“ (« Élégie contre les bûcherons de la forêt de Gâtine ») (Ronsard, str. 57–58), objavljena u *Elégies, mascarades et bergeries* 1565. godine. U ovoj lepoj renesansnoj pesmi, napisanoj bogatim i tečnim Ronsarovim pesničkim izrazom, tuga zbog uništenja šuma izražena je prikazom praznine zbog nestanka faune i flore, zbog gašenja prirodnih pojava (vetra, prikazanog kao Zefir), kao i prikazom patnje mitoloških bića (Eho, silvena, satira, nimfi). Ronsar poziva drvoseče da obustave svoj posao jer se ispod kore drveta nalaze nimfe koje će prokrvariti i čudi se kako ih oni sami ne vide ukazujući tako na neizrecive lepote šuma. Ova pesma imala je dosta odjeka i u likovnoj umetnosti, na primer postala je inspiracija za

se može doživeti kao antivizantisjki pamflet (Gosman, 1982).

sliku Gabrijela Gea (Gabriel Guay), francuskog priradnika akademizma iz XIX veka, „Dželati šume“ (« Les Bourreaux des bois »).

Takođe, veoma značajna su i „Pisma“ gospođe de Sevinje (Sevinje, 1953) u kojima se na više mesta spominju blagodeti prirode[6]. Međutim, u pismu napisanom 27. maja 1680. godine koje je upućeno kćerki, gospođi de Grinjan, ova predstavnica epistolarne književnosti klasicizma oplakuje seču šume i prikazuje je kao zločin. Naime, njen sin je dao da se poseče zabran kako bi nadoknadio dugove; novac je ipak ubrzo potrošio a ostala je pustoš koju spisateljica ovako opisuje:

> « Toutes ces dryades affligées que je vis hier, tous ces vieux sylvains qui ne savent plus où se retirer, tous ces anciens corbeaux établis depuis deux cents ans dans l'horreur de ces bois, ces chouettes qui, dans cette obscurité, annonçoient, par leurs funestes cris, les malheurs de tous les hommes ; tout cela me fit hier des plaintes qui me touchèrent sensiblement le cœur ; et que sait-on même si plusieurs de ces vieux chênes n'ont point parlé, comme celui où étoit Clorinde ? Ce lieu étoit un luogo d'incanto, s'il en fut jamais : j'en revins toute triste ; le soupé que me donna le premier président et sa femme ne fut point capable de me réjouir » (Mme de Sévigné, s. a.)[7]

U duhu poetike klasicizma, koji je oslanja na antiku (Vitanović, 1971), ona prirodu prikazuje opisujući mitološka bića (drijade, silvene). Takođe, ona posvećuje pažnju emotivnoj dimenziji gubitka šume

[6] O značaju prirode u pismima gospođe de Sevinje upućenoj kćerki, v. Dimitrijević, 1953, str. 18.

[7] „Sve one tužne drijade koje videh juče, svi oni stari silveni koji nisu znali kuda se mogu povući, svi ti drevni gavranovi koji već dve stotine godina obitavaju u strahoti ovih šuma, sve te kukumavke koje, u tmini, najavljivahu svojim turobnim kricima nesreću ljudskog roda; sve to jadikovalo je oko mene toliko snažno da mi duboko dirnu srce; i ko može reći da mnogi od tih starih hrastova nisu progovorili, kao onaj u kome beše Klorinda? Ovo mesto beše pravi *luogo d'incanto*, ako takvih ima: vratih se otuda sva tužna; ni večera kod predsednika suda i njegove supruge nije nikako mogla da me razveseli“ (Naš prevod; naime, ovo pismo nije ušlo u izbor R. Dimitrijevića (De Sevinje, 1953)).

– njena tuga je toliko velika da čak ni društveni događaj kojem bi inače pridala veliki značaj[8] ne uspeva da razgoni prazninu izazvanu gubitkom ovog ekosistema.

U novijoj književnosti, ekocid i njegove posledice postaju značajna i veoma vidljiva tema, štaviše stavlja se u prvi plan problematika uništenja životne sredine. Tako, francusko-mauricijuski nobelovac Žan-Mari Gistav Le Klezio (Jean-Marie Gustave Le Clézio) govori o ostrvu sa koga potiče i o njegovoj kolonijalnoj i ekološkoj istoriji.

Centralno, ali neslavno mesto, u romanu „Alma" zauzima opsežan opis izumrle ptice dodo (*Raphus cucullatus*, prema Lineovoj binominalnoj nomenklaturi), endemske za ostrvo Mauricijus, a posle i nestajanja ove vrste[9]. Le Klezio je ovo istakao i temeljno opisao kako bi prikazao do koje mere neznanje i bahatost izazivaju nepovratne procese i trajne posledice, što utiče na buduće generacije i izaziva nelagodu i grižu savesti. Naime, glavni junak, Žeremi Felsen (Jérémie Felsen), potomak kolonizatora ostrva, posvećen je istraživanju ptice i njenih ostataka, štaviše progonjen je njenom sudbinom i željom da što više o njoj sazna. Iz knjige saznajemo mučnu priču o dolasku portugalskih i holandskih mornara na ostrvo u XVI i XVII veku, kao i njihov bahat odnos prema ovoj ptici nenaviknutoj na predatore. Naime, oni su lako ubijali drvenim motkama dodoa – veličine veće guske[10]. Stoleće i po nakon dolaska kolonizatora, ptica je izumrla, ne samo usled ubijanja radi mesa, već i zbog dolaska drugih vrsta koje su ugrozile njen opstanak (svinje, pacovi, majmuni). Ukratko, čovekov dolazak na ostrvo Mauricijus izmenio je ekosistem u potpunosti, istrebljena je najmanje ova vrsta i trajno poremećena postojeća prirodna ravnoteža. Potonji naraštaji zbog toga pate,

[8] Poređenja radi, u pismu od 21. februara 1689, u kome prikazuje izvođenje Rasinove Jestire (*Esther*) na San-Siru, ona analizira komad, ali i celokupni mondenski kontekst pozorišne predstave, kojoj prisustvuje i kralj. O salonskom životu, kao inspiraciji ove spisateljice, v. Dimitrijević, 1953, str. 7–11.

[9] Značaj dodoa za ovaj roman istaknut je i paratekstom u srpskom izdanju: naime, na naslovnoj strani romana prikazana je ilustracija ove ptice.

[10] O odnosu kolonizatora prema ovoj ptici posvećeno je poglavlje „Poslednje putovanje" ovoga Le Klezioovog romana (str. 243–256). Na osnovu izvora kojima autor izražava zahvalnost (str. 297–298), vidljivo je da se posvetio proučavanju ove ptice.

ali to svakako neće vratiti ovu davno izumrlu pticu koja je u savremenoj popularnoj kulturi postala neslavni simbol raznovrsnosti izumrlih vrsta[11].

Navedimo jedan primer orijentacije autodijegetičkog pripovedača, glavnog junaka priče, ka istraživanju ove ptice, kao i celokupnog ostrva, njegove kolonijalne istorije i uopšte uzev, odnos junaka prema savremenom Mauricijusu, već na prvim stranicama romana:

> „I dalje mi je okrugli kamen[12] u desnoj ruci. Mislim: Gde si, dodo? Uzvikujem čak i njegovo ime, pošto izgleda da je to način njegovog oglašavanja, duboko i škriputavo gukanje, šum kamenja što se kotrlja o jarugu, ili možda krčanje belog kamena u njegovom ždrelu: DODODOdododo!... Čekam, savijen napred, s čelom na kolenima. Ne znam šta čekam, odavno čekam taj trenutak, od detinjstva, pritiskao sam beli kamen na obraz i zatvarao oči. Nešto veoma drevno ulazi u mene kroz kožu lica, kroz zatvorene kapke, nešto što me hrani i kruži u mojoj krvi, daje mi ime, mesto rođenja, prošlost, jednu istinu...“ (str. 33).

Le Klezio nas podseća da snažan, ako ne i ključni element uspostavljanja identiteta ne samo ove ostrvske države, već i ličnog identiteta, ima priroda, kao i odnos prema njoj; ova izumrla ptica je, čini se, simbol nespojivosti kolonijalne gramzivosti i neplanskog nastupanja, sa jedne strane, i bogatstva nekada bujne, a svakako nezaštićene prirode, sa druge strane[13].

Slično, iz perspektive potrebe za analizom društva i faktuelnim prikazivanjem stvarnosti, nastupa kvebečka spisateljica rumunskog porekla Feliča Mihali (Felicia Mihali) u romanu „Šefervilski tarot“ (Le Tarot de Cheffersville) objavljenom 2019. godine. Ovaj roman sadrži autobi-

[11] Kao primer, navedimo sajt https://www.thedodo.com/, popularan i na društvenim mrežama, posvećen ljubiteljima životinja, nazvan po ovoj ptici.

[12] Tzv. stomačni kamen ptice dodo od kojeg se, po legendi, rađalo drvo *Sideroxylon grandiflorum*, tj. železno drvo s velikim listovima, a koji je glavni junak dobio od svog oca (v. Le Klezio, 2017 str. 26–27) (prim. M. P.).

[13] Preporučili bismo sledeće članke o ovom romanu: Novaković, 2020; Arsenijević Mitrić, 2023 (rezime sa konferencije), kao i integralni članak Jelene Arsenijević Mitrić koji je u pripremi za štampu.

ografske elemente; štaviše, autorka ga u epitekstu, na naslovnoj stranici, određuje kao „doku-roman“ (*fr.* « docu-roman »), ukazujući time koliko na autobiografsku, toliko i na dokumentarnu dimenziju dela: ono pretenduje, naime, ne samo da svedoči o doživljajima glavne junakinje, već i o objektivnim okolnostima koje je okružuju. Podsetimo, naime, da je, kao i glavna junakinje Ogista (Augusta), i spisateljica F. Mihali stanovala u frankofonoj Kanadi i predavala srednjoškolcima. Ovaj roman je upravo pisano svedočanstvo o realnosti sa kojom se ona susretala tokom boravka u Kanadi.

Gradić o kom govori u ovom romanu naziva se Šefervil, što je svakako povezano sa rudarskim mestom iste zvučnosti (Shefferville) u Kvebeku (Reiter, 2020). Rudnik je zatvoren, te je grad ostao dosta pust, nastanjen samo četvrtinom dotadašnjeg broja stanovnika. Njime vladaju opšta nezainteresovanost i apatija, kao i animozitet prema strancima, što je posledica kolonijalizma – prema belim došljacima evropskog porekla vlada opšte nepoverenje u ovom mestu nastanjenom pretežno starosedelačkim stanovništvom (Inu-Aimun). Autorka romana u stvari analizira posledice postojanja rezidencijalnih škola (*eng.* residential schools, *fr.* écoles résidentielles), surove prakse koja je postojala u XIX i XX veku[14], a koja je, radi delotvornije asimilacije, decu domorodačkog porekla odvodila iz porodica i školovala na engleskom ili francuskom jeziku, bez mogućnosti da odrastaju u sopstvenoj porodici, da se služe sopstvenim maternjim jezikom, niti da usvoje mnoga znanja i običaje sopstvenog naroda[15]. Ova kulturocidna praksa prekinuta je tek u poslednjoj deceniji dvadesetog veka, uprkos tome što su se aktivisti borili za reafirmaciju starosedelačkih kultura još od sedamdesetih godina prošlog veka.

Proučavaoci kulture i običaja starosedelačkih naroda Kanade ističu da su se oni osećali kao celina sa prirodom (Martin, 2010; Vaudrin-Charrette, 2015; Beauclair, 2018). Uopšte uzev, ovo potvrđuju i njihovi mitovi, kao i stvaralaštvo savremenih pisaca starosedelačkog porekla.

[14] Kanadske rezidencijalne škole postale su obavezne 1894. godine; gasile su u drugoj polovini XX veka, a poslednja je zatvorena 1997. godine.

[15] O starosedelačkim narodima Kanade može se konsultovati prvi broj „Filološkog pregleda“ za 2025. godinu (u štampi).

Spomenućemo Žozefin Bakon (Joséphine Bacon) koja piše paraleleno na inu-aimun i francuskom jeziku. Česti motivi njihovih mitova i priča jesu tundra, lišajevi, irvasi i slično (Vaudrin-Charrette, str. 155). Lišavanje autohtonih naroda tako prisnog odnosa sa prirodom, znanja koja su još iz drevnih vremena imali o njoj, kao i trajna izmena pejzaža, u smislu njihovog zatvaranja u rezervate, a potom i u gradove, svakako je na njih imalo efekat ekocida, na šta podseća i navedena literatura.

Autorka možda najjasnije prikazuje efekte degradacije ekosistema kroz depresiju kojoj su izloženi adolescenti, ali i stariji članovi porodice. Odrazi te patnje su veoma zastupljena toksikomanija kod svih generacija, nezainteresovanost za obrazovanje, nepoverenje u strance i samoubistvo kao ekstremni izraz. Potresna je scena kada na časovima prevencije suicida učenici ispovedaju porodične priče o članovima koji su na taj način izgubili život (str. 198–199). Iako Ogista ne razume jezik starosedelačkog stanovništva na kom se odvija ova radionica, iz gestikulacije joj je jasno o čemu je reč.

Osećaj opšte bezizlasnosti veliki je deo prikaza sociološkog konteksta ovoga romana, ali autorka vispreno, kao pouzdan osmatrač i pedagog, otkriva i prikazuje i nešto drugo: dijalog je moguć, ali ga vlasti ne dozvoljavaju[16]. Kada je reč o životnoj sredini i mogućnosti života u potpunom saglasju sa prirodom, u skladu sa kulturom starosedelačkog stanovništva, čini se da je to zauvek nestalo. Roman Mihalijeve disecira stanje njihovih zajednica u manjim mestima i odnos kanadskih vlasti prema njima; iako slika nije vedra, njena jasna analiza pokazuje pravac u kome se može delovati, kao i neke lepe primere o tome kako se nelagodni jaz između starosedelačkog stanovništva i došljaka može prevazići.

[16] Na primer, moguće je prilagoditi školski program potrebama starosedelačkog stanovništva (str. 161–162), izbeći stalnu godišnju promenu nastavnika obeshrabrenih malim platama (str. 239), ne odbijati stariji i iskusni kadar niskim primanjima (str. 47) i sl.

3. Problematika ekosistema u distopijskom univerzumu Margaret Atvud

Iako se u prvi plan stavlja problamatika ženskih prava, a moguće i medicinske etike, problematika ekosistema nije zapostavljena kod Margaret Atvud, kao jedne od najznačajnijih kanadskih i svetskih romansijerki sa kraja XX i početka XXI veka. Štaviše, ona predstavlja ne samo deo mračnog dekora ove distopijske priče, već i temu za sebe, koja poziva na kritičko promišljanje društva i proaktivno delovanje[17]. U stvari, inicijalna kapisla opšteg haosa iz koga je nastala diktatura bio je ekocid. Rasvetljavanju svega toga posvećen je značajan deo „Svedočanstava“. Uzrok je bio najpre u velikom poremećaju životne sredine, o čemu govori tetka Lidija:

> „U toj mojoj iščezloj zemlji, stanje je godinama išlo nagore. Poplave, požari, tornada, uragani, vetrovi, nestašice vode, zemljotresi. Suviše ovoga, premalo onoga. Infrastruktura je propadala – zašto neko nije deaktivirao te nuklearne reaktore pre nego što je bilo prekasno? Slabljenje privrede, nezaposlenost, opadanje priraštaja. Ljudi se se najpre plašili. Zatim su se razbesneli“ (Atvud, 2020, str. 83).

Ukidanje prava u Galadu išlo je uporedo sa ukidanjem prava na životnu sredinu, posedovanja bašti, čak i saksija. Prava na bilo kakav ekosistem limitirana su (str. 21, 30, 50, 283 et passim). Zapovednikova supruga ima pravo na baštu, ali su dužina boravka u njoj i motiv za to kodifikovani; čuvar Nik ima strogo opremljenu sobu u kojoj nema ni biljke; sluškinja Glenovica može samo da se seća ranijih vremena kada su išli u park, posmatrali zemlju posle kiše, imali baštu i sl.

[17] Primera radi, savremeni srednjoškolski programi *Cambridge International* (https://www.cambridgeinternational.org/) i *IB* (International Baccalaureat) (https://www.ibo.org/programmes/) sadrže predmete koji imaju zahtev za analizom savremenog društva, kao i detekciju problema i usmerenje u kom pravcu delati kako bi se ta pojava umanjila. To su predmeti *Global Perspectives* i *CAS* (*Creativity, Activity, Service*) koji predstavljaju značajni deo (sedminu i osminu) kurikuluma. Slobodni smo da kažemo da Atvudova, kao da je radila vežbu za ove predmete, aktivno ističe slabosti savremene ekonomije, ljudskih prava, ekologije..., još osamdesetih godina prošlog veka.

Sa ukidanjem zdravog ekosistema javlja se obespravljivanje čoveka, telo gubi slobodu:

> „Ljudi su držali govore. Jedan kanadski rođak žene koja je umrla u galadskim kolonijama čisteći smrtonosnu radijaciju govorio je o robovskom radu. Vođa Udruženja preživelih iz Galadskog nacionalnog domovinskog genocida pričao je o prisilnim marševima u Severnu Dakotu, gde su ljudi bili nagirani kao ovce u ograđene sablasne gradove, bez vode i hrane [...]“ (Atvud, 2020, str. 66).

Posebno mesto u Galadu, doduše skriveno od očiju junakinja, pa samim tim i čitalaca, zauzimaju Kolonije, deponije nuklearnog otpada u koje smeštaju Ne-žene. Ovo mesto dvostruko je opasno, najpre zbog realne opasnosti od kontaminacije, a potom i zbog toga što su u pitanju kažnjeničke kolonije. U njih su slate Ne-žene, tj. neplodne žene, odnosno one koje nisu mogle biti iskorišćene saglasno ideologiji Galada. U njih su odvođene i monahinje koje su radije birale ovu kaznu nego da menjaju svoj sistem vrednosti[18].

Tako su na protestu protiv Galada, koji će najaviti oslobođenje, jasno artikulisani ekološki zahtevi:

> „Neka deca su dodala i zelene parole: GALAD, KLIMATSKI ZLOTVORI! GALAD HOĆE DA SE SPRŽIMO!, sa slikama šumskih požara i mrtvih ptica, riba i ljudi. Nekoliko profesora i roditelja dobrovoljno su se prijavili da pođu sa nama kako bi bili sigurni da ćemo biti zaštićeni od nasilja“ (Atvud, 2020, str. 62–63).

[18] „Ženske Molitvagancije obično služe za ovakva grupna venčanja. Muške su za vojne pobede. [...] Ženske su, međutim, ponekad za kaluđerice koje se odriču. Takvih je više bilo ranije, dok su ih naveliko hapsili, ali i dalje otkrivaju poneke, izvlače iz ih podzemlja, gde se kriju kao krtice. [...] Starije smesta šalju u Kolonije, ali mlađe i plodne pokušavaju da preobrate [...]. Nije im, doduše, dozvoljeno da postanu Supruge; i dalje ih smatraju preterano opasnima za tako moćan položaj. [...]. Uvek imaju te modrice, uvek robijaju, pa se priča: teško popuštaju. Mnoge su odabrale Kolonije. Nijedna od nas ne želi da dobije neku od njih kao partnerku za kupovinu. Izlomljenije su nego mi; u njihovom društvu nije ugodno“ (Atvud, 2006, str. 240–241) Na progon religije u Galadu Atvudova ukazuje i na drugim mestima (na primer, str. 30, 43, 90 *et passim*).

Dakle, uzrok neljudskog odnosa prema svemu bila je upravo nebriga prema životnoj sredini, a potom je represija išla u pravcu redukcije pristupa zdravoj životnoj sredini. Atvudova tako poziva na kritičko promišljanje i blagovremeno delanje radi sprečavanja degradacije ekosistema i ekocida, i eventualnog diktatorskog ustrojstva koje bi iz takvog haosa moglo veoma lako nastati – na šta upozovara ova kanadska spisateljica.

4. Zaključak

Kao jedna od glavnih preokupacija savremene misli i savremenog obrazovanja, ekologija je, kao što smo videli, zastupljena u književnim i drugim umetničkim tvorevinama savremenog doba. Degradacija ekosistema uticala je na to da autori ovu pojavu posmatraju i analiziraju iz sinhronijske i dijahronijske perspektive, stavljajući u fokus prvenstveno njene uticaje na čoveka i na društvo, na motivaciju i snažne emocije koje ovo izaziva.

U pojedinim romanima analiziranim u radu, ekocid je u prvom planu, ili kao deo konteksta, izražen u svojoj najtežoj formi, ili pak kao degradacija ili nasilna izmena ekosistema usled ljudskog delovanja. Svakako, autori ističu opasnost koju on ima po fizičko i mentalno zdravlje stanovništva, kao i na identitet, istovremeno upozoravajući da se posveti veća pažnja brižljivijem planiranju i adekvatnom delovanju.

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ON ECOCIDE IN CONTEMPORARY LITERATURE: MARGARET ATWOOD'S *THE HANDMAID'S TALE*, LE CLÉZIO'S *ALMA*, AND FELICIA MIHALI'S *LE TAROT DE CHEFFERSVILLE*

Abstract: This paper examines ecological degradation and ecocide as the culminating phase in the literary representation of ecosystem decline, focusing on selected works of contemporary French and Francophone literature—Jean-Marie Gustave Le Clézio's *Alma* and Felicia Mihali's *Le Tarot de Cheffersville*—as well as the oeuvre of renowned Canadian novelist Margaret Atwood (*The Handmaid's Tale, The Testaments*). It offers a brief diachronic overview of environmental consciousness in French literature and contemporary popular culture. The analysis of these novels suggests that environmental degradation and destruction exert profound consequences not only on nature, but also on communities and individual lives.

Keywords: ecocide, French literature, Jean-Marie Gustave Le Clézio, Felicia Mihali, Margaret Atwood

1. The Concept of Ecocide in Contemporary Culture

As one of the most pressing and least resolvable issues of contemporary society, the relationship toward the environment and its ongo-

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ing devastation serves as a powerful source of artistic inspiration and a call to action for activists. The concept of "ecocide" has emerged as the shameful apex of potentially irreversible environmental decline, representing the final stage of ecological degradation. The term gained prominence in the 1970s. According to the Independent Expert Panel for the Legal Definition of Ecocide, it refers to "unlawful or wanton acts committed with knowledge that there is a substantial likelihood of severe and either widespread or long-term damage to the environment being caused by those acts" (Stop Ecocide International, 2021). The United Nations Environment Programme (UNEP) notes that, since 2021, there has been an ongoing legal effort to recognize ecocide as a criminal offense under international law, alongside crimes against humanity, genocide, and aggression (UNICRI, 2012). In 2024, the Belgian Penal Code introduced a provision recognizing ecocide as a crime of international significance (Stop Ecocide International, 2025).

The theme of ecocide, as a pressing issue that deeply unsettles the broader public, appears in several works of popular culture produced in the late 20th and early 21st centuries, some of which have achieved significant acclaim. For instance, in the song "Na Zapadu ništa novo" ("All Quiet on the Western Front"), from the 1981 album Mrtva priroda *(Still Life*), rock poet Borisav Bora Đorđević declares, "Factories poison the environment," while in the music video, he and the band members wear gas masks. Notably, the song was composed by piecing together newspaper headlines, pointing—through Đorđević's signature blend of humor and social satire—to the burning issues of the time (which, as it turns out, remain relevant today). Rock music is known for its pursuit of social justice and its tendency to spotlight urgent problems of contemporary society (Gajić 2021; Dylan 2024), and this song affirms that role by highlighting pollution as one of the major concerns as early as the 1980s, a concern to which society has continued to respond with troubling passivity.

Later, the globally acclaimed film *Apocalypto* (2006), directed by Mel Gibson, opens with a quote from the renowned historian and philosopher Will Durant, stating that great civilizations fall only when they are destroyed from within[2]. This sets the tone for the film's exploration of the dangers of environmental devastation and the exploitative treatment of laborers, illustrated through the harrowing pollution faced by jungle warriors. One of the central themes is the ritual sacrifice of human lives. A large and traumatic part of the film depicts the forced labor of individuals abducted from rainforest tribes and subjected to unhealthy working conditions in the city.

Perhaps the most clearly articulated example is the film *Dark Waters* (2019), which recounts a true story originally reported by The New York Times (Rich, 2016), about the legal case won by attorney Robert Bilott against the chemical industry giant DuPont, the manufacturer of Teflon. The case resulted in settlements exceeding 753 billion dollars, following revelations that the corporation had improperly disposed of toxic waste, endangering both human health and the environment. The film explores the legal battle and its many challenges, as well as the operations of corporations that disregard the health of their employees, the surrounding population, and the natural world. In this sense, the film is highly illustrative, documenting evidence of irreversible chemical pollution: some synthetic compounds, notably, cannot be eliminated from the human body.

The bleak reality of ecological disruption and the profound disorientation it engenders is perhaps most poignantly illustrated in a passage from David Albahari's short story "Learning Cyrillic", in which the autodiegetic (and potentially autobiographical) narrator, a recent immigrant to Canada, befriends an Indigenous man he encounters and gradually learns about his family and tribal history. The story appears in the collection *Another Language*, published in 2003.

> Storm Cloud and I are sitting in the library. In front of us lies a pile of books about North American Indigenous peoples. Storm Cloud shows me a photograph of Crowfoot, the greatest chief of the Siksika. In the image, we see Crowfoot, presumably his wife, and eight children. The caption beneath the photo states it was taken in 1884, and within the next six years, nearly all of them died from tubercu-

[2] "A great civilization is not conquered from without until it has destroyed itself from within."

> losis and other illnesses, including Crowfoot himself. I imagine all those diseases, all those swift and lingering deaths, words swirling in delirium, the loss of hope, the absence of comfort, the vast prairie that suddenly offers no protection. You could mount the fastest horse and ride until it collapsed from exhaustion, says Storm Cloud, and still you wouldn't escape the sickness. And that, he continues, is the most terrifying horror the white man brought with him—the ability to kill both near and far, whether present or absent.We were not afraid of death, Storm Cloud says, but that meant an honorable death—in battle, from a wound, or from old age, when the body returns to the Creator. Now we had to face a death that kills for the sake of killing, as if it takes pleasure in it. Storm Cloud falls silent, placing his palms on the table. Outside, snow is falling. (str. 235–236).

Writers and scholars in the humanities increasingly direct their attention toward the emotional consequences of environmental degradation and its impact on mental health – aspects long overshadowed by the unchecked drive of capitalist growth. In recent decades, science fiction literature has become a key medium for examining both the environmental consequences of human activity and the prevailing attitudes toward them. This body of work merits a more detailed exploration in a separate study. The present paper, however, will focus on several popular and more recent works of French, Francophone, and Canadian Anglophone literature, which likewise foreground environmental degradation and its consequences, and which actively invite reflection on these urgent issues.

2. Ecocide in French and Francophone Literatures: Le Clézio's *Alma* and Mihali's *Le Tarot de Cheffersville*

In French-language literature, the idea of the ecosystem's significance emerged quite early. Notably, as far back as the medieval French epic poem *Charlemagne's Voyage to Jerusalem and Constantinople* (*Le*

Voyage de Charlemagne à Jérusalem et à Constantinople)[3], composed in the mid-12th century, we encounter the notion that the loss of an ecosystem is irreparable, and therefore profoundly terrifying. This comic *chanson de geste* portrays the rivalry between the Frankish and Byzantine empires[4], gently mocking Charlemagne and his knights (whose heroic deeds are celebrated in other works of the genre), while simultaneously highlighting their faith and guilelessness. In the contest between Charlemagne and the Frankish nobles on one side, and the Byzantine emperor Hugo the Mighty on the other, following the famous boasting scene of the Franks (*la scène des gabs*), the Byzantines compel the Franks to fulfill each of their exaggerated claims. God intervenes to assist them, yet the Byzantines remain undeterred, even in the face of the Franks' astonishing feats that defy the limits of possibility. The turning point arrives when, at the command of a Frankish knight, the rivers overflow their banks and cause massive flooding, forcing the emperor and his retinue to seek refuge atop a castle (ch. XLVII–XLIX).

God, in His celestial Glory performed such a miracle
That he had the whole river leave its bed,
Spread over the fields—in full sight of all—
Enter the city and flood the cellars
And drench and soak King Hugo's people;
The King flees on foot to his highest tower. (774-779)[5]

As this represented the greatest trial the Byzantines had faced—despite the many marvels the Franks had previously staged for them, sur-

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[3] This comic *chanson de geste* is also known as *The Pilgrimage of Charlemagne* (*Le Pèlerinage de Charlemagne*).

[4] As a developed and technologically advanced empire—yet also distant—the Byzantine Empire attracted a certain degree of critical scrutiny from medieval Western Europe. In this vein, one may read the famous medieval epistle *The Letter of Prester John* (*La lettre du prêtre Jean*), which portrays the magnificent East and can be interpreted as an anti-Byzantine pamphlet (Gosman, 1982).

[5] *The Journey of Charlemagne to Jerusalem and Constantinople (Le Voyage de Charlemagne à Jérusalem et à Constantinople*), edited and translated by Jean-Louis G. Picherlt, Summa Publications, Inc. Birmingham, Alabama 1984

passing even the laws of nature—it is only here that they capitulate and concede primacy to the Franks, for nature itself cannot be subdued.

However ancient and instructive it may be, this example did not resonate as strongly as Ronsard's elegy *Against the Lumberjacks of the Forest of Gastine* (*Élégie contre les bûcherons de la forêt de Gâtine*) (Ronsard, pp. 57–58), published in *Élégies, mascarades et bergeries* in 1565. In this beautiful Renaissance poem, written in Ronsard's rich and fluid poetic idiom, sorrow over the destruction of the forest is conveyed through depictions of emptiness caused by the disappearance of flora and fauna, the extinguishing of natural phenomena (such as the wind, personified as Zephyr), and the suffering of mythological beings (Echo, silvans, satyrs, nymphs). Ronsard implores the woodcutters to cease their work, warning that beneath the bark of the trees dwell nymphs who will bleed, and marvels at their inability to perceive them, thus pointing to the ineffable beauty of the forest. The poem also found considerable resonance in the visual arts, serving as inspiration for *The Executioners of the Woods* (*Les Bourreaux des bois*), a painting by Gabriel Guay, a 19th-century French academic artist.

Madame de Sévigné's *Letters* (Sévigné, 1953), in which the blessings of nature are mentioned on several occasions, are also of considerable significance[6]. However, in a letter dated May 27, 1680, addressed to her daughter, Madame de Grignan, this emblematic figure of classical epistolary literature laments the felling of a forest and portrays it as a crime. Her son had ordered the woods to be cut down in order to repay his debts; yet the money was soon spent, and what remained was a desolation, which the writer describes as follows:

> Toutes ces dryades affligées que je vis hier, tous ces vieux sylvains qui ne savent plus où se retirer, tous ces anciens corbeaux établis depuis deux cents ans dans l'horreur de ces bois, ces chouettes qui, dans cette obscurité, annonçoient, par leurs funestes cris, les malheurs de tous les hommes ; tout cela me fit hier des plaintes qui me touchèrent sensiblement le cœur ; et que sait-on même si plusieurs de ces vieux chênes n'ont point parlé, comme celui où

[6] On the importance of nature in Mme de Sévigné's letters to her daughter, see Dimitrijević, 1953, p. 18.

> étoit Clorinde ? Ce lieu étoit un luogo d'incanto, s'il en fut jamais: j'en revins toute triste; le soupé que me donna le premier président et sa femme ne fut point capable de me réjouir (Mme de Sévigné, s. a.)[7]

In the spirit of classical poetics, which draws upon antiquity (Vitanović, 1971), she depicts nature through the lens of mythological beings—dryads and silvans. The emotional devastation due to the forest's loss is stark: her sorrow is so profound that not even a social event to which she would ordinarily attach great importance[8] can dispel the emptiness left by the destruction of this ecosystem.

In contemporary literature, ecocide and its consequences have become a prominent and highly visible theme; indeed, the issue of environmental destruction is increasingly brought to the forefront. For example, French-Mauritian Nobel laureate Jean-Marie Gustave Le Clézio writes about the island where he was born, reflecting on its colonial and ecological history.

A prominent, if somber, thread in the novel *Alma* is the detailed depiction of the dodo bird (*Raphus cucullatus*, according to Linnaean binomial nomenclature), once native to Mauritius and ultimately eradicated[9]. Le Clézio emphasizes and meticulously describes this extinction

[7] "All those sorrowful dryads I saw yesterday, all those ancient silvans who knew not where to retreat, all those venerable ravens that had dwelled in the dread of these woods for two hundred years, all those owls who, in the darkness, heralded the misfortunes of humankind with their mournful cries—all of it lamented around me so powerfully that it deeply moved my heart. And who can say that many of those old oaks did not speak, like the one that once held Clorinda? This place was a true *luogo d'incanto*, if such places exist: I returned from there utterly sorrowful; not even the dinner at the president of the court's house, with his wife, could lift my spirits." (Author's translation; this letter was not included in the selection by R. Dimitrijević (De Sévigné, 1953)).

[8] In contrast, in the letter dated February 21 1689, describing the performance of Racine's play *Esther* at Saint-Cyr, Mme de Sévigné analyzes the play itself and also reflects on the broader social milieu surrounding the theatrical event, which was attended by the king. For more on salon life as a source of inspiration for this writer, see Dimitrijević, 1953, pp. 7–11.

[9] The cover of the Serbian edition features an illustration of the dodo bird, signifying its importance for the story.

to illustrate the extent to which ignorance and arrogance can trigger irreversible processes and lasting consequences, affecting future generations and evoking discomfort and remorse. The protagonist, Jérémie Felsen, a descendant of the island's colonizers, is devoted to researching the bird and its remains; indeed, he is haunted by its fate and driven by a desire to learn as much as possible about it. Through the novel, we encounter the harrowing story of Portuguese and Dutch sailors arriving on the island in the 16th and 17th centuries, and their reckless treatment of the dodo, a bird unaccustomed to predators. They reportedly killed the dodo, slightly larger than a goose, with ease using wooden clubs[10]. 150 years after the colonizers' arrival, the species became extinct—not only due to hunting for meat, but also because of the introduction of invasive species (pigs, rats, monkeys) that threatened its survival. In short, human arrival on Mauritius radically altered the ecosystem: at least one species was wiped out, and the existing natural balance was permanently disrupted. Subsequent generations suffer the consequences, though nothing can bring back the long-extinct bird, which has become an infamous symbol of biodiversity loss in contemporary popular culture[11].

One of the earliest and most evocative instances of the narrator's focus on the dodo bird—and, by extension, toward the island's colonial history and his own existential relationship with contemporary Mauritius—appears within the opening pages of the novel.

> Still holding a smooth, round stone[12] in my hand, thinking: *Dodo, where are you?* I cry out its name, imagining that its guttural, rasping call as the sound of stones rolling down the ravine, or perhaps a scrape of white stone in its gullet: *DODODOdododo!*.

[10] The chapter in *Alma* entitled „The Last Voyage" describes the colonizer's attitude towards the bird (pp. 243-256). It is evident the author studied the dodo bird extensively, according to the Acknowledgements section (pp. 297–298).

[11] For instance, the web site https://www.thedodo.com/, popular on social media and among animal lovers, is named after this bird.

[12] The so-called gastric stone of the dodo bird—according to legend, the source from which the Sideroxylon grandiflorum, or broad-leaved ironwood tree, would sprout—was given to the protagonist by his father. (Le Clézio 2017, pp. 26–27) (Author's note).

> Bent forward, forehead resting on my knees, I wait, not knowing exactly what for – yet I feel I've been waiting for this moment for a long time, since I was a child, pressing the white stone to my cheek with eyes closed. Something ancient entering through my skin, through my closed eyelids, something that nourishes me, running through my blood, giving me a name, a birthplace, a past, a truth (p. 33).

Le Clézio reminds us that nature—and our relationship to it—is a powerful, if not crucial, element in shaping identity, not only of this island nation but of personal identity as well. The extinct dodo bird appears to symbolize the irreconcilability between colonial greed and reckless expansion, on the one hand, and the richness of a once lush, yet ultimately unprotected natural world, on the other[13].

Felicia Mihali, the Quebec-based writer of Romanian origin, takes a similar stance in her 2019 novel *Le Tarot de Cheffersville*. The novel contains autobiographical elements; moreover, on the title page the author herself dubs it a "docu-novel" (Fr. *docu-roman*), thereby emphasizing both its autobiographical and documentary dimensions. The novel documents the experiences of its protagonist, Augusta, as well as the objective circumstances that surround her. It is worth recalling that, like Augusta herself, Mihali lived in Francophone Canada and taught high school students. This novel stands as a written testimony to the reality she encountered during her time in Canada.

The town depicted in the novel is called Cheffersville, a name clearly linked to the mining settlement with a similar name – Shefferville, Quebec (Reiter, 2020). Following the closure of the mine, the town became largely deserted, inhabited by only a quarter of its former population. It is marked by widespread apathy and indifference, as well as hostility toward outsiders. As a legacy of colonialism, in this predominantly Indigenous community (Innu-Aimun), there is deep mistrust toward white newcomers of European descent.

[13] For more on this novel, see Novaković, 2020; Arsenijević Mitrić, 2023 (conference abstract and pre-print).

The author, in fact, examines the consequences of the residential school system (Fr. *écoles résidentielles*), a brutal practice that persisted throughout the 19th and 20th centuries[14]. In the name of assimilation, Indigenous children were forcibly removed from their families and educated in English or French, deprived of the opportunity to grow up within their own communities, speak their native languages, or inherit the knowledge and customs of their people[15]. This culturecidal policy was officially discontinued only in the 1990s, although activists had been advocating for the revitalization of Indigenous cultures since the 1970s.

Scholars of Indigenous cultures and traditions in Canada emphasize that these communities perceived themselves as inseparable from nature (Martin, 2010; Vaudrin-Charrette, 2015; Beauclair, 2018). Their mythologies, as well as by the work of contemporary Indigenous writers, confirm this. One such author is Joséphine Bacon, who writes in both Innu-Aimun and French. Common motifs in their myths and stories include the tundra, lichens, caribou, and similar elements (Vaudrin-Charrette, p. 155). As these scholars argue, the forced severance of Indigenous peoples from their intimate relationship with nature, the ancestral knowledge they preserved, and the lasting transformation of their landscapes—through confinement to reserves and later relocation to urban areas—has been equal to ecocide.

The effects of environmental degradation are manifested as the depression experienced by adolescents as well as older family members. The struggle with depression involves widespread substance abuse across generations, disinterest in education, distrust of outsiders, and suicide as its most extreme expression. One particularly harrowing scene unfolds during a suicide prevention workshop, where students share family stories about loved ones who have taken their own lives (pp. 198–199). Although Augusta does not understand the Indigenous

[14] Residential schools in Canada became mandatory in 1894; they were gradually phased out in the second half of the 20th century, with the last one closing in 1997.

[15] On Canada's indigenous nations, see the first issue of the journal *Filološki pregled* (2025) – in print.

language in which the workshop is conducted, the gestures alone make the subject painfully clear to her.

A pervasive sense of hopelessness permeates the sociological landscape of the novel, yet the author, a keenly observant educator, reveals something else: a dialogue between the two sides is possible, but it is obstructed by the authorities[16]. When it comes to the environment and the possibility of living in harmony with nature, in accordance with Indigenous cultural values, that vision seems irretrievably lost. Mihali's novel dissects the condition of Indigenous communities in smaller towns and the Canadian government's stance toward them. Although the portrayal is far from optimistic, her lucid analysis points to avenues for action and offers poignant examples of how the uneasy divide between Indigenous peoples and settlers might be bridged.

3. The Ecological Crisis in Margaret Atwood's Dystopian Universe

Although the primary focus is placed on women's rights—and arguably on medical ethics—the ecological crisis is very present in the work of Margaret Atwood, one of the most prominent Canadian and global novelists of the late twentieth and early twenty-first centuries. Far from serving merely as a grim backdrop to the dystopian narrative, the ecological crisis emerges as a distinct theme that invites critical reflection on society and demands proactive engagement[17]. The act of ecocide

[16] For example, it is possible to adapt the school curriculum to the needs of Indigenous communities (pp. 161–162), avoid the annual turnover of teachers discouraged by low salaries (p. 239), and refrain from rejecting older, more experienced staff due to inadequate compensation (p. 47), among other measures.

[17] For instance, contemporary secondary school programmes such as Cambridge International and the International Baccalaureate (IB) include subjects that require students to analyze modern society, identify pressing issues, and consider directions for mitigating those challenges. Courses like Global Perspectives and CAS (Creativity, Activity, Service) constitute a substantial portion of the curriculum—roughly one-seventh and one-eighth, respectively. Atwood's work, written as early as the 1980s, strikingly aligns

served as the initial spark for the widespread chaos that gave rise to the dictatorship, a development explored in depth throughout *The Testaments*. The root cause lay in a major environmental disruption, as described by Aunt Lydia:

> In that vanished country of mine, things had been on a downward spiral for years. The floods, the fires, the tornadoes, the hurricanes, the droughts, the water shortages, the earthquakes. Too much of this, too little of that. The decaying infrastructure—why hadn't someone decommissioned those atomic reactors before it was too late? The tanking economy, the joblessness, the falling birth rate. People became frightened. Then they became angry.
> (Atwood, 2020, p. 83).

The restriction of human rights in Gilead unfolds together with the erosion of environmental entitlements—including the right to maintain gardens, or even potted plants. Access to any form of ecosystem was severely restricted (pp. 21, 30, 50, 283 et passim). The Commander's Wife is permitted a garden, yet both the duration of her presence there and the motives behind it are strictly codified; the Guardian Nick occupies a starkly furnished room devoid of any plant life; and the Handmaid Ofglen can only recall earlier times when people visited parks, observed the earth after rainfall, tended gardens, and so on.

With the disappearance of a healthy ecosystem comes the disenfranchisement of the individual—bodily autonomy is lost:

> People made speeches. A Canadian relative of a woman who'd died in the Gilead Colonies cleaning up deadly radiation talked about slave labour. The leader of the Survivors of Gilead National Homelands Genocide told about the forced marches to North Dakota, where people had been crowded like sheep into fenced-in ghost towns with no food and water [...]" (Atwood, 2020, p. 66).

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with the pedagogical objectives of these subjects, as she brings to the fore the fragilities of modern economics, human rights, and ecological systems.

A particularly significant space in Gilead, concealed from both the female protagonists and the readers, is the Colonies: toxic wastelands used as dumping grounds for nuclear waste, where so-called Unwomen are sent. These sites are doubly perilous: first, due to the real threat of contamination, and second, because they function as penal colonies. The Unwomen—infertile women, or those deemed unusable within Gilead's ideological framework—are exiled there. Among them are nuns who chose this punishment over abandoning their value systems[18].

The protest march against Gilead, heralding freedom from oppression, clearly articulates environmental issues:

> Some kids had added green signs: GILEAD, CLIMATE SCIENCE DE-LIAR! GILEAD WANTS US TO FRY!, with pictures of forest fires and dead birds and fish and people. Several teachers and some volunteer parents were going to come with us to make sure nothing violent happened to us. (Atwood, 2020, pp. 62–63).

The root of this dehumanizing attitude toward all forms of life lies in a fundamental disregard for the environment. From there, repression took the form of restricting access to a healthy living space. Atwood urges us to reflect critically and act promptly to prevent ecological collapse and ecocide—and warns of the very real possibility that such chaos could give rise to a dictatorial regime.

[18] „Women's Prayvaganzas are for group weddings like this, usually. The men's are for military victories. [...] Sometimes though, for the women, they're for a nun who recants. Most of that happened earlier, when they were rounding them up, but they still unearth a few these days, dredge them up from underground, where they've been hiding, like moles [...] The old ones they send off to the Colonies right away, but the young fertile ones they try to convert [...]. They aren't allowed to become Wives though; they're considered, still, too dangerous for positions of such power [...]. They always have those welts, they've always done that time, so rumour goes: they don't let go easily. Many of them choose the Colonies instead. None of us likes to draw one for a shopping partner. They are more broken than the rest of us; it's hard to feel comfortable with them." (Atwood, 2006, pp. 240–241). Atwood describes religious persecution in Gilead many times in the novel (e.g., pp. 30, 43, 90 *et passim*).

4.Conclusion

Ecology remains one of the central concerns of contemporary thought and education, as is evident in modern literature and other arts. The degradation of ecosystems has prompted authors to examine this phenomenon from both synchronic and diachronic perspectives, focusing primarily on its impact on individuals and society, as well as the motivations and intense emotions it evokes.

In the novels analyzed in this paper, ecocide appears either as a central theme or as part of the broader context—manifesting in its most severe forms, or as the degradation and violent alteration of ecosystems caused by human activity. Authors consistently highlight the dangers this poses to both the physical and mental health of populations, as well as to collective identity, while simultaneously calling for more thoughtful planning and responsible action.

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TELO, GRANICE I ŽIVOTNA SREDINA: TRANSKORPORALNOST U „SLUŠKINJINOJ PRIČI“ MARGARET ATVUD – ČETRDESET GODINA KASNIJE

Apstrakt: U radu se analizira roman *Sluškinjina priča* (1985) Margaret Atvud kroz teorijski okvir transkorporalnosti koji je razvila američka profesorka i teoretičarka Stejsi Alajmo. Četiri decenije nakon objavljivanja, roman zadržava izuzetnu aktuelnost, što potvrđuje i kontinuirano interesovanje akademske i šire javnosti. Transkorporalnost, kao teorija koja naglašava prožimanje ljudskog tela i okruženja, omogućava dublje razumevanje načina na koji distopijski režim Galada briše granice između biološkog, ekološkog i političkog. U narativu Atvudove, kriza neplodnosti, degradacija prirode i institucionalizovana kontrola ženskih tela upućuju na materijalnu povezanost ljudskog i neljudskog, pri čemu telo postaje prostor na kojem se prelamaju ekološki i ideološki uticaji. Rad kontekstualizuje ovaj roman u svetlu savremenih ekoloških i društveno-političkih izazova, ukazujući na njegovu trajnu relevantnost u eri sve izraženijih klimatskih pretnji i ugroženih ljudskih prava. U središtu rada je ekološka degradacija i njen uticaj na reproduktivno zdravlje, klimatska kriza i kolaps društvenih sistema, uključujući pojavu ekofašizma. Takođe, razmatra se telo, kao mesto političke i ekološke borbe, kao i preplitanje ljudskih i neljudskih prava u savremenim diskursima. Kroz

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ekokritičku analizu ovog romana, rad ukazuje na to kako književnost može da artikuliše urgentna pitanja savremenog sveta i ponudi kritiku sistema koji telima i prirodi pristupaju isključivo kroz prizmu korisnosti i kontrole.

Ključne reči: *Sluškinjina priča, transkorporalnost, uništavanje životne sredine, telesna autonomija, ekofašizam*.

1. Uvod: Transkorporalnost kao teorijski okvir

Transkorporalnost, prema zamisli Stejsi Alajmo, predstavlja novu perspektivu za ispitivanje fluidnih i recipročnih odnosa između ljudskih tela i njihovih materijalnih okruženja, naglašavajući uzajamnu transformaciju i međusobnu povezanost (Alajmo, 2010, str. 20). Prema ovom pristupu, svet prirode ne predstavlja samo pasivnu pozadinu, već je i aktivni učesnik u ljudskom životu. Preispitujući tradicionalna shvatanja o razgraničenju tela i prostora oko njega, Stejsi Alajmo tvrdi da okruženje „nikada nije samo pozadina", već predstavlja ključni faktor za oblikovanje čovekovog identiteta (2010, str. 122), ističući neprestanu interakciju i međusobnu zavisnost tela i prostora. Uprkos tome što pruža nove i vredne uvide u okviru ekoloških studija, primena transkorporalnosti u distopijskoj književnosti i dalje je ograničena, naročito u kontekstu romana „Sluškinjina priča" Margaret Atvud. Mada je ovaj roman već mnogo puta analiziran kroz različite feminističke i političke perspektive, primena transkorporalnosti pruža novu priliku da se otkriju dublje veze između ekološke krize, autonomije tela i sistemske represije.

Nadovezujući se na radove M. Škobo i J. Đukić, koje su već primenjivale teoriju transkorporalnosti na prikaz urbane katastrofe i nasilja u delima Dž. G. Balarda (Škobo & Đukić, 2022; 2023; 2024), ova analiza nastoji da poveže njihovo istraživanje ranjivosti tela u postindustrijskim, ekološki degradiranim urbanim pejzažima sa distopijskim prikazom ekopolitičkog režima Galada u „Sluškinjinoj priči". Ovi radovi se bave urušavanjem granica između tela i toksičnog okruženja, gde urbano telo postaje mesto traume, kontaminacije i sistemskog zanemarivanja.

Proširujući ovu perspektivu na „Sluškinjinu priču", u ovom radu ispitujemo kako degradacija životne sredine na sličan način prožima i oblikuje ljudska, a posebno ženska tela, transformišući ekološki kolaps u mehanizam autoritarne kontrole. Ovaj roman nije odabran slučajno: četrdeset godina nakon objavljivanja, ekološka kriza i ugrožavanje telesne autonomije i dalje su gorući problemi u stvarnom svetu. Autorkin prikaz Galada živo ilustruje kako se ekološka katastrofa i rodna represija prepliću, što predstavlja plodno tlo za transkorporalnu analizu.

„Sluškinjina priča" sadrži oštru kritiku komodifikacije ženskog tela i prirodnog sveta i otkriva kako se ekološka degradacija koristi kao sredstvo za očuvanje patrijarhalnog sistema. U ovom radu oslanjamo se na studije kritičarki koje pripadaju pravcu ekofeminizma – Val Plamvud (Val Plumwood, 1993), Dženis Birkeland (Janis Birkeland, 1993), Karen Voren (Karen Warren, 1997) i Marije Mies i Vandane Šive (Maria Mies & Vandana Shiva, 2014), koje istražuju veze između ekološke i rodne represije. Osim ovih postavki, uključujemo i pojam transkorporalnosti Stejsi Alajmo kako bismo naglasili materijalno dejstvo okoline i njegovu ulogu u oblikovanju telesnog iskustva.

Primenom transkorporalnosti takođe možemo da analiziramo kako se identitet i delovanje (kako okruženja, tako i pojedinca) ponovo oblikuju u uslovima ekološkog kolapsa i političke represije. U skladu sa Niksonovom (Nixon, 2011) tvrdnjom da ekološke krize često prethode društvenoj i političkoj obespravljenosti, distopija Galada služi kao moćan primer kako uništavanje životne sredine postaje instrument autoritarne kontrole.

Ovaj rad doprinosi dosadašnjim istraživanjima primenom transkorporalnosti na distopijski književni tekst koji dosada nije bio analiziran kroz ovu perspektivu. U ovom radu analizira se povezanost između ekološkog sloma, upravljanja reproduktivnim procesom i biopolitičke kontrole, kao i nestajanje granica između tela, okruženja i moći države. U poglavljima koja slede prikazaćemo teorijski okvir i detaljno analizirati ključne delove teksta kako bismo pokazali da je ovaj roman i dalje relevantan u savremenim ekološkim i društvenim okvirima.

2. Degradacija životne sredine i ljudsko zdravlje

Feminističko-materijalističke teorije izvršile su značajan uticaj na savremene debate o ekološkom zdravlju i pravdi. Teoretičarke Karen Barad (2007), Elizabet Gros (Elizabeth Grosz, 1994), Katrina Sandilends (Caitriona Sandilends, 1999) i Stejsi Alajmo (Stacy Alaimo, 2010) u svojim radovima kritikuju dugogodišnju tendenciju feminizma da se pretežno fokusira na kulturu, diskurs i jezik, ponekad zanemarujući važnost materijalnosti (Alaimo & Hekman, 2008, str. 1). Ove kritičarke zastupaju stav da se materijalni život opire isključivo društvenim interpretacijama (Alaimo, 2010, str. 4) i da postoji nezavisno od njih. Ovaj pristup je posebno koristan u pronalaženju ravnoteže između biološkog redukcionizma i društvenog konstrukcionizma, pozicionirajući ljudsko telo unutar ekološke matrice koja oblikuje i njegovu delatnost i ranjivost.

Relacione feminističke intervencije, poput inicijative „Projekat ranjivosti“ (*Vulnerability Project*) Marte Fajnman (Martha Fineman), telesnost stavljaju u prvi plan i preispituju apstraktni koncept liberalnog subjekta. Fajnmanova (2008, str. 12) ukazuje na materijalnu krhkost ljudskog života u kome se prepliću veštine i osetljivost, tj. ranjivost na spoljne uticaje. Međutim, neke kritičarke, poput Dejne Skot (Dayna Scott, 2009), ističu da ovaj teorijski okvir često zanemaruje suštinsku povezanost tela sa životnom sredinom, pogrešno predstavljajući telo kao izolovano od ekološkog konteksta. U teorijskom okviru Marte Fajnman priznata je važnost ranjivosti, ali nije dovoljno analiziran način na koji ekološki konteksti aktivno oblikuju telesnu ranjivost i delovanje. Veoma je značajno, dakle, popuniti ovu prazninu i proširiti relacionu feminističku teoriju tako što ćemo obuhvatiti i povezanost između tela i životne sredine.

Koncept transkorporalnosti Stejsi Alajmo upravo naglašava ovu neraskidivu povezanost ljudskih tela sa njihovim okruženjem, istražujući dinamiku između ljudske i neljudske prirode (Alaimo, 2008, str. 238). Ovaj okvir naglašava međusobnu zavisnost društva i životne sredine koja nije apstraktna, već „od krvi i mesa“: ekološki, društveni i istorijski konteksti reflektuju se kroz tela, naročito kroz njihovu nejednaku izloženost ekološkim rizicima i zagađivačima (DiChiro, 2008, str. 279; Alaimo, 2008, str. 261). Kako Stejsi Alajmo (Alaimo 2008, str. 236) navodi, zagađivači doslovno prožimaju naša tela, što je evidentno čak i na ćelijskom nivou. Transkorporalnost preispituje antropocentrični stav o zatvorenom, autonomnom subjektu: ljudska egzistencija odvija se unutar složenih ekoloških, ekonomskih, političkih i kulturnih mreža (Alaimo, 2010, str. 4), što je u skladu sa tvrdnjom Elizabet Gros da se priroda opire pojednostavljenim ljudskim kategorizacijama, kao i tendencijama industrijalizovanog društva da se prirodno zameni veštačkima (Grosz, 1994, str. 190; Kidner, 2000; Alaimo, 2010, str. 352).

Mnoge navedene ideje u praksi srećemo u ekološkom aktivizmu i borbi za ekološku pravdu. U istraživanju Dejne Skot (Dayna Scott, 2015) o katranskim peščarama u Kanadi ističe se da je veoma važno da se lokalne zajednice uključe u dokumentovanje ekoloških pretnji i njihovog direktnog uticaja na zdravlje kako bi se pokazalo da ekološka degradacija nesrazmerno više pogađa marginalizovane društvene grupe i tako povećava njihovu ugroženost, naročito u pogledu reproduktivnog zdravlja i ljudskih prava.

Svetska zdravstvena organizacija (SZO) definiše ekološko zdravlje kao skup fizičkih, hemijskih i bioloških faktora koji vrše značajan uticaj na ljudsko zdravlje i ponašanje (Alaimo, 2010, str. 91). Ove interakcije, suštinski materijalnog karaktera, utiču na ljudska tela, pri čemu taj uticaj može biti i vidljiv i nevidljiv: na primer, putem zagađivača koji remete biološke funkcije. Stejsi Alajmo povezuje ove nalaze sa studijama o invaliditetu, pokazujući kako životna sredina utiče na invaliditet, naglašavajući međusobnu povezanost tela i prostora (Alaimo, 2010, str. 12). Stanja poput ekološke bolesti (Environmental Illness – EI) i višestruke osetljivosti na hemikalije (Multiple Chemical Sensitivity – MCS) predstavljaju primere transkorporalnosti, budući da tela pojedinaca direktno apsorbuju štetne ekološke agense, izazivajući simptome poput osipa, vrtoglavice i umora (Alaimo, 2010, str. 114–116).

U urbanim sredinama ove tegobe se dodatno pojačavaju zbog neadekvatne infrastrukture, zagađenja i ograničenog pristupa zelenim površinama, što nesrazmerno pogađa marginalizovane zajednice. Primer za ovakve situacije jeste kriza sa zagađenom vodom u gradu Flintu, u američkoj državi Mičigen od 2014. do 2016. godine koja je zadala ozbiljan udarac javnom zdravlju, tim više što su prvenstveno bili pogođeni siromašni i manjinske grupe (Hana-Attisha et al., 2016). Ova kriza je pokazala kako sistemsko zanemarivanje dovodi do štetnih posledica i po tela i po životnu sredinu, a začarani krug bolesti i nejednakosti se produbljuje.

Dejna Skot (Scott 2015, str. 6–7) takođe opisuje dva slučaja koji ilustruju posledice ekološke degradacije. Zdravlje Ade Lokridž (Ada Lockridge) iz plemena Anisinabe iz kanadske države Ontario ugrožavaju zagađivači iz petrohemijske industrije (Scott, 2013). Dajen Plouman (Diane Plowman) i Dona Dam (Donna Dahm) iz Alberte trpe negativne posledice po zdravlje usled toksičnih gasova iz postrojenja za ekstrakciju bitumena. Članovi ovih zajednica negativne posledice zagađenja dokumentuju kroz čulnu percepciju suprotstavljajući se institucionalnim sistemima znanja koji zanemaruju iskustva iz prve ruke. Skotova se zalaže za „pregovarački empirizam" u kome se telesno iskustvo integriše sa naučnim saznanjima kako bi se dominantne epistemologije osporile i kako bi se došlo do istinske ekološke pravde.

Transkorporalnost, stoga, predstavlja važan teorijski okvir za ispitivanje uloge ekološke degradacije u sve većoj ugroženosti tela, posebno u pogledu reproduktivnog zdravlja, što je naročito jasno prikazano u romanu „Sluškinjina priča". Neplodnost je u ovoj pripovesti direktna posledica ekološke degradacije – zagađenja, radijacije i toksičnog otpada, po rečima naratorke „ranije su vazduh strašno zagadili hemikalijama, zracima, radijacijom, voda je vrvela od otrovnih molekula, sve to mora godinama da se čisti, a u međuvremenu ulazi u telo, taloži se u masnim ćelijama" (*SP*, str. 129), što implicira da je upravo ova kontaminacija tela učinila veliki deo populacije neplodnim. Savremena istraživanja takođe govore da postoji sve veća zabrinutost u vezi sa reproduktivnim zdravljem usled izloženosti hemijskim zagađivačima, pesticidima, klimatskim promenama i novim kontaminantima, poput mikroplastike. Istraživanja Skakebeka i saradnika (Skakkebaek et al., 2016) eksplicitno povezuju opadajuću stopu plodnosti kod muškaraca sa ekološkim zagađenjem, naročito tokom kritičnih razvojnih perioda, što može da ostavi posledice na više generacija.

Mikroplastika, kao sveprisutni ekološki zagađivač, sve češće se povezuje sa ugroženim reproduktivnim zdravljem. Ove mikroskopske plastične čestice, koje nastaju kao rezultat namerne proizvodnje ili degradacije većih količina plastičnih materijala (Rocha-Santos & Duarte, 2015), otkrivene su u vazduhu, vodi, zemljištu i namirnicama, što ukazuje na to da mogu da prodru u ljudski organizam (Vianelo et al., 2019). Udisanje mikroplastike iz vazduha i unos kroz kontaminiranu hranu i vodu predstavljaju primarne puteve izloženosti, što je opasno zbog njihovog taloženja u ljudskom organizmu i posledica po zdravlje. Iako su istraživanja još u toku, te se ne može doneti konačni sud, prisustvo mikroplastike u organizmu povezuje se sa poremećajima metabolizma, upalnim procesima i interakcijama sa drugim zagađivačima (Anbumani & Kakkar, 2018).

U istraživanju Hanta i saradnika (Hunt et al. 2024) otkriva se da postoji potencijalno opasna povezanost između izloženosti mikroplastici i reproduktivnog zdravlja. Mikroplastika je otkrivena u ljudskim tkivima, uključujući placentu i fetalni mekonijum, što je zabrinjavajuće zbog njenog potencijalnog uticaja tokom kritičnih faza razvoja deteta. Prilikom sistematske revizije koja je obuhvatila sedam studija sa ukupno 96 učesnika identifikovano je 16 različitih tipova polimera u uzorcima placente i mekonijuma. Rezultati su pokazali povezanost između faktora životnog stila, poput konzumacije flaširane vode i upotrebe određenih proizvoda za negu sa povećanim nivoima mikroplastike u placenti. Osim toga rezultati pokazuju da postoje korelacije između prisustva mikroplastike i smanjene težine na porođaju, nižih ocena na Apgar skali i smanjene raznolikosti mikrobiote u uzorcima mekonijuma.

Sudeći po ovim rezultatima neophodno je hitno sprovesti kvalitetne opservacione studije kako bi se bolje razumele posledice izloženosti mikroplastici na plodnost, ishode trudnoće i celokupno reproduktivno zdravlje. Naučnici su generalno izrazili zabrinutost zbog postojanosti i bioakumulacije mikroplastike u ljudskom organizmu, što je spomenuto u nekim ranijim istraživanjima (Rocha-Santos & Duarte, 2015; Anbumani & Kakkar, 2018). Osim toga, klimatske promene pogoršavaju nejednakosti u reproduktivnom zdravlju: ekstremne temperature, izloženost zagađenju vazduha i ekološki stres nesrazmerno pogađaju trudnice povećavajući rizik od prevremenog porođaja, niske porođajne težine i komplikacija kod majki (Bekkar et al., 2020). Ovo je takođe evidentno u „Sluškinjinoj priči“, gde sistemski ekološki kolaps nesrazmerno pogađa plodne žene pretvarajući njihova tela u državnu svojinu. Na primer, Sluškinjama se govori: „Mi smo posude, važna je jedino unutrašnjost našeg tela“ (*SP*, str. 96), što predstavlja stravičan dokaz kako se ekološka katastrofa koristi za oduzimanje ženskog prava na autonomiju i svođenje žene na njene biološke funkcije.

U romanu degradacija životne sredine nije udaljena pozadina za dešavanja, već centralni mehanizam pomoću kog se legitimizuje autoritarna kontrola. Kriza neplodnosti direktno proizilazi iz ekološke katastrofe – radijacije, hemijskih izliva i toksičnog otpada, što dovodi do masovne sterilnosti. Zatim žene koje su još uvek sposobne da začnu postaju „Sluškinje“, svedene na reproduktivne posude u teokratskom sistemu koji njihovu potčinjenost predstavlja kao neophodan element u borbi za opstanak vrste. U savremenom svetu ova pitanja su prisutna u etičkim debatama o tretmanima za neplodnost, surogat materinstvu i komodifikaciji reprodukcije pod ekološkim pritiskom.

Autorka pokazuje kako se ekološki kolaps može politizovati da bi se opravdala biopolitička kontrola a regulacija tela pretvorila u instrument državne moći. Režim u Galadu koristi ekološku katastrofu kao sredstvo za sprovođenje stroge reproduktivne politike, kao što i u našem svetu ekološka degradacija često pogoršava postojeće društvene i rodne nejednakosti. Ili, po rečima Zapovednika: „Bolje nikada ne znači bolje za sve... Uvek znači gore za neke“ (*SP*, str. 211). Režim manipuliše krizom kako bi sva moć prešla u ruke privilegovane manjine. Kako ekosistemi propadaju tako se urušavaju i prava i slobode onih koje država smatra biološki „korisnim“.

2.1. Telesna autonomija i politička kontrola

Ova teorijska perspektiva otkriva nove dimenzije teksta predstavljajući Galad ne samo kao mesto političke represije, već i kao okruženje u kojem ekološka degradacija i društvena kontrola u sadejstvu ograničavaju telesnu autonomiju. U ovom svetu ekološke krize, poput sveprisutnog zagađenja i ekološkog kolapsa, direktno utiču na politiku režima usmerenu na očuvanje ljudskog opstanka po cenu individualnih sloboda. Dakle, ekološka pitanja umesto da budu marginalna zapravo su centralna za uspostavljanje distopijskih mehanizama kontrole.

Prema Stejsi Alajmo, tela su neraskidivo povezana sa svojom okolinom – ona upijaju toksine, zagađivače i društveno-političke pritiske, što je suprotno ideji o autonomnom, nezavisnom subjektu (Alaimo, 2010). U romanu je ta povezanost višestruko naglašena, pa su tela istovremeno „posude" ekološkog propadanja i oruđa autoritarne vlasti.

„Sluškinjina" priča uspostavlja direktnu uzročnu vezu između ekološke i društvene degradacije koju je Atvudova u svojim ranijim delima samo nagoveštavala. Masovni konzumerizam i korporativna pohlepa u Atvudovoj fiktivnoj verziji Severne Amerike s kraja dvadesetog veka uzrokovali su masovno zagađenje vazduha, vode i zemljišta, što je pak dovelo do naglog pada nataliteta i porasta steriliteta:

> „Ranije su vazduh strašno zagadili hemikalijama, zracima, radijacijom, voda je vrvela od otrovnih molekula, sve to mora godinama da se čisti, a u međuvremenu ulazi u telo, taloži se u masnim ćelijama. Ko zna, možda su nam sama tela zagađena, pljava kao žalo umazano naftom, što je sigurna smrt za priobalne ptice i nerođene bebe" (SP, str. 124).

Usled toga, desničarske političke i verske ideologije postaju sve radikalnije, pokušavajući da kontrolišu reproduktivni proces, zabrane abortuse i mešaju se u privatne živote i izbore građana (Howells, 2006, str. 161). Konačno, dolazi do kraha demokratske vlasti i uspostavljanja teokratskog autoritarnog režima u kojem određeni pojedinci – muškarci na vlasti – zauzimaju privilegovane položaje, dok se građanske slobode i ljudska prava svih ostalih, kako muškaraca, tako i žena, ukidaju. Ženama je zabranjeno da rade, da poseduju imovinu ili da obavljaju bilo kakvu funkciju van domaćinstva. U fokusu je naročito žensko telo koje postaje poprište borbe za političku i društvenu kontrolu: žene su svedene na „održive jajnike" (*SP*, str. 157), što određuje njihovu ličnu i društvenu vrednost.

Teme kojima se bavi „Sluškinjina priča" u poslednjih nekoliko godina ponovo su postale više nego aktuelne. U Sjedinjenim Američkim Državama, Odlukom Vrhovnog suda iz 2022. godine u slučaju Dobs protiv Zdravstvene organizacije žena Džekson (*Dobbs v. Jackson Women's Health Organization*) poništena je ustavna zaštita prava na abortus koja je ustanovljena presudom u slučaju Rou protiv Vejda (*Roe v. Wade* (1973)) a regulisanje abortusa prebačeno je na savezne države.[3] Usledile su žestoke debate o telesnoj autonomiji u kojima se spominju i upozorenja iz ovog romana o tome kako se reproduktivna prava mogu ukinuti pod izgovorom moralne ili ekološke nužnosti.

Ova pitanja nesrazmerno pogađaju marginalizovane populacije naročito one koje se već suočavaju sa ekološkim i ekonomskim nejednakostima. Ukidanje reproduktivnih prava dodatno pogoršava situaciju a žene se stavljaju u položaj Sluškinja. Reproduktivni kastinski sistem Galada stoga nije anomalija, već distopijska ekstrapolacija mehanizama koji već postoje u savremenim društvima.

I u fiktivnom svetu i u stvarnom životu ekološke i političke sile deluju u sadejstvu kako bi kontrolisale ljudska tela a naročito tela žena. U romanu vidimo kako se ekološka katastrofa može iskoristiti za opravdavanje autoritarizma, što dodatno potvrđuje trajnu relevantnost romana u današnjem društveno-političkom i ekološkom kontekstu.

3. Klimatska kriza, ekofašizam, ljudska i ne-ljudska prava

Distopijska vizija Margaret Atvud zasnovana je na premisi da je ekološka degradacija uslovila i degradaciju društva, što odražava savremene strahove u vezi sa klimatskom krizom i njenim posledicama po političke strukture, ljudska prava i globalnu stabilnost. U savremenim diskusijama klimatske promene se sve češće prepoznaju kao katalizator za masovno raseljavanje, sukobe oko resursa i urušavanje demokratskih normi. Kolaps ekosistema prethodi usponu totalitarnog režima. U poglavlju „Istorijske beleške" opadajuća stopa nataliteta, mrtvorođena deca, genetske deformacije i spontani pobačaji dovode se u vezu „s raznim nesrećama u nuklearnim elektranama[…] kao i s curenjem hemikalija iz skladišta hemijskog i biološkog oružja, te iz deponija toksičnog

[3] Roe v. Wade, 410 U.S. 113 (1973) važna je presuda Vrhovnog suda SAD kojom je legalizovan abortus na nacionalnom nivou uz pozivanje na ustavno pravo na privatnost. Ova odluka je poništena 2022. godine presudom u slučaju Dobbs protiv Zdravstvene organizacije žena Džekson koja je vratila ovlašćenje za regulisanje zakona o abortusu pojedinačnim saveznim državama.

otpada[…] i s nekontrolisanom upotrebom hemijskih insekticida, herbicida i ostalih sredstava za prskanje“ (*SP*, str. 328).

Kada koncept transkorporalnosti primenimo na ekodistopiju Margaret Atvud otkrivamo kako su tela i životna sredina neodvojivi, ne samo da se mogu narušiti i raniti, već se mogu i upotrebiti kao politički instrumenti. Kao što Alajmo (Alaimo, 2010) tvrdi, tela nikada nisu autonomna, već su zavisna od ekoloških i društveno-političkih sistema, te apsorbuju kako toksine, tako i ideologije. Galadski režim zloupotrebljava ovu povezanost koristeći krizu neplodnosti kao opravdanje za pretvaranje žena u reproduktivne „posude“. Ovakva strategija odslikava logiku ekofašizma – ideologije koja ekološka pitanja instrumentalizuje kako bi se postojeća hijerarhija učvrstila a individualna prava ograničila. Novija istraživanja pokazuju kako se ekofašistički narativi prepliću sa zalaganjem za očuvanje prirode, ali često kroz prizmu ksenofobične politike promovišući viziju ekološke „čistoće“ koja zahteva autoritarnu kontrolu (Hughes et al., 2022). Galadski režim koristi ekološku katastrofu da legitimizuje drakonske reproduktivne politike i sistemsku represiju. Kako se u romanu navodi: „Slobodne možete biti na više načina... Slobodne *da* i slobodne *od*“ (*SP*, str. 36). Na ovaj način, režim predstavlja kontrolu kao zaštitu pretvarajući strah od ekološke katastrofe u ideološko opravdanje za ukidanje telesne autonomije i nametanje rigidne hijerarhije.

Ekofašistička ideologija u kojoj se strahovi od ekološke degradacije i kolapsa koriste kao izgovor za sistemsku represiju vrlo je primetna u romanu. U savremenoj ekofašističkoj retorici klimatski kolaps i demografske promene često se predstavljaju kao egzistencijalne pretnje, a strah od pada nataliteta i nestašice resursa koriste se kao opravdanje za autoritarne mere. Širenje narativa o neplodnosti i ekološkoj degradaciji radi sprovođenja reproduktivnog ropstva stoga odražava šire ideološke tendencije koje povezuju ekološku degradaciju sa nacionalističkim, antimigrantskim i politikama kontrole populacije. Sama autorka primećuje: „Ako nema žena sposobnih za rađanje, ljudska populacija izumire. [...] Kontrola nad ženama i bebama oduvek je bila u temeljima svih represivnih režima u svetu“ (Uvod, xv). Suštinska poruka romana jeste da se dominacija nad prirodom ne može razdvojiti od dominacije nad telima (naročito ženskim), kao i da se opravdanim strahovima od uništenja životne sredine može manipulisati tako da se represivni sistemi legitimizuju i legalizuju.

Kroz roman se suptilno provlače vojna ikonografija i jezik što podseća na represivne režime iz stvarnog sveta koji se često oslanjaju na takvu retoriku kako bi ulili strah i podstakli poslušnost u populaciji. U Obrazovnom centru „Rahilja i Lija", gde se buduće Sluškinje indoktriniraju za ulogu „dvonožnih utroba" (*SP*, str. 150), začeće i rađanje predstavljaju se kao zadatak, vojna misija. Tetka Lidija izjavljuje: „[...] vi ste udarne jedinice, odmarširaćete kao prethodnica, na opasnu teritoriju. Što veći rizik, to veća slava" (*SP*, str. 125). Njihov zadatak – začeće, trudnoća, porođaj – predstavljen je kao nacionalna misija u svetu koji je, zbog zagađenja i toksičnosti, postao neprijateljska teritorija. Kako saznaju, „šanse su jedan prema četiri" da se trudnoća iznese do kraja i rodi zdravo dete (*SP*, str. 124).

Uništenje životne sredine stoga nije samo nešto što se odvija u pozadini, već postaje politički instrument. Danas, kada se mnoge države suočavaju s ekološkim katastrofama, primetne su slične tendencije. Kriminalizacija klimatskih izbeglica, rasprave o kontroli reprodukcije u kontekstu pada nataliteta i ekonacionalistička retorika usmerena na populaciju podsećaju na autoritarnu ideologiju Galada. Ekološke krize kako stvarne, tako i fiktivne mogu poslužiti kao opravdanje za ograničavanje sloboda i institucionalizaciju nejednakosti. U Atvudinom romanu ekološka katastrofa se strateški koristi da bi se reproduktivna sposobnost predstavila kao nacionalni resurs. Tetka Lidijine reči: „Možda vam sada ovo ne izgleda obično, ali s vremenom hoće. Postaće obično" (*SP*, str. 46), savršeno ilustruju kako se ekstremna biopolitička kontrola normalizuje pod krinkom borbe za opstanak vrste.

Štaviše, autorka je u romanu proročki predvidela i pravne i etičke debate o pravima ne-ljudskih entiteta. Koncept transkorporalnosti osporava antropocentrično shvatanje da između ljudi i prirode postoji jasna granica a zastupa shvatanje da su i ljudi i priroda simbiotski povezani. U savremenom pravnom kontekstu to se ogleda u sudskoj odluci kojom se reka Vanganui na Novom Zelandu priznaje kao pravno lice, što je je značajan korak prema shvatanju koje ekosisteme ne definiše više kao pasivne resurse, već kao entitete s pravima. Nasuprot tome, u Galadu se ovaj princip izvrće a žene i prirodna sredina se svode na resurse koji se mogu iscrpeti i odbaciti.

Pravo na čisto i nezagađeno okruženje je tesno povezano s telesnom autonomijom, što se jasno vidi u razmišljanjima naratorke o ženskom telu:

> „Kolevka života, načinjena od kostiju; a unutra opasne materije, izvitopereni proteini, štetni kristali krzavi poput stakla. Žene su pile lekove, pilule, muškarci su prskali drveće, krave su pasle travu, sva ta obogaćena mokraća slivala se u reke" (*SP*, str. 125).

Reproduktivni problemi se direktno povezuju sa zagađenjem životne sredine: telo postaje mesto akumulacije zagađenja, transkorporalna arhiva sistematskog zanemarivanja i zlostavljanja. Strašna sudbina Nežena proteranih u Kolonije da čiste radioaktivni otpad i toksične deponije još jasnije govori o povezanosti ekološke i telesne degradacije. U Kolonije se šalju „ljudi kojih žele da se otarase" (*SP*, str. 271) – nerotkinje, starije žene, homoseksualci i svi oni „neproduktivni". Bez ikakvih prava i zaštite, ove žene su potrošna radna snaga, izložene su radijaciji i otrovnom otpadu, bez zaštitne opreme i odgovarajuće ishrane. „Sračunali su da tamo imaš najviše tri godine, a onda ti nos otpadne i koža ti se odvoji kao gumena rukavica. Ne trude se da te hrane, ni da ti daju zaštitnu odeću, ništa, tako im je jeftinije" (*SP*, str. 271).

„Sluškinjina priča" se u ovom kontekstu može shvatiti kao upozorenje da ekološki kolaps, po svoj prilici, vodi ka biopolitičkoj kontroli i oduzimanju ljudskih prava. Opisujući kako se devastacija životne sredine može iskoristiti za uspon autoritarizma, Atvudova nas poziva da se zapitamo ne samo kakvu političku budućnost želimo, već i kakvu odgovornost imamo jedni prema drugima i prema planeti. Autorka jasno poručuje da su borba za zdravu životnu sredinu i borba za očuvanje ljudskih prava neraskidivo povezane.

4. Zaključak

„Sluškinjina priča" prikazuje ne samo da ekološka kriza i politička represija idu ruku pod ruku, već da ekološka kriza služi i kao opravdanje za uvođenje represivnih mera. Fokusiranjem na porozno, izloženo i regulisano telo u ekološki degradiranom okruženju, Atvudova poziva čitaoce da ponovo razmisle o granicama između ličnog i planetarnog, političkog i biološkog. Reproduktivna distopija u romanu nije apstraktno upozorenje, već je mogući ishod vidljivih posledica ekološke degradacije – zagađenja, toksičnosti i sistemskog zanemarivanja, koja se manifestuje na ljudskim telima i kroz njih.

Ovaj rad zastupa stav da telesna autonomija nije isključivo individualno pravo, već da se temelji na materijalnim okruženjima i podleže silama ekosistema. U Atvudinom svetu, neplodnost, bolest i potrošnost nisu metafore, već posledice društva koje i prirodu i ljude tretira kao resurse. Kontrola nad reprodukcijom postaje neraskidivo povezana sa kontrolom nad životnom sredinom, a opstanak postaje politizovana, kolektivna borba.

Analizirajući roman iz ugla transkorporalnosti, pokazalo se da je ovaj teorijski okvir koristan za razumevanje uzročno-posledične veze između ekološke degradacije i autoritarne kontrole. Društveni poredak u Galadu svedočanstvo je kako se strahovi od uništenja životne sredine, osnovani ili neosnovani, mogu iskoristiti za uvođenje i racionalizaciju represivnih politika i strogih društvenih hijerarhija, poput ekofašizma u kom se državna moć učvršćuje kroz narative o ekološkoj krizi.

Osim toga, prikaz Kolonija, neplodnosti i reproduktivnog ropstva u romanu odraz je nasilnog ukidanja telesnih prava u ime ekološke i demografske obnove u stvarnom svetu. Na ovaj način čitaoci su primorani da se suoče sa stravičnom mogućnošću da buduće ekološke krize možda neće dovesti do veće pravednosti i saradnje, već do daljeg marginalizovanja i represije nad određenim osetljivim društvenim grupama.

Dok se naša planeta suočava s rastućim klimatskim poremećajima, roman „Sluškinjina priča" ostaje relevantan čak i više nego što bismo želeli. Ovaj roman predstavlja poziv svima nama da razmislimo o tome kako se ekološki narativi formiraju, ko njima upravlja i čija tela snose posledice. To nije samo feminističko upozorenje, već i ekološki imperativ koji zahteva budnost, odgovornost i otpor prema eksploataciji i prirode i čovečanstva.

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BODIES, BORDERS, AND THE ENVIRONMENT: EXPLORING TRANSCORPOREALITY IN MARGARET ATWOOD'S *THE HANDMAID'S TALE* FORTY YEARS ON

Abstract: This paper revisits *The Handmaid's Tale* by Margaret Atwood four decades after its publication, applying Stacy Alaimo's theory of transcorporeality to explore the novel's portrayal of ecological collapse, reproductive control, and authoritarian governance. Transcorporeality, which emphasizes the material interconnection between human bodies and their environments, provides a critical lens through which to examine the blurred boundaries between biology, ecology, and ideology in Atwood's dystopia. The infertility crisis, environmental degradation, and the systemic instrumentalization of women's bodies in Gilead illustrate how the human body becomes a site of political and ecological inscription—shaped, constrained, and regulated by toxic surroundings and sociopolitical systems. Situating the novel within present-day concerns, the paper addresses issues such as declining reproductive health linked to pollution and microplastics, the emergence of ecofascism, and the growing discourse around environmental and bodily autonomy. It further considers the intersection of human and non-human rights, reflecting on the ethical and legal implications of recognizing ecological

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agency. Through an ecocritical reading and close textual analysis, this study highlights *The Handmaid's Tale* as not merely a feminist dystopia but as a prescient environmental and political critique that continues to resonate in an era marked by climate crisis and rising authoritarianism. By foregrounding the entanglement of bodies, ecologies, and power, the paper contributes a timely recontextualization of Atwood's work within contemporary global debates.

Keywords: *The Handmaid's Tale*, transcorporeality, environmental degradation, bodily autonomy, ecofascism

1. Introduction: Transcorporeality as a Theoretical Framework

Transcorporeality, as conceptualized by Stacy Alaimo, offers an exciting perspective for examining the fluid and reciprocal relationships between human bodies and their material environments, emphasizing mutual transformation and interconnectedness (Alaimo, 2010, p. 20). This approach reimagines the natural world not merely as a passive backdrop but as an active participant in human existence. Alaimo's assertion that environments are "never merely background" but integral to shaping human identity disrupts traditional notions of bodily and spatial boundaries, highlighting their constant interaction and mutual dependence (2010, p. 122). Despite its valuable insights in environmental studies, the application of transcorporeality to dystopian literature remains limited, particularly within Margaret Atwood's *The Handmaid's Tale*. While Atwood's narrative has been extensively explored through feminist and political lenses, analyzing it through transcorporeality provides a novel opportunity to uncover deeper intersections between ecological crisis, bodily autonomy, and systematic oppression. Building upon the foundational studies by Škobo and Đukić, who previously applied the framework of transcorporeality to J.G. Ballard's depiction of urban disaster and violence (Škobo & Đukić, 2022; 2023; 2024), this analysis seeks to bridge their exploration of bodily vulnerability in post-industrial, ecologically degraded urban landscapes with Atwood's dystopian portrayal of Gilead's eco-political regime. Their research illuminated how Ballard's protagonists experience a collapsing boundary between body and toxic environment, positioning the urban body as a site of trauma, contamination, and systemic neglect. By extending this perspective to *The Handmaid's Tale*, the current study examines how environmental degradation in Atwood's narrative similarly manifests in and through the human body—particularly female bodies—transforming ecological collapse into a mechanism for authoritarian control.

The selection of *The Handmaid's Tale* is intentional and timely, marking its fortieth anniversary as ecological crises and threats to bodily autonomy remain pressing global issues. Atwood's depiction of Gilead vividly illustrates how environmental catastrophe and gender-based oppression converge, offering a fertile site for transcorporeal analysis. Her narrative critiques the dual commodification of women's bodies and the natural world, revealing how environmental degradation is weaponized to sustain patriarchal authority.

This study draws from foundational ecofeminist theorists such as Plumwood (1993), Birkeland (1993), Warren (1997), and Mies & Shiva (2014), whose work highlights the interconnection of ecological and gender-based oppression. Building on their insights, it incorporates Stacy Alaimo's concept of transcorporeality to emphasize the material agency of environments and their role in shaping embodied experience.

Transcorporeality also enables a broader interrogation of how identity and agency are reconfigured by ecological collapse and political repression. In alignment with Nixon's (2011) assertion that environmental crises often precipitate social and political disenfranchisement, the dystopia of Gilead serves as a powerful example of how ecological degradation becomes a tool of authoritarian control.

This paper contributes to existing scholarship by applying transcorporeality to a dystopian literary text that has not been widely examined through this lens. It explores the interplay between ecological breakdown, reproductive governance, and biopolitical control in *The Handmaid's Tale*, tracing how the novel collapses distinctions between body, environment, and state power. The following sections establish the theoretical framework and conduct close readings of key passages, demonstrating the novel's sustained relevance to contemporary environmental and social concerns.

2. Environmental Degradation and Human Health

Feminist materialist theories have significantly influenced recent discussions on environmental health and justice. Scholars such as Barad (2007), Grosz (1994), Sandilands (1999), and Alaimo (2010) critique the historical feminist tendency to focus predominantly on culture, discourse, and language, at times neglecting the importance of materiality (Alaimo & Hekman, 2008, p. 1). These thinkers advocate a nuanced understanding of material life that acknowledges its resistance to purely social interpretations (Alaimo, 2010, p. 4). This approach is particularly valuable in navigating between biological reductionism and social constructionism, positioning the human body within an ecological matrix that shapes both agency and vulnerability.

Relational feminist interventions, such as Martha Fineman's "Vulnerability Project," highlight embodiment, challenging the abstract notion of the liberal subject. Fineman (2008, p.12) points to the material fragility of human existence, emphasizing life's spectrum of interdependent abilities and vulnerabilities. However, critics like Dayna Scott (2009) point out that this framework often overlooks the essential ecological interconnectedness of bodies, mistakenly framing embodiment as isolated from the environmental contexts. Fineman's framework acknowledges vulnerability but does not fully address how ecological contexts actively shape bodily vulnerability and agency. Addressing this gap is crucial, suggesting the need to broaden relational feminist theory by explicitly including environmental interdependencies.

Stacy Alaimo's concept of transcorporeality highlights precisely this inseparability of human bodies from their environment, exploring dynamic exchanges between human and nonhuman nature (Alaimo, 2008, p. 238). This framework highlights the "fleshy realities of socio-ecological interdependence", where bodies reflect their environmental, social, and historical contexts, notably through unequal exposure to environmental risks and contaminants (DiChiro, 2008, p. 279; Alaimo, 2008, p. 261). Alaimo (2008, p. 236) notes that contaminants literally embed themselves in our bodies, documenting environmental exposure at a cellular level. Transcorporeality challenges anthropocentric views of bounded, autonomous subjects and situates human existence within complex ecological, economic, political, and cultural networks (Alaimo, 2010, p. 4). This aligns with Elizabeth Grosz's assertion that nature resists simplistic human categorizations, critically engaging with industrialist impulses to replace the natural with artificial constructs (Grosz, 1994, p. 190; Kidner, 2000; Alaimo, 2010, p. 352).

Practical applications of these ideas are evident in environmental justice activism. Dayna Scott's (2015) research on Canada's tar sands region highlights community-driven approaches like "popular epistemiology" to document environmental harm and its direct impact on health. Such work demonstrates how ecological degradation disproportionately affects marginalized communities, exacerbating vulnerabilities, particularly regarding reproductive health and structural inequities.

The World Health Organization (WHO) defines environmental health in terms of physical, chemical, and biological factors significantly impacting human health and behavior (Alaimo, 2010, p. 91). These interactions, deeply material, affect human bodies visibly and invisibly, such as through pollutants affecting biological functions. Alaimo connects this to disability studies, showing how built environments shape experiences of disability, emphasizing bodily and spatial interdependence (Alaimo, 2010, p. 12). Conditions like Environmental Illness (EI) and Multiple Chemical Sensitivity (MCS) exemplify transcorporeality, as individuals' bodies directly absorb harmful environmental agents, causing physical symptoms such as rashes, dizziness, and fatigue (Alaimo, 2010, pp. 114–116).

Urban environments notably intensify these issues through inadequate infrastructure, pollution, and limited access to green spaces, disproportionately impacting marginalized communities. The Flint water crisis illustrates this vividly, showing how lead-contaminated water systems became a severe public health crisis primarily affecting low-income and minority groups (Hanna-Attisha et al., 2016). This crisis underscores how systemic neglect leads to embodied environmental harm, deepening cycles of illness and inequality.

Scott (2015, pp. 6–7) provides two illustrative case studies that illustrate environmental degradation's embodied effects. Ada Lockridge, an Anishinaabe woman near Canada's Chemical Valley in Ontario, faces the constant threat of petrochemical pollutants (Scott, 2013), while Diane Plowman and Donna Dahm in Alberta endure health impacts from toxic gases emitted by local bitumen extraction activities. These communities document pollution through sensory awareness, confronting institutional knowledge systems that overlook lived experiences. Scott argues for "negotiated empiricism" integrating bodily knowledge with scientific expertise, challenging dominant epistemologies, and advocating for genuine environmental justice.

Transcorporeality thus offers a meaningful framework for examining ecological degradation's role in exacerbating bodily vulnerabilities, especially in reproductive health contexts depicted vividly in *The Handmaid's Tale*. In Atwood's novel, infertility directly results from environmental degradation—pollution, radiation, and toxic waste. This is emphasized when the narrator reflects on how "the air got too full, once, of chemicals, rays, radiation, the water swarmed with toxic molecules... they creep into your body, camp out in your fatty cells" (*HT*, 129). This bodily contamination, she implies, has rendered much of the population infertile. Contemporary research similarly points to increased reproductive health concerns linked to chemical pollutants, pesticides, climate change, and emerging contaminants like microplastics. Studies by Skakkebaek et al. (2016) connect declining male fertility rates explicitly to environmental exposures, particularly during critical developmental periods, revealing potential generational impacts.

Microplastics, pervasive environmental contaminants, are increasingly linked to reproductive health concerns. These microscopic plastic particles, originating from intentional production or the degradation of larger plastics (Rocha-Santos & Duarte, 2015), have been detected in air, water, soil, and food sources, highlighting their ability to infiltrate human systems (Vianello et al., 2019). Inhalation of airborne microplastics and ingestion through contaminated food and water are primary routes of exposure, raising concerns about their accumulation in the human body and associated health effects. While definitive conclusions are still limited due to knowledge gaps in the field, microplastics have been linked to potential disruptions in metabolism, inflammation, and interactions with other contaminants (Anbumani & Kakkar, 2018).

The study by Hunt et al. (2024) highlights a concerning connection between microplastic exposure and human reproductive outcomes. Microplastics have been detected in human tissues, including the placenta and fetal meconium, raising alarms about their potential impact during critical stages of development. The systematic review, encompassing seven studies with 96 participants, identified 16 different polymer types in placental and meconium samples. It revealed associations between lifestyle factors, such as bottled water consumption and the use of certain personal care products and increased placental microplastic levels. Additionally, findings suggested correlations between microplastic presence and reduced birthweights, lower 1-minute Apgar scores, and diminished microbiota diversity in meconium samples.

These findings emphasize the urgent need for high-quality observational studies to better understand the effects of microplastic exposure on fertility, pregnancy outcomes, and overall reproductive health. This aligns with broader concerns about the persistence and bioaccumulation of microplastics in human systems, as highlighted in earlier research (Rocha-Santos & Duarte, 2015; Anbumani & Kakkar, 2018). Furthermore, climate change exacerbates reproductive health inequalities: extreme heat, exposure to air pollution, and environmental stress disproportionately affect pregnant women, resulting in increased risks of preterm birth, low birth weight, and maternal complications (Bekkar et al., 2020). These vulnerabilities are mirrored in *The Handmaid's Tale* where systemic ecological collapse disproportionately impacts fertile women, rendering their bodies state property. For instance, the Handmaids are told, "We are containers, it's only the insides of our bodies that are important" (*HT*, 96)—a chilling illustration of how environmental disaster is used to strip women of autonomy and reduce them to their biological functions.

In Atwood's narrative, environmental degradation is not a distant backdrop but a central mechanism that legitimizes authoritarian control. The infertility crisis that shapes Gilead's theocratic regime stems directly from ecological disaster—radiation, chemical spills, and toxic waste—leading to widespread sterility. In response, women who are still able to conceive become "Handmaids," reduced to reproductive vessels in a system that frames their subjugation as a necessary response to species survival. This echoes contemporary ethical debates surrounding fertility treatments, surrogacy, and the commodification of reproduction under ecological strain.

Atwood illustrates how environmental collapse can be politicized to justify biopolitical control, turning bodily regulation into an instrument of state power. The regime's appropriation of ecological catastrophe to enforce strict reproductive governance reflects how environmental degradation often exacerbates existing social and gender inequities. As the Commander chillingly notes, "Better never means better for everyone... It always means worse for some" (*HT*, 211), underscoring how crisis is manipulated to concentrate control in the hands of the powerful. As ecosystems deteriorate, so too do the rights and freedoms of those deemed biologically "useful" by the state.

2.1. **Body Autonomy and Political Control**

This theoretical lens unveils new dimensions in the text, presenting Gilead not merely as a site of political repression but as an environment where ecological degradation and social control intertwine to dictate bodily autonomy. In dystopian Gilead, environmental crises—such as widespread pollution and ecological collapse—directly influence the regime's policies, which are geared toward preserving human survival at the expense of individual freedoms. This shift foregrounds how ecological concerns, rather than being peripheral, are central to the dystopian mechanisms of control.

Alaimo's work posits that bodies are inseparably connected to their environments, absorbing toxins, pollutants, and socio-political pressures alike, thus challenging the Enlightenment ideal of the autonomous, impermeable self (Alaimo, 2010). Atwood builds this entanglement into the very fabric of interdependence, as bodies become both vessels of ecological decay and tools for authoritarian governance.

The Handmaid's Tale establishes a direct causal connection between environmental and social degradation, only hinted at in Atwood's earlier works. The mass consumerism and rampant corporate greed in Atwood's fictional version of late 20th-century North America have caused widespread pollution of air, water, and soil, which in turn leads to a plummet in birth rates and a rise in sterility:

> The air got too full, once, of chemicals, rays, radiation, the water swarmed with toxic molecules, all of that takes years to clean up, and meanwhile they creep into your body, camp out in your fatty cells. Who knows, your very flesh may be polluted, dirty as an oily beach, sure death to shore birds and unknown babies (HT, 129).

As a result, the right-wing political and religious ideologies become ever more radical, attempting gradually to control the reproduction process, ban abortions, and interfere with the private lives and choices of citizens (Howells, 2006, p. 161). Ultimately, this brings about the overthrow of democracy and the establishment of a theocratic authoritarian regime in which select individuals —men in power—– hold privileged positions, while the civil liberties and human rights of everyone else, men and women alike, are stripped away. Women are forbidden to have jobs, own property, or hold any position outside the home. Women's bodies, especially, become the battleground for political and social control: they are reduced to "viable ovaries" (*HT*, 157), and that fact determines their personal and social value.

The novel's themes have gained renewed urgency in recent years. In the United States, the Supreme Court's 2022 decision in *Dobbs v. Jackson Women's Health Organization* overturned the constitutional protections for abortion established under *Roe v. Wade* (1973), returning the authority to regulate abortion to individual states.[3] This shift has reignited intense national debates on bodily autonomy, echoing Atwood's warnings about how reproductive rights can be taken away under the guise of moral or ecological necessity.

[3] Roe v. Wade, 410 U.S. 113 (1973), was a landmark U.S. Supreme Court decision that legalized abortion nationwide by recognizing a constitutional right to privacy. This decision was overturned in 2022 by Dobbs v. Jackson Women's Health Organization, which returned authority over abortion laws to individual states.

These issues disproportionately affect marginalized populations, particularly those already burdened by environmental and economic inequality. The denial of reproductive rights compounds existing vulnerabilities, creating a situation eerily similar to that of the Handmaids. Gilead's reproductive caste system is thus not an anomaly, but a dystopian exaggeration of mechanisms already present in contemporary societies.

In both Atwood's fictional universe and the real world, environmental and political forces converge to control bodies, especially those of women. The result is a chilling illustration of how ecological catastrophe can be exploited to justify authoritarianism, reinforcing the novel's continued relevance in today's sociopolitical and ecological climate.

3. Climate Collapse, Ecofascism, and the Intersection of Human and Non-Human Rights

Atwood's dystopian vision in *The Handmaid's Tale* emerges from a society already ravaged by ecological degradation—a premise that unsettlingly mirrors present-day fears about climate collapse and its cascading effects on political structures, human rights, and global stability. In recent discourse, climate change is increasingly recognized as a catalyst for mass displacement, resource conflict, and the erosion of democratic norms. These anxieties are fictionalized in Atwood's Gilead, where the collapse of ecosystems precedes the rise of a totalitarian regime. In the *Historical Notes* chapter, the plummeting birth rates, as well as stillbirths, genetic deformities, and miscarriages are linked to "various nuclear-plant incidents … as well as to leakages from chemical and biological-warfare stockpiles and toxic-waste disposal sites … and to the uncontrolled use of chemical insecticides, herbicides, and other sprays" (*HT*, 350).

Applying the lens of transcorporeality to Atwood's eco-dystopia reveals how bodies and environments are materially intertwined—not only in terms of physical vulnerability but as political instruments. As Alaimo (2010) argues, bodies are never autonomous but are shaped by ecological and sociopolitical systems, absorbing toxins and ideologies alike. Gilead exploits this entanglement, using the infertility crisis as justification for transforming women into reproductive vessels. This dynamic anticipates the logic of ecofascism—an ideology wherein environmental concerns are weaponized to reinforce hierarchies and suppress rights. Recent studies deal with how ecofascist narratives intertwine ecological preservation with exclusionary, often xenophobic, policies, promoting a vision of environmental purity that necessitates authoritarian control (Hughes et al., 2022). In *The Handmaid's Tale*, Gilead's regime mirrors this by leveraging ecological catastrophe to legitimize draconian reproductive policies, effectively positioning environmental crisis as a pretext for systemic oppression. As Offred reflects, "There is more than one kind of freedom... Freedom to and freedom from" (*HT*, 24), a line that encapsulates how the regime masks control as protection, turning ecological fear into ideological justification for erasing bodily autonomy and enforcing rigid hierarchies.

The rise of ecofascism—where climate-related anxieties become a pretext for state-sanctioned repression—resonates powerfully with Atwood's imagined theocracy. Contemporary ecofascist rhetoric frequently frames climate collapse and demographic change as existential threats, invoking fears about fertility decline and resource scarcity to justify authoritarian and exclusionary measures. Gilead's appropriation of infertility and environmental degradation to enforce reproductive servitude is thus not an isolated fictional device but reflects broader ideological currents that tie ecological decline to nationalist, anti-migration, and population control agendas. As Atwood herself observes, "Without women capable of giving birth, human populations will die out. (...) Who controls the women and babies has been a keystone of every repressive regime on the planet" (*Introduction, xv*). This reinforces the novel's core message: that domination over the environment is inseparable from domination over bodies—particularly women's—and that ecological fear, if manipulated, can be used to legitimize deeply repressive systems of control.

Throughout the novel, Atwood uses military imagery and language, alluding to real-life repressive regimes that often use these to instill fear and obedience. In the Rachel and Leah Re-Education Center, where the future Handmaids are indoctrinated for their role of "two-legged wombs" (*HT*, 158), their task of conceiving and giving birth is likened to a military action. Aunt Lydia proclaims: "...you are the shock troops, you will march out in advance, into dangerous territory. The greater the risk the greater the glory" (*HT*, 129). Their task—conception, gestation, childbirth—is framed as a national mission in a world made biologically hostile by pollution and toxicity. The stakes are stark: "One in four," they are told, is the chance of carrying a pregnancy to term and producing a healthy child (*HT*, 129).

Atwood thus illustrates that environmental destruction is not a mere backdrop but a political tool. Today, as governments contend with ecological disaster, similar tendencies are visible. The criminalization of climate refugees, debates about reproductive control in the context of declining birth rates, and population-focused eco-nationalist rhetoric all echo Gilead's authoritarian logic. Environmental crises, in both fiction and reality, can become the rationale for restricting freedoms and institutionalizing inequality. In Atwood's novel, environmental catastrophe is strategically mobilized to reframe reproductive labor as a national resource. As Aunt Lydia asserts to the Handmaids-in-training: "This may not seem ordinary to you now, but after a time it will. It will become ordinary" (*HT*, 33). Her words exemplify how extreme biopolitical control becomes normalized under the guise of responding to ecological collapse.

Moreover, Atwood's vision anticipates legal and ethical debates about the rights of non-human entities. Alaimo's concept of transcorporeality challenges the anthropocentric boundary between humans and nature, suggesting instead a shared vulnerability and mutual agency. In real-world legal contexts, this is reflected in landmark decisions such as the recognition of the Whanganui River in New Zealand as a legal person—a move that redefines ecosystems not as passive resources but as rights-bearing entities. In contrast, Gilead inverts this principle, reducing both women and environments to extractable, expendable assets.

The right to a clean and livable environment is intimately tied to bodily autonomy. Atwood makes this connection explicit through the protagonist's reflections: "A cradle of life, made of bones; and within, hazards, warped proteins, bad crystals jagged as glass. Women took medicines, pills, men sprayed trees, cows ate grass, all that souped-up piss flowing into the rivers." (*HT*, 129). This passage links reproductive harm to environmental toxicity, illustrating how degraded ecologies produce degraded bodily conditions. The body becomes a site where pollution accumulates—a transcorporeal archive of systemic neglect and abuse.

This connection is made devastatingly clear in the fate of the Unwomen, who are exiled to the Colonies to clean radioactive waste and toxic dumps. They are described as "people they want to get rid of" (*HT*, 288)—infertile, elderly, queer, or otherwise deemed nonproductive. Stripped of rights and protection, they are reduced to expendable labor, enduring lethal exposure without protective clothing or adequate nutrition: "They figure you've got three years maximum, at those, before your nose falls off and your skin pulls away like rubber gloves. They don't bother to feed you much, or give you protective clothing or anything, it's cheaper not to" (*HT*, 287–288).

In this context, *The Handmaid's Tale* functions as a cautionary tale about the convergence of ecological collapse, biopolitical control, and human rights violations. By illustrating how environmental devastation can be used to justify authoritarianism, Atwood challenges us to reimagine not only our political futures but also our ethical responsibilities—to each other and to the planet. Her warning is clear: the health of the environment and the integrity of human rights are not separate struggles, but interdependent ones.

4. Conclusion

The Handmaid's Tale offers a stark vision of how environmental collapse does not merely accompany political repression—it enables and justifies it. By centering the porous, exposed, and regulated body within ecologically degraded landscapes, Atwood challenges readers to rethink the boundaries between the personal and the planetary, the political and the biological. The novel's reproductive dystopia is not an abstract warning, but a narrative grounded in the tangible consequences of ecological harm—pollution, toxicity, and systemic neglect—made visible on and through human bodies.

This paper has argued that bodily autonomy, far from being a purely individual right, is deeply embedded in material environments and subject to broader ecological forces. In Atwood's world, infertility, illness, and disposability are not metaphors, but outcomes of a society that treats both nature and people as extractable resources. Control over reproduction becomes inseparable from control over the environment, and survival is reframed as a politicized, collective struggle.

The analysis has also shown how transcorporeality provides a powerful framework for understanding the convergence of environmental degradation and authoritarian control. Gilead's social order reveals how ecological fear—whether real or manufactured—can be used to rationalize repressive policies and strict social hierarchies. The appropriation of environmental discourse in *The Handmaid's Tale* echoes contemporary ecofascist tendencies, where state power is bolstered through narratives of environmental crisis and demographic anxiety.

Moreover, Atwood's depiction of the Colonies, infertility, and reproductive servitude reflects the violent erasure of bodily rights in the name of ecological restoration. Through this, the novel forces us to confront a chilling possibility: that future ecological crises might not inspire justice or cooperation, but further marginalization and repression.

As the planet faces escalating climate disruptions, *The Handmaid's Tale* remains disturbingly relevant. It invites us to examine how environmental narratives are deployed, who controls them, and whose bodies bear their consequences. This is not only a feminist warning but an ecological imperative—one that demands vigilance, accountability, and resistance against the exploitation of both nature and humanity.

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Tekst se piše fontom Times New Roman 12 pt i trebalo bi da sadrži cilj rada, korišćene metode, rezultate istraživanja i zaključke. Na kraju teksta, posle zaključka navodi se **literatura**.

Posle navođenja literature, pišu se **naslov rada, rezime i ključne reči** na engleskom jeziku ukoliko je rad na srpskom ili srpskom jeziku ukoliko je rad na engleskom. Naslov rada piše se velikim slovom, podebljano, fontom Times New Roman 14 pt a rezime i ključne reči pišu se fontom Times New Roman 10 pt.

Ukoliko rad sadrži fusnote (napomene uz tekst koje ga dodatno pojašnjavaju), one se pišu u proredu *single* i fontu 10. U fusnotama se *ne navodi* literatura, nego se ona, sledstveno *APA stilu*, navodi kao integralni deo osnovnog teksta.

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Za navođenje izvora koji nisu navedeni u ovom dokumentu molimo autore da konsultuju zvaničnu stranicu Američke psihološke asocijacije: https://apastyle.apa.org.

Važno: princip citiranja i navođenja relevantnih stranica u tom slučaju, kako je ilustrovano u ‘Knjiga s jednim autorom’, važi za sve vrste publikacija u kojima su stranice numerisane.

	U tekstu	U spisku literature
Knjiga		
Knjiga s jednim autorom	Prema Dimitrijeviću (1999, str. 64), … Kako navodi Dimitrijević (1999), „pomoću testova pokušava se utvrditi koliko su učenici savladali izvesno nastavno gradivo (testovi dostignuća). Cilj testiranja je, dakle, konačni rezultat procesa učenja i predavanja. U određenim prilikama to je i dovoljno” (str. 64).	Dimitrijević, N. (1999). *Testiranje u nastavi stranih jezika*. Zavod za udžbenike i nastavna sredstva.
Knjiga s dva autora	Prema tvrdnjama Đorđevića i Mitića (2000), …	Đorđević, S., & Mitić, M. (2000). *Diplomatsko i konzularno pravo*. Službeni list SRJ.
Knjiga sa tri i više autora	PRI PRVOM NAVOĐENJU IZVORA: Kako navode Rokai, Đere, Pal i Kasaš (2002), … KOD SVAKOG SLEDEĆEG NAVOĐENJA IZVORA: Kako navode Rokai i dr. (2002), …	Rokai, P., Đere, Z., Pal, T., & Kasaš, A. (2002). *Istorija Mađara*. Clio.

Knjiga sa urednikom / Zbornik radova	Prema Radoviću (2007), …	Radović, Z. (2007). Donošenje ustava. U M., Đurković, (ur.), *Srbija 2000-2006: država, društvo, privreda* (str. 27-38). Institut za evropske studije.
Knjiga korporativnog izdavača	Prema navodima Unicefa (2007), …	UNICEF. (2007). *Promoting the rights of children with disabilities*. UNICEF Innocenti Research Centre.
Knjiga čiji je autor stranog porekla	Kako Braun (2006) napominje, … S tom tvrdnjom slažu se i mnogi drugi autori (npr. Brown, 2006). VAŽNO: Kod navođenja prezimena autora van zagrade, prezime mora biti transkribovano.	Brown, D. (2006). *Principles of language learning and teaching* (fifth edition). Pearson Education.
Časopis		
Naučni časopis	Kako Tovarović (2021) tvrdi, …	Tovarović, J. (2021). Relationships between stress responses and ego-identity in adolescents. *Civitas*, *10*(2), 97-113.
Naučni časopis sa DOI brojem	Prema Novakoviću (2021, str. 111), …	Novaković, A. (2021). Funkcionalnost elekstronskih i interaktnivnih platformi u onlajn nastavi. *Nastava i vaspitanje*, *70*(1), 105-125. https://doi.org/10.5937/nasvas2101105N

Magazin	Kako tvrdi Braun (2021), … AY.3 je najverovatnije nova varijanta delta soja virusa (Browne, 2021).	Browne, E. (2021, March 9). AY.3 COVID subtype explained as delta variant spawns offshoots. *Newsweek*. https://www.newsweek.com/ay-3-covid-subtype-explained-delta-variant-offshoot-1625785
Novine	Po tvrdnjama Gerštajnove (2021), … Po tvrdnjama mnogih autora (npr. Gerstein, 2021), …	Gerstein, T. (2021, September 6). Why everyone should care about workers' rights. *The New York Times*. https://www.nytimes.com/2021/09/06/opinion/labor-workers-rights.html
Pravni dokument		
Zakon/ pravilnici/ Ustav	Prema Zakonu o obligacionim odnosima (2020), …	Zakon o obligacionim odnosima, (*Sl. list SFRJ*, br. 29/78, 39/85, 45/89 - odluka USJ i 57/89, *Sl. list SRJ*, br. 31/93, *Sl. list SCG*, br. 1/2003 - *Ustavna povelja* i *Sl. glasnik RS*, br. 18/2020). https://www.paragraf.rs/propisi/zakon_o_obligacionim_odnosima.html
Onlajn izvor		
Vebsajt poznatog autora	Po tvrdnjama Gerštajnove (2021), … Po tvrdnjama mnogih autora (npr. Gerstein, 2021), …	Gerstein, T. (2021, September 6). Why everyone should care about workers' rights. *The New York Times*. https://www.nytimes.com/2021/09/06/opinion/labor-workers-rights.html

Vebsajt koporacije/ insitucije	Prema Svetskoj zdravstvenoj organizaciji (2021), …	World Health Organization (2021, September 2). *World failing to address dementia challenge*. https://www.who.int/news/item/02-09-2021-world-failing-to-address-dementia-challenge
Disertacija/teza		
Neobjavljena magistarska teza ili doktorska disertacija	Prema Volfu (2021), …	Volf, M. (2021). *Zastupljenost kontekstualne reformulacije pri prevođenju filmskih naslova na srpski jezik u poslednjoj deceniji.* [Neobjavljeni masterski rad]. Univerzitet Union.
Saopštenje		
Usmeno saopštenje na konferenciji/skupu	Prema Rutkovskom i Majnkovoj (2019), …	Rutkowski, D., & Meinck, S. (2019, June 24-25). *Using large-scale assessment data to inform policy and practice* [Workshop]. 8th IEA International Research Conference, Copenhagen, Denmark. https://www.iea.nl/news-events/irc/8th-international-research-conference/program

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The title of the paper in capital (upper-case) letters, in bold, should be written in the middle (Times New Roman 14 pts.)

Before the main body of the text a short **abstract** (summary) in length up to 8 lines should be given with **five key words** single spaced in font 10 pts.

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	In-text	**In the list of references**
Book		
Book with one author	As mentioned by Brown (2010, p. 64), … When considering the possibility for foreign language learners to acquire native-like pronunciation, Brown (2010), says: "This conclusion lends support for a neurologically based critical period, but principally for the acquisition of an authentic (nativelike) accent, and not very strongly for the acquisition of communicative fluency and other "higher-order" processes" (p. 64).	Brown, D. (2006). *Principles of language learning and teaching* (5th edition). Pearson Education.

Book with two authors	According to Boyle and Fisher (2007), …	Boyle, J., & Fisher, S. (2007). *Educational testing. A competence-based approach.* Blackwell Publishing.
Book with three and more authors	UPON THE FIRST MENTION: As suggested by Tsagari, Vogt, Froehlich, Csépes, Fekete, Green, Hamp-Kyons, Sifakis, and Kordia (2018), … UPON SUBSEQUENT MENTIONS: As suggested by Tsagari et al. (2018), …	Tsagari, D., Vogt, K., Froehlich, V., Csépes, I., Fekete, A., Green, A., Hamp-Lyons, L., Sifakis, N., & Kordia, S. (2018). *Handbook of assessment for language teachers.* European Commission.
Edited book	According to Birkle (2020), …	Birkle, C. (2020). "Obama sushi" and the ch(i)ang way of life: Transculturalting America and the world. In A. Izgarjan, D., Đurić, & S. Halupka-Rešetar (Eds.), *Aspects of Translationality in American Literature and American English* (pp. 28-59). Faculty of Philosophy, University of Novi Sad. http://digitalna.ff.uns.ac.rs/sadrzaj/2020/978-86-6065-632-4
Book with corporate authorship	As claimed by UNICEF (2007), …	UNICEF. (2007). *Promoting the rights of children with disabilities.* UNICEF Innocenti Research Centre.

Book with a foreign author	As indicated by Vasić (2021), …	Vasić, A. (2021). *Razvojna psihologija* [*Developmental psychology*]. Fakultet za pravne i poslovne studije dr Lazar Vrkatić, Univerzitet Union.
Periodicals		
Scientific journal with DOI	As claimed by Brantmeier and Vanderplank (2008, p. 460), …	Brantmeier, C., & Vanderplank, R. (2008). Descriptive and criterion-referenced self-assessment with L2 readers. *System*, *36*, 456-477. doi:10.1016/j.system.2008.03.001
Magazine	As Browne (2021) warns, … AY.3 is a new version of the Delta variant of the SARS-Cov-2 virus (Browne, 2021).	Browne, E. (2021, March 9). AY.3 COVID subtype explained as Delta variant spawns offshoots. *Newsweek*. https://www.newsweek.com/ay-3-covid-subtype-explained-delta-variant-offshoot-1625785
Newspaper	As claimed by Gerstein (2021), … As claimed by many authors (e.g., Gerstein, 2021), …	Gerstein, T. (2021, September 6). Why everyone should care about workers' rights. *The New York Times*. https://www.nytimes.com/2021/09/06/opinion/labor-workers-rights.html
Legal documents		
Law/ Rulebook/ Constitution	In accordance with the COVID-19 Hate Crimes Act (2021), …	COVID-19 Hate Crimes Act, 34 U.S.C. & 937 (2021). https://www.govinfo.gov/content/pkg/PLAW-117publ13/pdf/PLAW-117publ13.pdf

Online source		
Website whose author is known	As claimed by Gerstein (2021), … As claimed by many authors (e.g., Gerstein, 2021), …	Gerstein, T. (2021, September 6). Why everyone should care about workers' rights. *The New York Times.* https://www.nytimes.com/2021/09/06/opinion/labor-workers-rights.html
Website of an institution	As suggested by World Health Organization (2021), …	World Health Organization (2021, September 2). *World failing to address dementia challenge*. https://www.who.int/news/item/02-09-2021-world-failing-to-address-dementia-challenge
Dissertation/Thesis		
Unpublished master's or doctoral thesis	As suggested by Alnofaie (2013), …	Alnofaie, H. A. (2013). *The implementation of critical thinking as EFL pedagogy: Challenges and opportunities.* [Unpublished doctoral dissertation]. Newcastle University.
Presentation		
Conference presentation	According to Rutkowski and Meinck (2019), …	Rutkowski, D., & Meinck, S. (2019, June 24-25). *Using large-scale assessment data to inform policy and practice* [Workshop]. 8th IEA International Research Conference, Copenhagen, Denmark. https://www.iea.nl/news-events/irc/8th-international-research-conference/program

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