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Introduction

by Andrej TRUSCHEL, Editor

We are pleased to introduce you to our Editorial, LaRevue No.9 edition.

Our publication is published on a quarterly basis and is of a scientific nature.

In order to reach the widest possible Slovak and international speaking audience, our publication is available free of charge.

LaRevue is intended to serve readers, teachers, students and all those who are interested in new information.

You will find various scientific and research works of authors from Slovakia. All university title holders have the opportunity to post articles: post-graduate students, post-graduate students as well as graduates of master's degree programs.

In this edition of LaRevue, we have selected 5 articles of different nature to provide readers with enriching information from labor, capital, education, probability theory and reliability analysis of devices and systems, matters of administrative punishment and the agencies, founding treaties, regulations of the European Union.

In particular, I would like to thank Ing. Marián Vyžinkár, PhD., IWE., who offers a new perspective analysis of the risk of potentially dangerous technologies and complex systems, and probability of occurrence of a dangerous or undesirable event and its consequences.

Ing. Vyžinkár promised to extend the article he provided, which we published in this edition, and we hope to learn even more in the next article.

The editorial team responsible for reviewing publications, thank you for your loyalty and wish you a pleasant reading.

International movement of capital and labour

Abstract

This contribution deals with international movement of capital and labour. Formerly, there was a time, when everyone in Slovakia had a job. However, unfortunately, today this is not true, and not only in Slovakia. Studied, young, perspective people have trouble to get employed. This all depends on the labour market, migration and immigration, as people leave for job into other countries.

Key Words: trade, market, finances, movement, country.

Introduction

The aim of this contribution is to describe and analyse international movement of capital, explain the term “four freedoms”, describe the term liberalisation of international movement of capital and what consequences it has. The current world economy is narrowly connected with this issue – therefor it is adequate to mention it in this contribution. The conclusion is devoted to international movement of labour and it is necessary to describe, what kind of coherence it has with the European Union.

International movement of capital

We can characterise it as one of the fields, by which it comes to globalisation (computer technology – possibility to do trade electronically on stock-markets, with stocks etc.)

- simplified bank transfers
- investments
- possibility to buy land and buildings wherever within the European Union – in the space of the European Union, free purchase of real-estate is possible, non-member countries sometimes prohibit this. Farmers were afraid that foreigners will buy out land, and that mainly on the territories near borders, as land is more expensive in Germany.

Problems, which arise by free movement of capital – the market is not sufficiently liberalised (e.g. financial services). Problems occur with the recognition of qualification by some professions (e.g. doctors, lawyers, architects). A transition period for free movement of services was possible until 2011 in Germany and Austria (e.g. building industry, social and

healthcare services). In the Eurozone, there are only 17 from the 28 countries of the European Union – it has an impact on the free movement of capital, an exchange risk thus occurs.

The four freedoms

The Single European Market has a form of a so-called common market and occurs at a higher level of macroeconomic integration. The four freedoms (freedom of movement) are being applied:

- free movement of goods
- free movement of people (labour)
- free movement of services
- free movement of capital

Advantages

- access to a market with nearly 500 million potential customers – it is the largest market in the world among developed countries. Producers can exercise advantages in diverse scopes. Competition increases, but it affects businesses. Thus, they have to decrease the price of the product, so it should be beneficial also for consumers. Threat – if a producer wants to exercise advantages in scope, competition can force him to decrease the number of product types, and more to specialise on one product. However, it can be disadvantageous for consumers, as they have fewer options of goods.
- an impetus for trade, investment, employment and economic growth
- possibility of choice for citizens

Causes of international movement of capital

- Universal cause – diverse levels of capital evaluation in particular countries – in particular countries there is diverse evaluation of capital. It is given by the economic level of the country, natural conditions. Various factors affect the profitability of a particular form of capital.
- Specific causes – depend on the form of capital – according to the form, in which the capital is invested.

Forms of capital

According to the type of capital – it means, by what means we can invest abroad. On this basis, we differentiate:

- foreign direct investment – we can establish a new company abroad or we can buy another, already functioning, company. These are investments into entrepreneurship,

into particular economic activities. No-one establishes a company only for a few months.

- Portfolio investments (non-direct investments) – it means that, when someone wants to invest abroad, but does not want to establish, or buy a company, but requires some earning. He can do business on the financial markets – particularly on the stock-market. He monitors interest rates, stock prices, development on the stock-markets and height of dividends. Portfolio is a certain file and it can be short-term or long-term.
- Foreign loans and deposits – capital can be inserted into a foreign bank, earning is represented by received interests from the provided deposits. It is possible to provide loans to foreign subjects. The profit would be, again, the interest.

In the light of property:

- Private capital (the investor is a private subject) – entrepreneur, companies invest. Fundamental is the subject of the investor.
- State capital (the investor is the state) – the state invests state capital. The state is represented by someone. The state bank decides, if it buys stocks and places exchange reserves in another country.
- International capital (the investor is an international subject) – International Monetary Fund, international banks.

In the light of time, it can be a short-term capital (due date mostly until 1 year) and long-term capital (due date is longer than 1 year).

Foreign direct investment

It means exerting financial means in order to establish (a business or a subsidiary of a business), gain (investor invests into a company, which already operates) and expansion of permanent economic (expansion of production) relations of the investing subjects into doing business abroad. The investor has the right to decide about his own capital and about the company, into which he invests or participates in managing. He is the owner or a co-owner. He has such a share of stocks that it enables him to decide within the company. He has a significant share of property. It is negotiated about how many % voting rights he has to gain.

In the process, one of the following forms is applied: by investing, an exclusive share on the business arises or is being gained. The investor gains at least 10% share on the basic capital of the company or at least 10% voting rights – it matches the methods of the International Monetary Funds. In order to regard it as a foreign direct investment, a 10% share is sufficient.

The causes of foreign direct investment – the motives to foreign direct investment on the part of the investor – higher degree of evaluation than in his domestic country. The revenue of this capital has the form of income.

Abroad, the investor gains higher earnings as he would gain at home from the same capital. There are diverse factors, that enable him to decrease costs more than in his own country. These can concern climatic, geographic conditions or a non-saturated and sufficiently large market, cheap labour (a large advantage of the Chinese economy), sufficiently equipped infrastructure (electric energy, networks, technical infrastructure), existence or non-existence of ecological legislation. Some countries do not have any regulations, that would concern the protection of the environment, for an investor it is advantageous, as he does not need to invest so much into companies which protect the environment. Causes on the part of the host economy of the state, into which foreign investment passes: host economies gain new job opportunities, which seek to provide them with some benefits, flow of new technologies, on which the state would not have financial means and they would not even exist in that economy (China gained new technologies this way, and these days, the Chinese are able to produce everything alone), the population gains employment and can spend money, purchasing power increases and as a whole, it contributes to a revival of the whole economy of the state.

Consequences of foreign direct investment for the host economy – positive and negative.

Positive consequences – reaches a larger profit, it generates sales. Negative consequences – some investment activities can also have negative or undesirable consequences. For example, an investor is neglectful towards the environment, mainly as long as developing countries are concerned. One Canadian company had to exploit gold in the mountains. However, it applied a load to the underground water and land, and thus the company did not get permission to this activity. Entrepreneurs did not provide their employees pauses etc. If an investor begins to do business, it is good when he counts with the fact that the economy has certain advantages. If the economy ceases to provide these advantages, he carries over his capital elsewhere. By the departure of an investor, the economy deteriorates.

Investment incentives:

We can define them as certain discounts, which a certain economy provides to a foreign investor. They are divided into 2 groups, according to who provides them:

- Governmental incentives – provided by the state, prepared by the government and included in diverse legal norms. They can have diverse forms. They have usually 3 forms (they are not a requirement in each country). The most frequent form is represented by tax incentives (anchored in tax laws, e.g. tax holidays – an investor is, for a certain period of time, freed from taxes) or differentiated tax rates (if investors fulfil certain conditions, they have a discount on taxes). Customs incentives – these are benefits that lead to decreasing tariffs. It concerns situations, when an investor needs to import some components, which he needs for the production of some goods.

Financial incentives – an investor gets financial dotation, grants, contribution for requalification of employees – it depends on the particular legislation of a particular country.

- Local governmental incentives – in this case, these are provided by the local government (city, county). It is preparation of a territory, which is prepared for investment and is accessible in the light of transport. Adjustment of transport networks, so that employees can get to work.
- Act No. 561/2007 on Investment Help and on the Modification and Completion of some Acts – investment help represents regional support for inducing investment into the disadvantaged localities in the Slovak Republic. The recipients of this help can be physical or legal persons entitled to do business on the territory of the Slovak Republic and whose investment activity and projects fulfil the requirements of this Act.
- Approach of the countries towards investment incentives – fast influx of capital in the form of foreign investment.

Foreign direct investment and transnational corporations. Transnational corporation = company, whose activity abroad constitutes at least 30% share of its total turnover. In other words, we could say that transnational corporations = huge firms, which have supranational character, have their capital allocated throughout the world.

The characteristics of a transnational corporation:

- they are the main subjects of international economic relations
- international movement of capital
- goal: higher effectivity of investments
- they dispose of huge material and financial sources
- diversification of activities – different fields of activity. Thus, they secure themselves against losses. In one field it will be a loss, but in another one it is compensated by profit.
- guaranteed access to raw material sources
- extensive research and innovations – significance for technologically demanding fields.

Transnational corporations are very rich subjects, they can deal with research of technologies, pharmaceutical industry, biochemistry etc. They are significant, but expensive. For example, new medicine on the market is, at the beginning, very expensive.

The importance of transnational corporations: for the growth of international trade – raw materials, semi products, products. It is difficult to determine; which country is the country of origin of a particular product. There is a great amount of goods circulating among them.

Significant is also the transfer of technologies into the host economy – especially in developing countries.

Transnational corporations have significance for employment in the host economy. There is a potential impact on exchange rates (operations on the foreign exchange market) and on the balance of payment of the host country. Influencing states – transnational corporations are so strong that their representatives can contact politicians, members of legislative agencies and seek to affect their decisions on tax issues. Sometimes there is a close connection of the representatives of the government and transnational corporations. Impacts on the situation in home politics in the host country – if the company left, there would be a drop of economy. Governments seek to sustain these transnational corporations. If a country wants to keep an investor, it has to reinforce political stability. However, if a threat was to be established (civil war etc.), the investor would leave. An abuse of the environment can also occur.

Foreign activity of transnational corporations is realised via foreign branch offices or subsidiaries. Foreign branch office – has the same name as subsidiary, it does not have legal identity. It has limited decisive powers. Usually, it carries the name of the parent company and its balance is a part of the whole balance of the parent company. Parent companies arrange their foreign branch offices with resources via credits.

Foreign subsidiary company – it is an independent legal subject with full legal identity – usually has a different name than the parent company. It is not an internal organisational segment of the parent company and is connected with the parent company only via a certain equity security (investment capital).

Examples of transnational corporations – British Petroleum, Vodafone, Shell, Toyota.

Portfolio investments

These are indirect investments, purchasing stocks (usually into bonds or shares). It is not possible to control business with capital – the investor cannot control, he only has right to revenue from capital. Large volatility = degree of stock value fluctuation or their interest rate – by this capital, the investor has to count with that it concerns a relatively uncertain investment. We buy stocks and assume, that the stock market will develop uncertainly and something unpredictable can happen. Speculative capital – the investor speculates, but he does not have certainty. Speculations can appear also on price development, dividend development. If only suspicion appears, the investor seeks to get rid of the capital by sale. Portfolio investments are associated with the threat of financial crisis.

Deposits and credits

Causes of deposits into foreign banks:

- interest rate
- speculations on evaluating foreign exchange
- speculative capital
- the moment of expectation
- short-term capital

Credits

- provided by states, international organisations, private subjects
- market principles – aim is to make profit on the interests, aim of financial institutions
- non-market principles (World Bank, ...) – form of aid, realised by the World Bank. Provides credits to the developing countries for 40 years with a decreased interest rate than commercial banks offer.

Liberalization of international movement of capital and its consequences

Liberalisation of movement of capital – elimination of obstacles, which prevent the transfer of capital among particular countries. Usually, it has the form of certain laws. A restriction of purchasing stocks occurs.

Assets:

- More effective global allocation of savings – it is better to deposit them there, where they are evaluated better in the world.
- increase of volume of potential investment sources – we can obtain credits from abroad.
- easier access of domestic subjects onto foreign capital markets – connected with gaining foreign credits or purchasing foreign stocks.
- Influx of new financial technologies – transactions, which are done by banks. Means, how to provide loans, diverse types of bank products, diverse forms of system of payment. Financial technology expands, as well as diverse techniques of realising bank operations.

Risks:

- Financial crisis and its expansion into healthy economies – it concerns short-term capital invested in these two forms. There is one large risk. The possibility of creating one large financial crisis and movement into other economies. Formerly, crises did not exist, as there was a limited movement of capital in the world.
- As soon as this monetary system was abolished in the 70's, the risk of the break out of a financial crisis arose. Risks are repeated accidentally and do not have a cyclical course. Common for them is the fact that each further crisis is worse, more striking and interferes into the countries. It concerns a larger amount of capital. Financial

crises deepen themselves. A general course can be assembled for all crises, some characteristics are common.

A financial crisis is the consequence of liberalisation of capital movement in the current international monetary system.

The course of financial crisis

A financial crisis takes place in an era of increased influx of mostly speculative capital into the country, it occurs in the case of currency depreciation, in times of growing panic on the side of foreign investors (then investors come increasingly into the country), eventually, a crisis occurs, when banks are not able to satisfy their depositors, then we talk about bank crisis, after which an economic and social crisis follows.

Causes of financial crisis

The country is not able to regulate them. It has a stable exchange rate of its currency – the investor invests, as there is a high interest rate and he does not fear a change of exchange rate. The International Monetary Fund recommends that the country should prevent a combination of high interest rates and a fixed exchange rate. Thus, the investor waits and transfers his capital elsewhere.

International Monetary Fund – established on the ground of regulations adopted at the international conference in Bretton-Woods in 1944. It officially came into being on 27th December 1956, when 29 countries signed the Articles of Agreement. It started its activity on 1st March 1947. The IMF became an international monetary and financial institution, which was constituted as a specialized expert organisation of the United Nations. The International Monetary Fund became the first international organisation, which could regulate payment relations among members and provide credit help for defined aims.

Further cause of financial crisis – if a crisis occurs, the investor does not have certainty, if he gets his money back.

There are diverse opinions on that, but two of them are the most famous:

- The state helps the banks to satisfy their investors – the investors continually behave irresponsibly
- If the state does not help the banks, it also affects domestic subjects, the domestic economy. It does not concern only foreign subjects, but all, who have deposits in a particular bank.

The International Monetary Fund issues diverse recommendations, which concern preventing a financial crisis. In the current world economy, there is no tool, that could prevent the

creation of a financial crisis. The only possibility is to ban the transfer of capital among particular countries.

The characteristics of the current world crisis

Growing internationalisation – geographical expansion of economic activities via national borders – since the 90's up till now. It manifests itself in a way that international economic relations have extended very markedly, the volume of goods, with which business is conducted, has been increased, capital. Millions of people migrate around the world and look for relations in other countries. Electronic businesses are created, as well as new methods of system of payment.

Growing interdependence – deepening of mutual dependence of economic subjects. The subordination of countries is another part of the process of interdependence. A rapid expansion of economic problems from one country to another occurs.

Growing regionalism and integration – eliminating obstacles and enhancing economic ties among countries. Cooperation within particular regions of the world economy has been developing and a higher degree of integrational processes is created. More new entities are constituted, which tighten cooperation among themselves. Creation of international units, diverse types of economic regions and fast development of integrational processes.

Transnationalisation – growing power of supranational companies (transnational corporations). These companies have continually more subsidiaries in diverse parts of the world, in which there are different types of goods, supplies. Transnational institutions have become the largest subject in the field of international trade.

Differentiation is deepening – huge differences in the economic level of countries and regions persist. The economic degree grows more markedly in developed countries than in developing ones. The differentiation of countries is deepening.

International movement of labour

It concerns people that are looking for employment in another country. This movement of labour is a part of migration.

Causes:

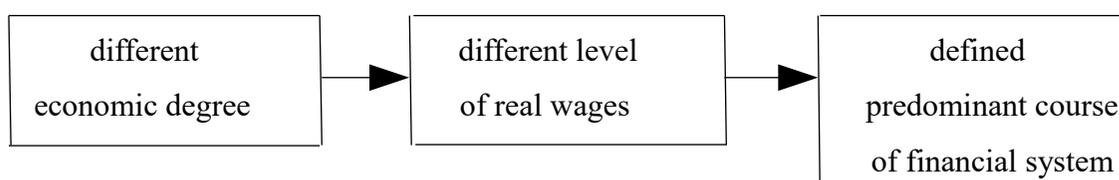
- Non-economic – diverse other causes, which lead an individual to live in another country and look for employment there. These are political causes – one does not agree with the political system in his domestic country, racial and religious

discrimination, causes that are aroused by the operation of living conditions, natural catastrophes – people lose roof above their heads, and thus, they are forced to move away into another country.

Social and societal causes – people want to get to know the world.

Non-economic causes of international movement of labour lead often to the fact that people move indefinitely into another country. Frequently, they leave also with their families.

- Economic – different economic degree. In diverse countries, there is a diverse level of wages. For people with low wage, it is worth to leave for a developed country, as these have higher wages. Because of this, they accept often also inferior jobs. When they reassess it, they have still more money than in their domestic country.



An opposite direction can also occur, into poor countries with lower economic degree. One reason is connected with direct investments – they represent a certain company. The second reason, which can lead to a fact, that employees of developed countries move into less developed ones, can be interest in becoming acquainted with other countries or aspiration to help a less developed country.

Specific forms of migration:

Two types – people leave for work abroad, as there are better job opportunities or their work is better evaluated there, but henceforth they have their background in their country. The second type – movement of qualified workers, which are educated, have expert practice and leave their country for abroad to seek job opportunities. It is necessary to consider the economic degree of the country, into which the worker wants to migrate (e.g. college education is not really necessary in Africa, where is a high degree of illiteracy).

Illegal migration – if a person emigrates legally, has all papers, and all payments are levied on behalf of him. However, there is also illegal migration.

A person seeks to find a job under-the-counter, he has for example, only touristic visa. On behalf of him, there is no health or social insurance, tax etc. paid. For an employer, it is also beneficial, as he does not need to make payments, he does not need to follow the Labour Code, there are no surplus payments for overtime work and labour conditions are not in accord with the legislation.

Consequences of migration

- For the host country:

Positive consequences – cheap labour force – if employees are employed legally, the employer cannot give them lower wages, as otherwise it would be salary discrimination. In the Slovak Republic, there are many foreigners e.g. at building structures – there are willing to execute hard work. Foreign employees fill the gap on the labour market – qualified workers can bring new experiences and methods into the economy. If a qualified person, who studied at a university in another country, comes into the economy, it is beneficial for that particular economy, as it did not spend any tools on reaching his education. The effect of public finances (state budget) – legal employees pay in the same way taxes, insurance etc., but as they are foreigners and usually do not have permanent address in the country, they have considerable limits on paying social duties. They cannot, for example, gain contribution for living. They pay more into the public budget than they gain.

Demographic consequences for the country, where job aspirants come – manifest themselves in Central and Western Europe, where populational bulge decreases, the number of inhabitants gradually drops. The influx of foreign employees, if they are employed and merge in the domestic population, has an impact on the impetus for the development of local trade networks.

Negative consequences – press out domestic employees from the labour market – therefore, some countries in the European Union constrain from the influx of cheap labour.

If there is real concern, that foreigners grab jobs from the natives, a negative relationship towards foreigners can occur. Increase of criminal and vindictory activity – especially, if it concerns illegal immigrants, seek to gain resources e.g. by theft. Further negative aspects are connected with the sale of drugs and with diseases – foreigners can pass through the country, in which people are not vaccinated against diseases and they can further transmit to another country.

- For the sending country:

Positive consequences – by departure of a larger number of employees into other countries, the creation of communities arises. For example, Chinese quarter in New York.

By departure of employees, who devote themselves to qualified branches – the economy details financial tools for educating qualified employees and these then leave for a foreign country. The economy does not have any profit from this.

Attitude of countries towards international migration:

Host countries – the countries can be in diverse economic situation, they can be open to migration or they be afraid of it.

- Anti-Immigration policy – seeks to hinder or stop the influx of foreign employees. It uses tools especially in the legal field:
 - Legal norms, visa – limits foreign travel and countries, thus, lose finances from touristic services
 - Obligation to gain labour permit – necessary registration at the labour office. These days, this tool is the most used one.
 - License conditions – diverse regulations – that foreign employees have to fulfil, in order to perform a job, what kind of education, abilities, experience he has to have, etc.

- Pro-Immigration policy – tools – activities of the state, which attract foreign employees.

Causes – lack of workers of certain profession (doctors, technicians etc.). The state can offer these employees programmes, which help them to gain job profession.

Demographic cause – decreasing rise in population – the state realises certain programmes and has interest in a permanent address of foreigners in the country, including their family members. However, this can cause problems, as foreigners have different mentality, different habits and they adopt to domestic conditions with difficulties. For example, Turks in Germany – the German economy needed revival, and thus Western Germany employed labour from Turkey. They have lived there for more than 50 years, but there are henceforth problems with them.

Instruments – Green cards – gaining workers and offering diverse advantages, if they work in certain professions.

Sending countries

- Emigrational policy – its causes and tools – emigrational policy manifests itself in that the state seeks to maintain contact with people who left for job into other countries. For example, Asian countries seek to maintain contacts and appeal to that these people arrange diverse investment opportunities, and that they could afterwards return as qualified employees and help provide information.

Movement of labour in the European Union

Called also as free movement of people (without labour permit) – it was the first idea. A person, who seeks to find a job in another member country and work without any difficulty, does not have to have a job permit.

The Schengen Agreement (signed in 1985) talks about eliminating border control, there is a free movement of all people within the European Union.

The Schengen Area – interstate act from 14th May 1985 – it is not a supranational act, which would be binding for all member states of the European Union. It originated from the initiative of 5 countries: France, Belgium, the Netherlands, Luxembourg and the Federal Republic of Germany.

- an obligation of gradual elimination of controls and introduction of free movement on the common borders occurred. Ratification (the act of confirming the legal power of a document) had to follow and the countries had to approve it in their legislatures.
- 19th June 1990 – executive convention on the operation of system
- 26th March 1995 – after the process of ratification, the system was launched

The Treaty on European Union talks about the term “citizenship of the European Union”, which belongs to everybody. Everyone has the right to work freely, settle, vote and be voted into the European Parliament and local agencies, draw social insurance benefits (state social support).

Problems, which arise by free movement of labour – discrimination of new member countries – transitional period for maximum 7 years (2+3+2). Since 1st May 2004, only new member countries have been open, as well as Ireland, Great Britain and Sweden.

Since 1st May 2006, Greece, Spain, Portugal, Finland have been open and partially freed are France, Belgium, Luxembourg and Italy. From 1st May 2009 until 30th April 2011 – only Germany and Austria insist on transitional periods.

Main migration flows

The main movement is from developing countries into developed ones, and that from South to North, or from countries of the former USSR towards the West.

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Objectives and methods of education - Slovakia 2018

Introduction

The aim of the study is to point out the importance of motivation and the choice of suitable motivational means in adult education as an important factor affecting not only the competitiveness of the adult labour market, but also influencing the quality of the educational process, especially in the area of learners' activity in acquiring or deepening their target competencies. In selected motivation theories, attention is paid to its use for motivation adults to study.

Thus, the motivation of adults to lifelong learning must be treated as an individual matter for each individual and, in their motivation, a causal link between the generally accepted theories of motivation and the specific motivational structure of each individual. (Dvořáková, 2016).

In adult education we encounter several groups of motives that lead adults to further education. The first group consists of people whose value system occupies an important place in education and, regardless of external pressure, such as legislative requirements, employers, regularly participate in continuing education.

The second group consists of representatives of those professional groups who are under the statutory obligation to continue their education or to achieve a higher level of education due to the job position that the individual is interested in and would not be able to pursue the profession without achieving the required qualification. In this group we often find students who study under external pressure and a very important circumstance of the study is for them to obtain a certificate to prove they have met the statutory conditions. In this group, there is a low motivation to meet study obligations and a very low preference for non-formal and informal learning, because the results of this learning cannot be “effectively used” in their direction.

The third group typically contains individuals who have not had good experience in the previous course of study, do not have the need to certify acquired and deepened competencies; they are fully satisfied with the acquired knowledge and skills, because they realize their contribution to improving work performance. They often do not feel threatened on the labour market because they believe in their abilities and skills. However, they do not have sufficient confidence in the education system, often they are creative people who find it difficult to adapt to the system, regardless of the specific peculiarities of learners. They feel anxious

about tests, arguing that stress from tests is an essential criterion for them not to study further. This group includes both individuals with positive attitudes to education, but mostly in the area of informal learning, as well as individuals who have a clearly negative attitude towards any education. Appropriate approaches are the choice of special-pedagogical counselling due to possible unrecognized or persistent difficulties. (Grofčíková, 2016).

Motivational mechanisms in lifelong learning

There has been a steady increase in the interest of adults in recent years in lifelong learning. In adult education the motivational mechanisms that are applied in personnel care can be used. The principle of individual motivation is very similar in this case. Even when motivating for education and self-education, the influence of social factors and factors satisfying basic physiological needs must be relied on. However, when motivating for lifelong learning the personality of the potential learner must be taken into account and whether adults are being motivated to engage in formal, non-formal or informal learning.

The actual process of motivation can be considered a psychological “start” of causes of human actions and behaviour. These causes are internal assumptions, stimuli, motives for a certain target behaviour. The process of motivation is thus a process of activating internal prerequisites and streamlining their activities with regard to a certain goal of their focus in the work process. In terms of supporting adults to lifelong learning, it is appropriate to view the motivation for education as a work motivation (acquiring and deepening specific professional and personal competencies to meet expected professional behaviour). (Langer, 2016).

From a number of theories of work motivation, the following can be used in educational practice:

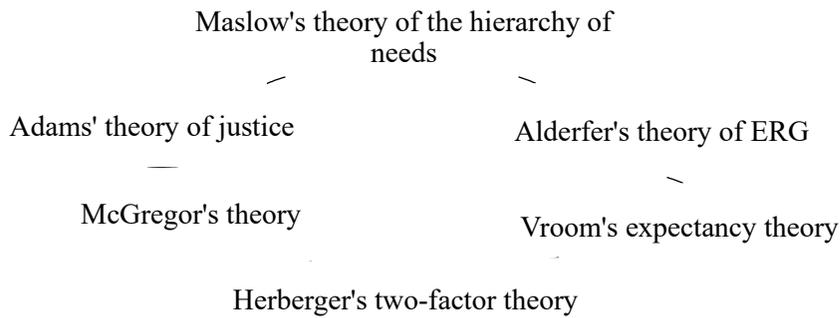


Fig 18. Theory of motivation
Source: Langer, 2016

Maslow's theory of the hierarchy of needs

Maslow's motivation theory is the most traditional and common way we could use in terms of motivation. It works with hierarchically arranged needs that underlie motivational influencing.

The Pyramid of Needs - physiological needs are placed in the lower part, which means that the satisfaction of physiological needs is primarily important for the learner in terms of motivation in education. It is very difficult to motivate learners to meet higher needs if their basic material needs are not met. It is always necessary to realize what type of client attends a given training course and what is their internal motivation to education (employer pressure, unemployment, interest in the subject, perception of self-education as an essential part of self-development, social isolation – e.g. seniors, maternity leave, fear of losing a job, etc.

Part of satisfying the basic physiological needs is also creating a pleasant climate in an educational institution that creates a sense of security for students. This is achieved by clearly defined study requirements, comprehensively given instructions for the outcome of the study and by promoting mutual communication between the teacher and the learner.

Another important part of motivation in education is meeting the need for social contact. In this respect, it is necessary to monitor the atmosphere in the given group, the social ties between individuals and not to underestimate the importance of the need for social

contact in adult education. At the top of the pyramid are the needs of social recognition and self-development. In this respect, greater care must be taken for adults than for children in their "safety" in terms of protecting already acquired social recognition. (Lorenzová, 2016).

Alderfer's theory of three categories of needs (E-R-G)

Based on similar principles as the previous one this theory is based on the theory of three factors - Existence, Relatedness, Growth - ensuring existence, ensuring social relationships with the working environment, ensuring further personal growth.

The needs of existence consist of basic physiological and safety needs. The need for relationships refers to the human need to maintain relationships with other people, including social needs, acceptance needs, the need to belong, to join and the desire to have a certain social status.

The growth needs are the desire for personal development, self-fulfilment and self-actualization. They include the needs for personal growth, ascension and development, which are achieved by making full use of the individual's potential. As with Maslow's theory, it is assumed here that lower-order needs must be met first and only then can two other groups of higher-order motivational factors be applied. That is, first ensuring existence and then other factors. Unlike Maslow, however, Alderfer does not strictly insist on a hierarchy of two higher order needs. From his point of view, all categories complement each other. The initial reasoning developed in Maslow's theory also holds true in this theory.

Vroom's expectancy theory

Vroom's expectancy theory is very interesting. It is based on the assumption that the power of motive is influenced by the degree of expectation that achieving the goal is realistic. An essential factor here is the attraction of the goal itself for individuals. The theory says that the power of motivation depends on the magnitude of expectation to achieve the set goal and the subjective attraction of the goal itself. There is a direct proportion. The more valuable a target is perceived by an individual, the greater the effort he/she is willing to develop to achieve it. From a Vroom theory point of view, we can consider a desirable outcome - an attractive goal - work success, an actively accepted vision of improving the position on the labour market or establishing new social links.

Herzberg's two-factor theory

This theory originated at the turn of the fifties and sixties. It was created on the basis of scientific analyses of 200 technical and economic workers. Based on observations, Frederick Herzberg identified two important groups of factors: motivators and hygiene.

Motivators are a means of meeting human needs and activating individuals' interest and efforts. Hygiene influences are factors in which a person performs specific activities that influence his / her satisfaction. These include environmental conditions, an air of cooperation, etc.

The existence and fulfilment of motivational factors evokes a feeling of satisfaction, while an inappropriate setting of hygiene factors provokes dissatisfaction both in the working environment and in the educational environment. From the educational point of view, we can include among the internal motivators or satisfiers the way of education (lectures, development centres, possibility of practice in real operation, direct lessons, seminars, etc.), leading students to mutual respect, recognition, responsibility and possibilities of personality cultivation in a pleasant atmosphere. External motivators or hygiene factors include the quality of teacher feedback, assessment methods, emphasis on reflection and self-reflection, architectural teaching conditions, the quality of interpersonal relationships and the resulting sense of security.

McGregor's motivation theory

- two theories: theory X and theory Y.

Theory X assumes that man has an innate resistance to work and will avoid it if possible. He avoids responsibility. The motivation for this kind of people is methods and rewards and punishments (positive feedback, good evaluation, the idea of sanctions in the form of having to repeat the test, trying to avoid social “humiliation”). Individuals must be forced to work and constantly monitored.

Theory Y assumes that physical and mental exertion at work are the natural states of man. This type of person is initiative. If the work to be done is in line with his/her own goals, it need not be controlled. The most important reward is to satisfy the needs of the self. This theory emphasizes indirect motivation.

In this respect, it is very important to promote self-reliance during studies, assign tasks that enable students to draw on previously acquired experience, solve problems related to their practice, enable creativity in fulfilling their study duties and respect the individual abilities of each individual even in adults.

An important part of the motivation for lifelong learning is to provide a suitable climate, within which we consider the preference for theory Y, because theory X leads to the passivity of learners and thus to an insufficient contribution to creating an overall positive atmosphere in the educational institution. The preference for theory Y leads to the development of independent personalities who have a need to participate not only in a co-created learning environment, but also in their employment conditions.

Adams' theory of justice

John Stacey Adams is a representative of behavioural psychology and work psychology. In 1965 he constructed his theory of justice. Individually perceived social justice is based on a comparison of itself and a reference group in the form of various awards and recognition, which are compared with the achievements of others. The result is a subjective sense of justice or injustice.

This view is also very important in addressing the issue of adult motivation for education. The feeling of fair evaluation again contributes to creating a positive social climate, which is a very important factor for many learners when deciding on further education. It is not only a question of whether and to what extent the assessment is fair, but also how the teacher can fill the informative and also the formative page.

This theory emphasizes the ratio between the input and the results of individuals, so from this point of view its use in adult education can be considered. The theory of justice is based on the principle of the social comparison of workers in a group, sometimes called the "jealousy" theory. To put it simply, an individual compares the ratio of their effort and achievement with that of others. The resulting social injustice causes tension and is perceived more strongly than justice. It is important to realize that the threshold of perception is lower for undervaluing than overvaluing. (Oliveira, 2014).

Education for career advancement

In a person's life, a career is one of the most important goals that motivate his activities. It is an idea of one's own future in terms of work, material and mental. A career is a sequence of employment, jobs and positions that a person carries out during their working life.

It is a structured sequence of events in the professional life of a person where an employee progresses, stays, or descends in the job hierarchy when he changes one job activity for another in the job structure; while gaining and enhancing work experience and creating a professional image. A career is a "developmental" sequence of gaining work experience over a period of time, and is also a lifelong sequence of role experiences in an individual's working history known as a subjective career expressing his or her changing aspirations, satisfaction, self-concept and other attitudes to work and life. Performance, experience, education, business needs and partly coincidence play an important role in this sequence. (Pirohová, 2015).

A career can be classified as:

- **An external career, a career-oriented position**, also referred to as a traditional one - a sociological view, which represents a rather objective view of the achievement of certain levels of education and expertise (summary of completed schools), progress in hierarchies of organizations, general recognition. However, there is no record of the exertion and effort of the individual to achieve it; we follow the external (objective) career in the personal materials of the job seeker and employees in the HR department. It is mostly just the graduated schools, courses and previous jobs; we rarely know how an individual has dealt with the problems and difficulties as well as the goals he/she has set during their working life.

- **Inner career, behaviour-oriented career concept**, representing a mental point of view, which expresses the subjective attitude of the individual towards the set goals and the effort to achieve them. Realizing an internal career is more important for self-realization and increases the self-confidence of the employee. In the 1970s, thanks to the work of Edgar Schein, a psychological (internal) perspective was promoted. A career is considered a subjective matter, expressing the attitude of the worker, his experience and personal growth. We examine the inner (subjective) career from the perspective of the individual's experience. It expresses the attitudes, opinions, experience and personal growth of the employee. At present, careers come to the forefront, the course of which varies according to changes in interests, skills and priorities, but also due to external conditions such as changes in the working environment, work organization and workload. The individual is more involved in organizing and career planning, where he/she takes on his/her own responsibility. The goal is psychological success coupled with pride in work results and achievements in life. (Lorenzová, 2016).

1.1 Education for a career change

Individual career planning requires reflection on what is called critical areas and nodal decision points. The individual has to take into account several questions when thinking and deciding on a future career:

- What are its advantages, where it stands out, its hierarchy of values, its needs and its priorities?
- What price is he/she willing to pay to bring success? It is clear that career development will be linked to demands on time, energy; many things will have to be put off,

and he/she will be exposed to anxious and stressful situations. How ready is he/she to handle this?

- How to reconcile work and family life? Not long ago, the two areas were strictly separated now on the contrary, they are increasingly interrelated.
- What are the prerequisites for continuing education and how is he / she prepared for activities related to improving work performance as the most important prerequisite for career development?
- Will he/she cope with the situation and acceptance of the fact that individual career decisions are not independent? On the contrary, their progression is sequential and previous decisions (e.g. direction of study) significantly influence the possibilities of later decisions.

Education as a form of human personality development should in the broadest sense be understood as a process of acquiring and adopting knowledge from various areas of human knowledge. The basic prerequisite for the transition to a qualitatively higher type of care is the education of staff (managers and executives).

The necessity for education in the current conditions of transformation of our economy is given above all:

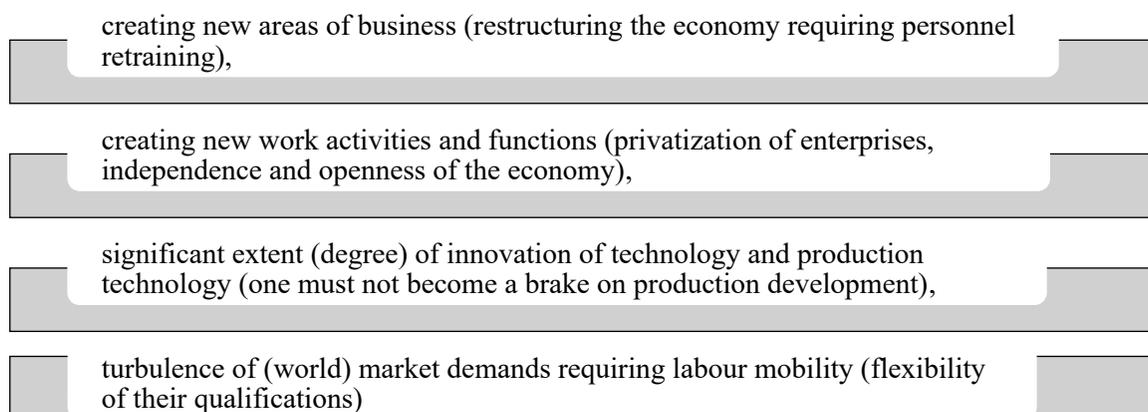


FIG. 19 Reasons for education

Source: Zajko, 2012

Education is a concept in career preferences and career patterns, perceived as a precondition for leadership, direction, stabilization and integration of personal careers. A career anchor is a driving force influencing career decision-making and is a strong motivational aspect that dominates in every individual. (Zajko, 2012).

There are five basic types of career anchors:

- **Technical-functional competence:** people with a high level of technical-functional competence motivate the technical-functional content of the work and further develop their skills in this area. They envision another career within their expertise and are not interested in switching to other management positions, for example. They prefer the procedure only in their technical or functional area. A professional management function is acceptable.
- **Managerial competence:** this is typical of people with a strong need to develop their management skills and achieve a position associated with managerial responsibility. Their primary interest is not to develop professional potential but to combine analytical-diagnostic, interpersonal and emotional skills. These people feel good in a network of organizational relationships, develop professional contacts and pursue their goal - general management. A typical example is the director of an enterprise, for whom previous functions (e.g. business director) were only a means of achieving the current status. When deciding on a career, they prefer to include a job that provides an opportunity to advance to a higher level associated with increased responsibility and participation in the organization's results. Crisis situations motivate rather than exhaust them; these individuals need a sense of responsibility, recognition and prestige.
- **Certainty:** Individuals anchored in certainty are loyal to the employer, focusing on long-term employment, wanting to have a decent income and a secure future. They do not have great ambitions; the most important for them is the stability and security of their situation. They accept organizational standards and practices. They lack courage in managerial positions. Situational ambiguity and uncertainty in decision making make them desperate. They prefer professions where they can rely on clear rules. It is up to the employer to take care of their career management and their ideas for further development. These individuals do not have great ambitions; the most important thing is the stability of the situation; security and they expect awards for fidelity and loyalty to one employer.
- **Autonomy:** this group of people consider organized life as restrictive, irrational, and involuntarily invading privacy. In fulfilling their technical and functional competence they prefer independence and freedom. Their starting point is their own business with their own rules in various fields. They prefer their own plans, schedules and pace of work. They are attracted by their independent business, they do not aim to create their own creation (as in the case of business creativity), they strive to ensure the independence and freedom of their work and other activities. They often act as private advisory institutions.
- **Business creativity:** This is a less common career anchor. Individuals have a strong need to do something that is their own creation. It may be opening a new company to which

they give their name, a new product, a system, a work of art, etc. They are willing to run the risk of eventual failure, but the motive is to achieve success and a high financial reward. Unlike manager-oriented individuals, they often lack a high level of responsibility. Still promoting new ideas, neglecting routine duties is often a source of problems for subordinates and other managers. (Sándor, 2015).

Business education

When addressing education issues and its importance on the labour market, different terms are often used to designate an individual entering the labour market and the education market.

From the labour market perspective, human resources are those available to achieve the goal. They are employees who are involved in carrying out activities, but they are also potential resources that can be used to perform work in the national economy. Human resources are indispensable in the activities of both production and non-production entities and are a basic prerequisite for the existence and viability of any organization. They ensure coordinated action, collection and use of other material and financial resources. Their effective management and continuous improvement by creating the conditions for their development and education in the organization are important.

The concept of "human resources" comes from a different philosophy than the concept of "labour". While the workforce already semantically induces a human being as a passive executor of a given activity, the concept of human resources represents a person capable of carrying out an activity on his / her own decision. It is in the knowledge society of man and his knowledge, his creativity and creative management that become the basis for the development of the organization and ultimately the whole society. (Zormanová, 2017).

The concept of human resources consists of individuals capable and seeking the possibilities of self-realization in the activity they carry out on their own decision, motivated by personal needs and aspirations and a general social approach that supports their development. Human resources represent potential, i.e. the overall possibility and ability to do something and carry it out. The basic tools for the development of human potential depend on the economic and social policy of the state. (Bontová, 2015).

The decisive tools include:

The basic demographic tools regulating the development of human potential

promoting birth rates, improving health, improving the quality of life of the population and migration of the population.

Basic social tools

family support, quality and possibility of housing, geriatric care.

Basic socio-economic tools

education and professional growth of the population, providing adequate employment opportunities.

Basic social tools

education and professional growth of the population, providing adequate employment opportunities.

Basic social tools

environmental culture, saturated demands for leisure activities, environmental level.

FIG. 20 Critical instruments Source:Lorenzová, 2016

Human potential is a prime variable and human capital can be derived from it. The definition of human capital is based on the value of man that has its expression:

- in the innate personal qualities - conditions that gradually develop and
- in the personal characteristics acquired through education.

Human capital is the knowledge, skills, habits and abilities that are relevant to economic activity. It is an expression of the human qualification and ability to seek opportunities for improvement and continuously adapt to new needs.

Work performance imposes a number of requirements on the individual that can be characterized by areas of readiness such as:

Professional	the collection of professional knowledge and skills for work, acquired through different training cycles. It includes the key competencies characterized by the individual framework educational programs
Personality	mental fitness, character traits, attitudes and emotional traits
Power	is determined by the physical fitness of the employee, his / her personal qualities and abilities, the quality of mental processes (perception, attention - high concentration, memory, thinking - strategic creative, flexible), his/her resistance to disturbances, stress, frustration, mental stress and demands related to social skills and specific performance requirements
Motivational 1	it is determined by the needs, interests, aspirations and ambitions of the employee
Social	expresses the position the employee has built up in the working group, the level of his / her self-assertion, self-reflection, social acceptance and prestige

FIG. 21 Readiness Areas

Source: Domborovská, 2016

The prerequisites for work performance can be classified into two important groups. The first group includes hereditary and gradual and long-term formable qualities and the second group includes knowledge, skills and other qualities that develop through formal education and further education.

Every worker who wants to gain (or retain) a place in the working team of a prosperous company must strive to maintain their knowledge and practical experience at the time level. He/she must not feel a victim of progress but a co-creator. No worker is ever too old to learn something new. On the other hand, it is necessary for every employee to create space and conditions for their professional and personal development. This is neither charity nor luxury - it is an investment in the future.

The basic characteristics of the system of individual lifelong learning can be summarized as follows:

- the aim of education is to reconcile the professional requirements of work (current or future) with the workers' knowledge,
- education should help to increase (not only the level of knowledge), the range of practical (routine) abilities and the level of (socio-psychological) behaviour of workers,
- this form of training applies to all categories of workers (at all levels of corporate management) regardless of age and gender,
- the way this educational system is carried out assumes both organized and unorganized forms but with the (co) shift of responsibility for the effectiveness of the education from the enterprise to the worker,
- education must change its character from time-bound (discontinuous) education to continuous education,
- the content, extent and timing of completing training should be the result of the consulting activities of the HR department of the company. (Domborovská, 2016).

The system of individual lifelong learning is mainly a part of the corporate education system. The program and forms of carrying out the individual lifelong learning system are processed in the same way as the program of education in a company (to answer the questions: who, what, when, how and why should be educated).

The motivation for individual lifelong learning must be part of the system (program) of motivating employees of a company to education and should be differentiated according to the level of the required qualification (according to the level of educated managers).

1.2 Leisure education

Free time function

General leisure time functions:

- entertainment (related to satisfying personal needs, freedom from boredom),
- relaxation (mental and physical relaxation, fatigue compensation, restoring strength),
- self-development of human personality (free from automatism).

However, this is a trivial division that does not provide a comprehensive picture of all the possibilities that leisure activities offer. A somewhat more detailed categorization divides leisure functions as follows:

- recreation (recovery, gathering forces, mental relaxation, refreshment),
- compensation (distraction, pleasure, compensation for deficiencies, conscious renunciation of rules and standards, care freeness),
- education (need for knowledge, further education, desire for experiences, role change),
- contemplation (need for peace, meditation, time for oneself, self-reflection),
- communication (need to communicate, contact, searching for social relations, togetherness, empathy, love),
- integration (need of social relationships, search for emotional security, sense of belonging, rituals, tradition, collective consciousness),
- enculturation (need for creative development, independent growth of skills, creative application, imagination, spontaneity),
- participation (need for engagement, self-initiative, self-assurance, decision-making, cooperation, co-responsibility). (Oliveira, 2014).

Among the external factors that influence the perception of leisure time, we must also include the pressure of conformity, which focuses more on fashion, and, of course, the often very contradictory expectations of the surroundings given by the pluralistic view of the world. One can no longer rely on collective hedging mechanisms (e.g. roles, traditions and values); The fact that in the past the value of leisure time was measured as a benefit to society also plays a role.

Aspects affecting leisure time

Leisure brings freedom, it is a time when one lives only for oneself and can freely realize oneself. It becomes more important as the individual grows older and their interests become clearer. The content of leisure time is based primarily on the factor of sufficient welfare and therefore it develops differently mainly in the conditions of a rich society. Of course, many social, political and economic phenomena, such as economic stagnation, crisis in a country or region, unemployment, etc., as well as a variety of demographic, cultural and other specific factors that can promote or reduce leisure can affect it. Its experience also depends on the focus and type of personality, as well as the type of upbringing, whether family, school or after-school, the social environment, cultural traditions, etc. Other determining factors also include age, gender, profession, education and relationship to work. Research shows that the value of leisure time is particularly appreciated by young people with higher education, employees, officials, pupils and students. On the contrary, pensioners,

farmers, lonely people with lower education, very low incomes and members of the lower classes attach low importance. (Langer, 2016).

Age

Measured by the amount and content of leisure time, people are most active around the age of 17, when the frequency of many of their activity's peaks. At this stage, the specific cultural and social focus of the human being and his / her lifestyle are also formed. In the following years, the frequency of leisure activities decreases significantly with increasing work and family responsibilities, and this trend persists - with some exceptions - up to senior age. Intergenerational differences can also be observed in the pursuit of various leisure activities. Older people still prefer DIY and gardening, while people under 30 are most likely to watch TV, meet friends and visit cultural or social facilities.

Gender

Unlike men, women are more focused on family and home, but more often they also attend various cultural events, theatres, galleries and public libraries, read more and focus on emotional rather than rational and activities. We observe rather the absence of individual hobbies (e.g. collecting), they are less active in sports activities, especially in collective sports. In their free time, men devote more time not only to sport but also to self-education. (Grofčíková, 2016).

Social groups

Each of the social groups (family, friends or professional group, etc.) to which people belong has its own system of values and norms, which of course affect how the available time is filled. Probably the most significant is the influence of the family. It directs all its members towards certain ways of spending their free time, especially by determining which activities are desirable and valuable. Different families encourage their members to participate in different activities.

Interests and needs

The concept of need is a manifestation of a certain lack of something necessary or desirable. Psychology emphasizes the subjectivity of this experience of scarcity, which inspires the individual to eliminate the tension that arises when examining the problem of needs. Needs therefore have a motivational function. They are divided, for example, into physical, social and mental; primary and secondary; congenital and acquired. The diversity of this categorization is primarily due to the inconsistent view of the relevant psychological

theories. Cultural and educational needs are largely influenced by family status, the nature of work, income, education, household composition, the cultural level of its members and family and local traditions. Another topic of sociological reasoning is the institutionalization of meeting these needs. (Bontová, 2015).

The term interest is a kind of motivational force related to the overall focus of a person on value-highlighted objects, with a relatively sustained effort to engage in subjects or activities that attract people emotionally or cognitively. It can be defined as a personality disposition determined by cognitive needs manifested in the action as a learned response influenced by values. Interests have a cognitive, emotional and value dimension. The cognitive aspect expresses the fact that it is necessary for the interest to know its subject, the emotional aspect concerns the pleasant emotions that accompany the contact with this subject, and the value aspect expresses the fact that the object of interest is subjectively assessed by the person as significant. This also explains the fact that in the sphere of interest there is no need to involve external incitement to engage in a particular activity. Based on the importance and preference given to the interest, the objectives of the negotiations are formulated.

Interests develop on the basis of existing needs, enable them to be satisfied and at the same time influence their character and the emergence of other needs. Achieving the goal is accompanied by satisfaction and a positive emotional attitude. Thus, a willingness to spend effort, time or money is typical of adult education.

Adult education includes a wide range of organized and individual education according to personal interests and needs. These interests can be saturated in the following ways:

- self-education, self-management by learning supported by relevant information sources (literature, Internet etc.),
- in a formal or informal organization specializing in education in a given area of interest,
- within or with the help of a formal or informal organization that does not directly specialize in providing leisure education, yet creates an educational stimulating environment that enables the individual to saturate their educational interests,
- a combination of the above for guided approaches, i.e. self-education accompanied by professional assistance from institutions and individuals. (Dvořáková, 2016).

Objectives and functions of leisure education

We assume that the main goal of education should be a universally and harmoniously developed personality, relatively independent, yet fully involved in social relations. We distinguish goals of cognitive, skill and value. In leisure time education, it is also often referred to as education in leisure time, for leisure time and free time. The purpose is primarily to exhaust the full potential of leisure, which is thus included in the lifelong educational and socialization process. Every individual should be given the opportunity to make good use of their free time (quality means creatively, with a focus on their own development).

Interest-based education intervenes in many areas of human life. The following overview recalls its main functions:

- worldview (orientation in understanding the world and the individual's position in it),
- general education (discerning and updating knowledge),
- socially adaptive (shaping to master social roles),
- social integration and control (transferring and creating a system of values to strengthen cohesion, integration of people into society),
- compensatory (overcoming one-sided and deficiencies of education, or one-sided workload and limited space for self-realization),
- popularization (spreading knowledge, stimulation for further education),
- propagandistic (shaping the attitude of an individual to current problems),
- qualifying (knowledge and skills needed to master job roles),
- economic,
- conservation (preserving values, maintaining continuity),
- updating, innovative (surpassing previously acquired knowledge),
- relaxing (including the art of relaxing, emotions play a big role),
- regenerative,
- prophylactic (valuable leisure time, overcoming monotony, boredom and stereotyping),
- self-realization,
- communicative or affiliate (intercourse between individuals based on common interests, expanding the circle of acquaintances),
- expressive (e.g. artistic activities, charity activities and hobbies).

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The probability theory and reliability analysis of devices and systems

Reliability is closely linked to the probabilistic analysis that allows to quantify the risk of potentially dangerous technologies and complex systems, e. g. probability of occurrence of a dangerous or undesirable event and its consequences. Furthermore, we can use probabilistic analysis to determine all combinations of failures of individual elements leading to the failure of the entire system and to determine their importance from the point of view of that failure. This is closely linked to the reliability of individual system devices – components, their reliability being highly dependent on the maintenance policy applied to the technology.

Project designer and equipment manufacturer are both interested in reliability because frequent failures can cause customer dissatisfaction. They must also ensure that failures do not pose a safety risk. Reliability and safety are not differentiated, e.g. in the aircraft engine. Most failures create a security risk. E.g. in the case of automatic nuclear reactor protection, a distinction is made between a safe and a dangerous failure. A safe failure leads to an unwanted decommissioning of the reactor and a loss of power supply. Dangerous failure prevents decommissioning in the case of need, when the monitored parameters reach emergency limits and can lead to accidents with severe environmental consequences. Failures in the electrification system can also be classified as safe and dangerous. They are safe when they only lead to a short-term loss of consumer power. They are dangerous if they lead to instability, partial or complete disintegration of the system with far-reaching economic and security consequences.

Fundamental Relations among Probabilities:

Using probabilistic methods, we need to know the fundamental relations between the probabilities and probability estimation procedures using test results and experiments [1].

Two or more events may occur in real situations. The relation within events is possible in the form of union, intersection, or complement of events. The occurrence of all three forms is also possible [1].

A complement of the event A is a set of all selection points in S, but not in A. A complement of A contains results from S that did not occur in A.

Union is defined for two events A and B in selection space S, as an event involving all

selection points in A or B, or in both and is indicated by the symbol $(A \cup B)$. Thus, union is an event when A, B, or both occur.

For two events A and B in selection space S, the intersection is defined as an event including all the selection points that are in both A and B, indicated by the symbol $(A \cap B)$.

Intersection is an event when both A and B occur.

In Fig. 1.1 is a symbolic representation of several results and events (Venn diagram). Event A1 includes three results, event A2 five, union seven, and intersection one result. Complement of A1 is an event that includes seven results. Sometimes it is useful to talk about an empty or zero file with no results. A3 is such an empty event [1].

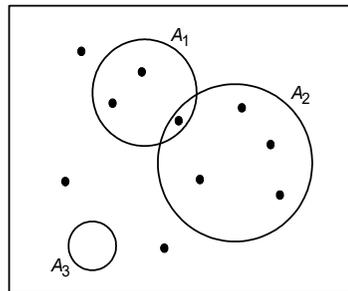


Fig. 1.1 Venn diagram illustrates ten results and three events [1]

Modelling of the Element Reliability:

The element reliability is most often characterized by the failure rate $\lambda(t)$, Weibull distribution of failures is assumed [2].

1.16

$$\lambda(t) = \frac{\beta}{\alpha} \left(\frac{t - \theta}{\alpha} \right)^{\beta - 1}$$

where: $\beta > 0$ - shape parameter,

$\alpha > 0$ - scale parameter,

$\theta = 0$ - location parameter.

An example of the time-dependent failure intensity course (bathtub curve) is shown in Fig. 1.2.

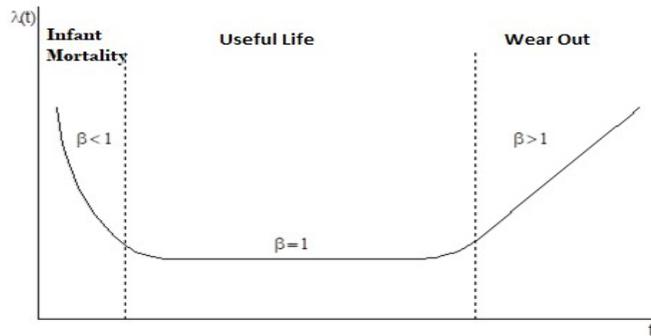


Fig. 1.2 The bathtub curve

The bathtub curve has three characteristic sections:

1. Infant mortality - is characterized by a high initial value $\lambda(t)$, which reflects the fact that elements with hidden failures causing a failure immediately after they are put into operation can occur in a group of elements of any size.
2. Useful life - is characterized by slight aging of units and accidental occurrence of failures; shows a nearly constant failure rate.
3. Wear-out - is characterized by an irreversible phenomenon leading to a rapid deterioration of element quality.

Different types of elements have a different bathtub curve shape. E.g. electronic elements are characterized by a very short infant mortality and wear-out period; mechanical elements have a long wear-out period since their slow wear follows the infant mortality immediately. Computer software has no wear-out period.

The failure rate is generally considered to be a constant in reliability analyses $\lambda(t) = \lambda$. The constant failure rate model results in an exponential failure distribution, which is a special case of Weibull distribution for $\delta \lambda = 1$. The probability of an element operating failure-free is then given by the following relation:

$$R(t) = e^{-\lambda t}$$

Calculation of the Simple Systems Reliability:

The structure of a simple system is usually serial, parallel, and serial-parallel. This section describes the individual connections and their reliability calculation [2].

The probability of failure-free operation of a serial system comprising n elements is as follows:

$$R_s(t) = R_1(t) R_2(t) R_3(t) \dots R_n(t)$$

The failure of a single element suffices to cause a system failure. The system is operational only when all its components are in working order.

The failure probability of such system:

$$Q_s(t) = 1 - R_s(t)$$

The failure probability of a parallel system comprising n elements:

$$Q_s(t) = Q_1(t) Q_2(t) Q_3 \dots Q_n(t)$$

A system failure requires a failure of all elements. The system is operational when at least one of the elements is in working order.

The probability of failure-free operation of such system:

$$R_s(t) = 1 - Q_s(t)$$

The Calculation of the Complex Systems Reliability:

Fault trees and event trees are tools for quantitative analysis of the complex systems reliability. There are two approaches of analysing the causal relations: analytical and synthetic. The analytical approach starts with a system failure and looks for possible causes of failure (fault tree). The synthetic approach starts with a set of initiating events and gradually finds possible consequences (event tree). The use of both approaches is essential in order to achieve complexity in the reliability and operation risk analysis of complex systems [4].

The minimal cut sets method is used to calculate reliability when the system cannot be modelled by using serial or parallel connection (e.g. the bridge structure in Figure 1.3). The minimal cut set is the smallest group of elements whose current failure causes a system failure. The elements in the minimal cut set are in a parallel function binding, only the failure of all elements in the cut leads to a system failure. The occurrence of any minimal cut set leads to a system failure. They are in a serial function binding and any minimal cut set results in a system failure.

The electric current flows in the direction of the arrow through elements 1 – 5 in a bridge structure. Failure of a single element does not cause a system failure. The system does not have a first order minimal cut set. Failure of the system is caused by simultaneous failure of elements 1, 2 or 4, 5. These are the second order minimal cut sets. The third order minimal cut sets are: 1, 3, 5 and 2, 3, 4. The simultaneous failure 1, 2, 3 or 3, 4, 5 will cause a system failure, but such a grouping of elements is no longer minimal, since it contains second order cuts of 1, 2 or 4, 5 respectively.

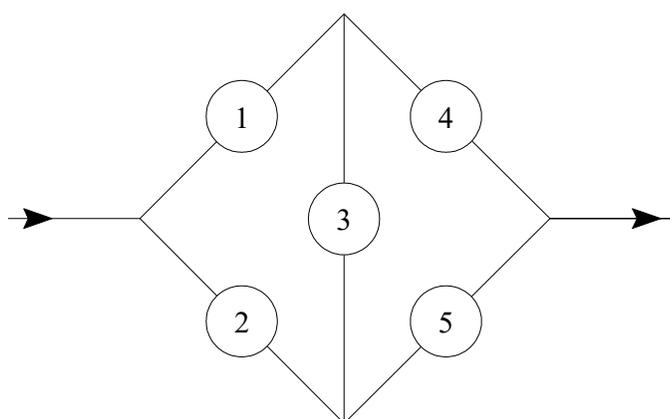


Fig. 1.3 Bridge structure of the elements [4]

The minimal path is the smallest group of elements whose operation will ensure the operation of the whole system. Elements in the minimal path are in parallel function binding, only operation of all elements leads to system operation. The occurrence of any minimal successful path leads to system operation. The minimal successful paths are in series function binding; any minimal path can lead to the system operation.

The bridge structure does not have a first order minimal path; second order minimal paths are 1, 4 and 2, 5; third order 1, 3, 5 and 2, 3, 4. The paths of 1, 3, 4 and 2, 3, 5 are not minimal since they contain a second order minimal path 1, 4 or 2, 5, respectively.

The minimal cut sets are used in practice in the reliability analysis. Computing programmes for fault trees building and analysis prefer them in order to simplify the failure probability record (e.g. 2.0E-4, 5.0E-5, 6.0E-7, etc.) compared to the probability of failure-free operation (e.g. 0, 9998, 0.99995, 0.9999994, etc.).

Assuming the independence of element failures, the probability of system failure can be calculated at each minimal cut set based on the knowledge of function bindings between the minimal cut sets.

Each minimal cut set M_i , $i=1,2, 3..., n$ consists of one or more elements. The probability of the minimal cut set occurrence $P(M_i)$ is the product of element failure probability found in the cut.

The probability of system failure expressed by minimal cut set is given by the following relation:

$$Q_S = P(M_1) + P(M_2) + \dots + P(M_n) \quad (P_1)$$

$$\begin{aligned} & - P(M_1M_2) - P(M_1M_3) - \dots - P(M_1M_n) \\ & - P(M_2M_2) - P(M_2M_4) - \dots - P(M_2M_n) \\ & - \dots - P(M_3M_n) - \dots - P(M_{n-1}M_n) \end{aligned} \quad (P_2)$$

$$\begin{aligned} & + P(M_1M_2M_3) + P(M_1M_2M_4) + \dots \\ & + P(M_1M_2M_n) + P(M_1M_3M_4) + \dots \\ & + P(M_1M_3M_n) + \dots + P(M_{n-2} M_{n-1}M_n) \end{aligned} \quad (P_3)$$

$$\begin{aligned} & - P(M_1M_2M_3M_4) - \dots - P(M_1M_2 M_3M_n) \\ & - \dots - P(M_{n-3}M_{n-2}M_{n-1}M_n) \end{aligned} \quad (P_4)$$

$$+ \dots + (-1)^{n+1} P(M_1M_2M_3 \dots M_n) \quad (P_n)$$

P_1 is the upper approximation for Q_S , $P_1 - P_2$ lower approximation for Q_S . P_2 is the sum of the double combinations of minimal cuts occurrence probabilities; P_3 is the sum of the triple combinations of cuts occurrence probabilities, etc.

The exact value of Q_S is obtained by creating all n combinations of minimal cut sets, while the sums of even combinations probabilities are subtracted from the sum of the odd combination's probabilities.

Modelling of Elements Reliability:

The most widespread method of reliability engineering is the fault tree method. It was developed in 1961 by H. A. Watson at Bell Telephone Company to analyse the rocket launch system reliability. D.F. Haasl from Boeing Corporation and W. E. Vesely from Idaho Nuclear Corporation contributed greatly to the further improvement of the method.

A fault tree is a logic diagram that derives the system failure from its element failures using the Boolean algebraic method. It serves for qualitative and quantitative analysis of system reliability. The minimal cut sets are the qualitative analysis results. The system failure probability is the result of the quantitative analysis. Fault tree analysis allows to determine the causes of system failures, identify the system weaknesses, and increase its reliability. Using this method, the analyst penetrates deeply into the behaviour of the system under the conditions of its failure [5].

Since Boolean algebra is used to construct the fault tree, the elements and systems are characterized by binary states: failure and operation. Therefore, it is difficult to model situations where more than two conditions need to be taken into account, e.g. high, low, or normal transformer output voltage. In addition, the system is required to be coherent: system reliability is not increased by the failure of one or more of its elements.

The fault tree is a logical representation of the system; therefore, a very precise definition of the system and the analysed peak event is needed. The exact system definition is the most difficult part of the fault tree design. The main problem lies in the definition of the system boundaries. This definition can be almost arbitrary. E.g. in the system where the generator supplies the switchboard, the cables may be separate elements or parts of the generator. The time of the element failure occurrence is particularly important when the element is subject to regular inspection and maintenance. The choice of the boundaries is determined by the goal set for the system analysis. The system distinguishes between external, internal, and time boundaries.

External system boundaries are influenced by factors, which affect the occurrence of the peak event and its extent. Is it necessary to include the generator fuel tank in case the generator supplies the switchboard? If so, do we include the fuel-transporting pump as well? Is the possibility of external damage to the generator, e.g. by lightning, taken into consideration? This issue is sometimes insubstantial and may be neglected in some cases (except when the generator is placed in the mountains with frequent storms occurrence).

Internal boundaries determine to what detail the system reliability is investigated. Is the generator classified as a single element or can it be divided into several elements? In the latter case, a detailed estimate of the cause of the system failure is possible. The choice of solution depends on two factors. When changes to the system project are made based on the results of the analysis, the primary events (events that do not continue to develop in the tree) are failures of those elements that can be removed or replaced when the system is modified. When only a system reliability estimate is required, the elements must be chosen so that reliability data is available.

The reliability of the system may vary with time, e.g. during maintenance or when some elements behave differently under different operating conditions. E.g. the reliability of the battery that powers the switchboard depends on whether there is a generator available to charge it. Battery failure rate is different during operation compared to the hold mode. Therefore, the databases provide two different failure rates for the same element. When constructing a fault tree, it is necessary to specify not only the element itself, but also its actual state and whether it is time-dependent.

A qualitative classification of element failures is needed. First of all, it is necessary to differentiate the active and passive elements. The difference in their failure rates can be significant. E.g. the power circuit breaker failure rate (active element) at shutdown is much greater than the line failure rate (passive element). It has been observed that the failure rate of the active elements is two or three orders of magnitude higher than in the case of passive elements.

The element failure is divided into a primary, secondary, and failure due to auxiliary security systems. A primary failure is a state of non-emergency in which an element is inoperative. Repair or replacement is required. This is caused by an accidental failure or ageing. The secondary failure has the same consequences as the primary, but the causes are external, e.g. environmental influences, incorrect personnel intervention. Primary and secondary failures are modelled as the primary event in a fault tree. An element failure may also occur due to the loss of a control signal, power supply, cooling, etc. These are auxiliary security system outputs, and their failure is analysed in the form of a fault tree.

It is important to know the type, impact, and mechanism of the failure. Insufficient diesel generator performance is subject to the type of its failure, e.g. the diesel generator does not start or has a failure after the start. The failure mechanism is e.g. engine seizure caused by an insufficient lubrication.

When constructing a fault tree, the location of an element failure in a tree always depends on its effect on the system. The greater the effect on the system, the higher the failure is located. If the diesel generator supplies the electric current to another system and the supply is insufficient, the failure of the element manifests itself at the system level as a failure mechanism. On the other hand, engine seizure occurs due to insufficient lubrication. This could be a human maintenance error, which manifests itself at the element level.

The fault tree construction begins with a peak event. The analyst constructs the tree determining the causes of the peak event occurrence. The causes are clearly defined failures. The most important is to determine the time and place of the occurrence. Downward from the peak event there are system element failures (primary events) and auxiliary security systems failures. The following is recommended for the development of the fault tree:

1. Substituting an abstract event by the less abstract one. Example: instead of "diesel generator does not start" use "diesel generator does not start due to a loss of start signal",
2. Dividing the event into multiple elementary events. Example: instead of "circuit breaker failure" use "circuit breaker does not switch off" or "circuit breaker does not hold the closed position",
3. Determining the clear causes of the event. Example: instead of "auxiliary system failure" use "loss of power" or "loss of cooling", etc.,
4. Failure event connection followed by automatic protection failure. Example: instead of "diesel generator overheating" use "diesel generator cooling loss" and "failure of the automatic stand-by of secondary diesel generator",
5. Finding out all the causes of the event formation. Example: instead of "fire" use "presence of flammable substance" and "occurrence of initiation source",
6. Advanced event description. Example: instead of "no power supply" use "main switch opened" in connection with "the emergency switch does not close".

The structure of the fault tree is shown in Fig. 1.4. The construction of the tree is based on a precisely defined system failure, referred to as the peak event at the top of the fault tree. The

fault tree branches from there and chains of primary events that may create an undesirable peak event are formed. Logical relations between events are expressed by logical gates **A** (AND), **OR** (OR) and other gates of the Boolean algebra. The primary fault tree events are element failures, operation errors, testing and maintenance non-emergencies, as well as faults with common cause. They are attributed probabilities of occurrence and are developed no further.

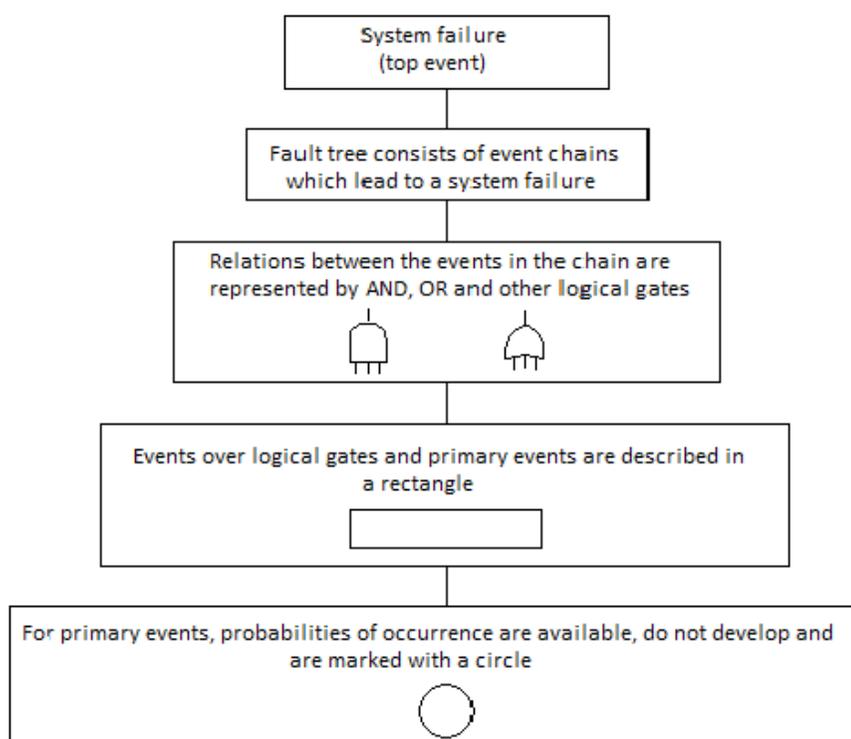


Fig. 1.4 The basic structure of the fault tree [5]

Logical gates link events according to their causal relations. A gate can have one or more input events, but only one output event. The logical gate output event **A** occurs when all input events occur simultaneously. A logical gate output event **OR** occurs when at least one of the input events occurs.

The primary fault tree event is represented by a Boolean variable, e. g. the variable that can acquire two values: yes (1) and no (0). Boolean algebra uses logical disjunction, logical conjunction, and negation (logical complement) most often. These operations are marked as follows:

X and Y	$X \cdot Y$
X or Y	$X + Y$
not X	X'

The fault tree is a graphical display of the Boolean equation. By using the relations of Boolean algebra ($X \cdot X = X$ and $X + X = X$, $Y = X$), the already assembled fault trees can be simplified and minimal cut sets obtained.

The design and analysis of fault trees is performed by using computational programs. Nowadays, RISK SPECTRUM PSA [10] is the most common program in our country and in the world as well. The calculations result are minimal cut sets and system failure probability. The programme can also identify indicators of the importance of primary events in terms of overall system reliability. Indicators such as *FV*, *FC*, *RDF* and *RIF* are used the most.

The event tree represents the technology reaction to the occurrence of an unwanted event - e.g. accident initiation event. It allows to systematically identify the emergency chains depending on whether they incorporate safety systems called for accident control activity. In order to quantify the frequency of each chain occurrence, it is necessary to know the frequency of the initiating event occurrence and the probability of the system failures called for action. The fault tree method is used to calculate the reliability of the systems.

When all probabilities in the emergency chain are known, their product together with the frequency of the initiating event occurrence gives the frequency of the emergency chain occurrence.

The emergency chain is also characterized by its end state, i. e. the consequence. When systems called for action work successfully, the consequences of the initiation event on technology are suppressed or mitigated. System failures can have serious consequences.

In emergency scenarios, the initiation event of accident, e.g. the element failure, may have insignificant but also catastrophic consequences. These consequences can be determined by analysing the effect of the safety or security systems and human errors in the response to the initiation event on the progress of the accident.

Systems that require high reliability are designed in a way that another element of the same

system can perform the function of the damaged element. Redundancy of elements or parts of the system is the most convenient solution to secure this requirement.

The two parallel redundant elements A and B are shown in Fig. 1.5, while the operation of one element is enough for the system to function successfully.

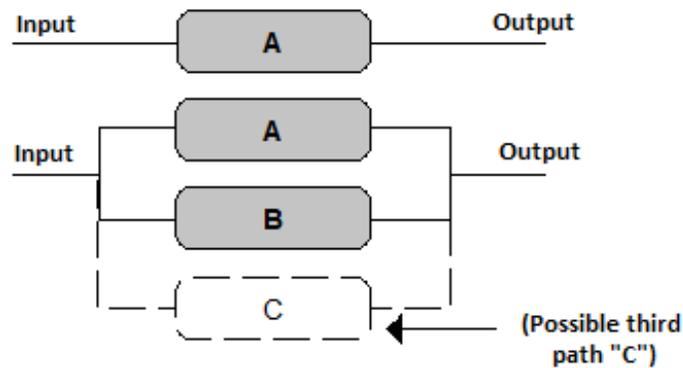


Fig. 1.5 Simple and redundant system [3]

However, simple redundancy alone does not ensure high system reliability. The project designer must minimize the possible occurrence of events that may cause system failure. Such events, which may cause the failure of two or more elements of the system, are called dependent failures.

In the fault tree modelling, it is often assumed that all primary events occurring in the model are independent. Then the fault tree for the system is as shown in Fig. 1.6.

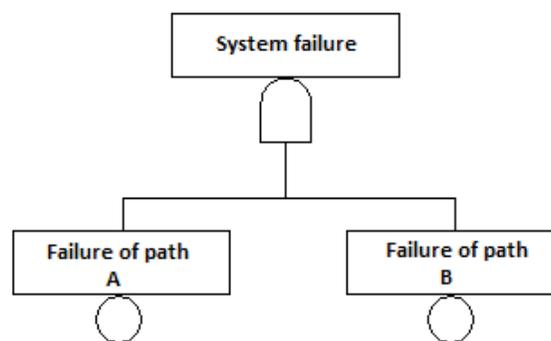


Fig. 1.6 Fault tree of redundant system [3]

Based on Boolean logic, the minimal critical cut of system is $A.B$, assuming that A and B are independent. Then the system failure probability is as follows:

$$P(A \ll B) = P(A) \ll P(B)$$

When the probability of a single line failure is:

$$P(A) = P(B) = p = 10^{-3}$$

then the system failure probability is:

$$P(A \ll B) = p^2 = 10^{-6}$$

When a third line with an element C is also built into the system, the probability of a system failure is as follows:

$$P(A \ll B \ll C) = P(A) \ll P(B) \ll P(C) = p^3 = 10^{-9}$$

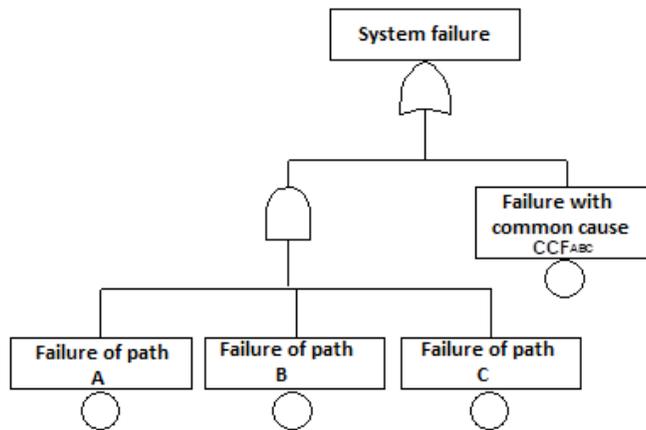


Fig. 1.7 Fault tree of redundant system with common cause [3]

However, there is no consideration for the possible failures with a common cause, i. e. dependent failures that can cause a simultaneous failure of all three redundant elements, as shown in the fault tree in Fig. 1.7 and expressed by the relation:

$$P(A \ll B.C) \oplus P(A) \ll P(B).P(C)$$

1.47

There are several methods (Alpha Factor Method, Beta Factor Method, Multiple Greek

Letter Method, etc.) to calculate the probability of a common cause failure. The Beta Factor Method is most commonly used. All methods assume that if a common cause failure occurs in a group of redundant elements, all these elements fail. In the model, the failure rate of the device is divided into two parts: 1) the rate of the random, independent failures λ_c and 2) the rate of the failures with the common cause λ_{ccf} .

The failure rate of the element will then be:

$$\lambda = \lambda_c + \lambda_{ccf} \quad 1.48$$

Moreover, the dependence of $\lambda_{ccf} = \beta \lambda_c$ is assumed, where β depends on the actions carried out on the system to prevent common cause failures.

This dependency is purely empirical, but the data collected (from nuclear industry and other industries) show that the beta value ranges from 0.001 to 0.4.

The choice of beta value for the system is based on the following factors:

- the diversity degree,
- the system type (simple or complex; simple systems do not have some design and maintenance related failures),
- the redundancy degree (the higher the redundancy, the lower the beta factor),
- system measures taken and focused to prevent common cause failures (the stricter the measures, the lower the beta factor).

When a value 0.1 of beta factor is assumed, then the probability of failure of the three-line system of Fig. 1.6 will be:

$$P(A \leq B.C) = 10^{-9} + (10^{-3} \cdot 10^{-1}) = 10^{-4}$$

It is clear from the result that absolute reliability, or even absolute safety, cannot be achieved by increasing the number of redundant lines. This prevents the occurrence of common cause failures. Increasing the number of redundant lines is costly for complex systems, therefore it is done rationally and within reasonable limits only.

Common cause failures are considered for all active and passive, periodically controlled elements (e.g. switches, diesel generators, electrical protections, etc.) that are in redundant relation. Different connecting factors are considered when defining the failure group with common cause:

- element type, including design characteristics (e.g. dimensions, material, etc.),
- element structure (e.g. manufacturer, etc.),
- element operating characteristics (e.g. power, temperature range, maintenance requirements, etc.),
- element location (e.g. physical separation of redundant lines),
- environmental influence (e.g. temperature range, humidity, barometric pressure, radiation exposure, etc.),
- Initial conditions of the element (e.g. switch normally closed, normally open, etc.) and operating characteristics (e.g. the element is in operation or in standby mode, etc.),
- element test procedures (e.g. evaluation interval, alternate or simultaneous testing of multiple lines, etc.),
- element maintenance procedures (e.g. preventive maintenance frequency, etc.).

Connecting factors provide common guidance for common cause failures analyses:

1. When the same, functionally identical active or passive elements, which are from the same manufacturer and operate on the same physical principle are used to ensure redundancy, then they shall be assigned to the same group of failures with a common cause,
2. If the elements are not the same, they are not from the same manufacturer, they work on a different physical principle, they do not belong to the same group of failures with a common cause.

Common cause failures are incorporated into logical models (fault trees) as primary events (Fig. 1.7).

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Legality and admissibility of evidence in matters of administrative punishment

***Annotation:** In his contribution, the author deals with the realization of drawing administrative legal responsibility against accountable individuals. The text comprehensively declares the decision-making process in the sphere of administrative punishment, with deeper emphasis on the process of substantiation in the continuity of applying the principles of administrative punishment. In this regard, the author points at the individual factors of increasing demands on the substantiation process within administrative punishment, especially on the process of examining the relation between legality and procuring evidence admissibility towards administrative entities. This contribution devotes attention mainly to issues of evidence admissibility, which were obtained or executed in a different proceeding. The author mentions basic questions, to which an administrative entity has to respond affirmatively in the course of seeking the answers to the question of evidence admissibility. Attention is especially devoted to criteria which underlie admissibility or inadmissibility of evidence.*

***Key Words:** administrative punishment, substantiation, legality and admissibility of evidence, illegality of evidence, judicialization of administrative punishment*

Introduction

Administrative responsibility is a specific type of legal responsibility, applied in the field of public administration. Administrative-legal responsibility occurs when it comes to violation of social relations, secured by administrative law. The formation of responsibility is, at the same time, constituted by the formation of obligation to bear and absorb sanctions. Therefore, wrongful conduct of a subject of administrative law is considered as a basis of administrative-legal responsibility, for which it is possible to impose administrative sanctions. This kind of wrongful act is referred to as administrative delinquency and hence, legal administrative responsibility is a responsibility for administrative delinquencies.¹

By administrative punishment we understand drawing responsibility for administrative delinquencies, conducted by legal-administrative or administratively legal responsible

¹ PRŮCHA Petr: Základy správního práva a veřejné správy, Edice učebnice Právnické fakulty Masarykovy univerzity v Brně no. 33, Serial number: 1914. Issue no. 1, 1992, p. 133, ISBN 80-210-0511-4.

individuals. The consequences of exercising this responsibility, which is drawn by entities of public administration or self-government, manifest themselves in the proprietary sphere of administered subjects or in the sphere of other rights and liberties of wrongdoers of administrative delinquencies.

Substantiation within the realization of the administrative punishment process

A significant part of the decision-making process in the sphere of administrative punishment is the process of substantiation. Neither the Legislative Act No. 71/1967 of the Administrative Code subsequently amended, nor the Legislative Act on Delinquencies numb. 372/1990 of the Collection of Laws on Delinquencies subsequently amended, do not contain any distinctive definition of the term substantiation, nor do they accurately outline the process or the specific phases, or stages of the substantiation process. An administrative entity has to be conducted by basic principles of the proceeding and the principles analogically deduced from criminal proceedings. The aim of substantiation is to gain and evaluate direct knowledge and information for the decision of the administrative agency, which is possible to be gained from the evidence material, so that all signs of the subject-matter of the administrative delinquency could be clarified. This means, that evidence derived from the evidence material has to be directed at the ascertainment and clarification of the issue in fact and has to be in compliance with legal enactments.

Evidence gained from evidence material has therefore to be legal. By legality of evidence we mean determination, that it was obtained from a source which is established or acknowledged by legislative act, that it was ensured and executed by an authorised person and that this happened in adequate phase of the administrative proceeding, for example by clarification of infringement, by execution of control, state expert inspection or alike and if the evidence was gained by such a practice, which is in compliance with legal enactments. If this does not happen, it is an illegal evidence. Besides legality of evidence, there also exists the so-called procedural applicability of evidence (inadmissibility of evidence), by which we basically talk about legal evidence, which in respect of certain circumstances cannot be applied in the subsequent course of the proceeding and it is not possible to lead off from it by conditioning the issue in fact (i.e. an "X" person first testifies by procedural stance of a witness, this testimony is executed fully in compliance with the law, therefore it is a legal evidence, however subsequently, in the same proceeding, a charge is brought against this witness. In this case, the deposition made within the procedural position of witness in the subsequent course of the proceeding is not applicable, because the person already has a

procedural status of accused and it is not possible, in the same proceeding, to have a procedural status of witness and simultaneously a procedural status of accused. From this testimony of witness it is therefore not possible to gain any information.²⁾

In criminal proceedings and criminal practice, there are usually five criteria of legality of evidence, articulated by Bohumil Repík (Repík, B.: Procesní důsledky porušení predpisu o dokazovaní v trestním řízení. Bulletin advokacie, 1982), and thus:

1. if the evidence was gained from a source, which is established or enabled by law,
2. if the evidence was gained and executed by procedural subject, which is justified to it by law,
3. if the evidence was gained and executed in that procedural phase, in which the relevant procedural subject is by law authorized to investigate and exercise evidence in a procedural way, i.e. that kind of evidence, which can form a basis for decisions in criminal prosecution mainly for the decision of the court,
4. if the gained and executed evidence concerns the subject of substantiation in the given process, i.e. if it concerns the act, about which the proceeding is conducted, or questions, about which it is by law necessary to decide in compliance with this act,
5. if the evidence was gained and executed by means, which is determined or enabled by law.

These criteria can be adequately applied also to defining and classification of legality of evidence in administrative punishment by enforcement of administrative-legal responsibility.

Administrative procedure views evidence as a part of group of the so-called bases for decision (§ 32 Art. 1 Act No. 71/1967 of the Administrative Code), whereas the circuit of evidence or proper evidence, which are possible to apply by substantiation, indicate only account in provisions § 34 Art. 2 Act No. 71/1967 Administrative Code subsequently amended.³ The term basis for decision is a wider term than evidence, as it covers all materialized or unmaterialized knowledge, which the administrative agency has by decision-making at disposal. Among the differences between the terms evidence and basis for decision

² ŠAMKO Peter: sudca krajského súdu v Bratislave. Nezákonné a nepoužiteľné dôkazy. Article published on 06.12.2014 in Právne listy. Source internet.

³ MOLITORIS Peter: Zborník Studia Iuridica Cassoviensia. Vzťah medzi zákonnosťou a prípustnosťou dôkazov vo veciach správneho trestania, p. 35, ISBN 1339-3995, issue 6/2018, number 1.

we could mention, that evidence should have a materialized form (for example, hearing record, register, expert testimony), thus it should be at disposal in a form, so that also the member of the proceeding, an expert or agency, which will examine the decision within the proceeding about the proper or extraordinary legal remedies, could become acquainted with it. Basis for decision could also be knowledge which does not have to have strictly materialized form (e.g. generally known facts, facts well-known by the administrative agency by its activity). Evidence should concern factual circumstances of the issue, eventually personal relations of the accused or witness, but not legal evaluation of the issue. Other bases for decision can have a form of legal argumentation (e.g. declaration of participants, positions of respective authorities). Eventually, we could mention that evidence should have an objectivized character in relation to the facts to be proven, whereas the other bases for decision could entirely legitimately bear a significant subjective element (e.g. subjective evaluations of the issues by participants, legal views articulated in declarations of respective authorities etc.)⁴

In administrative procedures, as an evidence only those materials are admissible, which are in compliance with legal enactments. The requirement of evidence conformity with legal enactments needs to be interpreted that way, that it does not concern only the compliance with procedural rules derived from the Act No. 71/1967 on Administrative Proceedings subsequently amended and from the Act No. 372/1990 Collection on Delinquencies subsequently amended, but also the compliance with procedural rules and principles resulting from international regulations or documents, which define the demand of good public administration. For example, from Article No. 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, it is possible to deduce, in relation to substantiation, a demand of detailed acquaintance with the character and cause of indictment, a demand to allow for adequate time and possibility of defense preparation, a demand to afford interrogation, or have interrogate witnesses and reach a subpoena for witness interrogation for their benefit on equal terms, as in the case of witnesses versus the accused and, eventually, a demand of free-of-charge help of an interpreter, in case the individual does not understand the language used in the proceeding.

In the provisions of § 34 Art. 1 Act No. 71/1967 Administrative Code subsequently amended it is stated that for the aims of substantiation all means can be used, by which it is possible to determine and explain the real state of affairs which are in compliance with the legal enactments.

⁴ MOLITORIS Peter: Zborník Studia Iuridica Cassoviensia. Vzťah medzi zákonnosťou a prípustnosťou dôkazov vo veciach správneho trestania, p. 35, ISBN 1339-3995, issue 6/2018, number 1.

The Constitutional Court of the Slovak Republic in its ruling II. ÚS 5/2011-77 from 15th December 2011 stated that a procedural provision, in terms of which as evidence can serve all means, by which it is possible to determine and explain the real state of affairs, as long as they are in compliance with the legal enactments, needs to be from a constitutional aspect considered as a collusion of public interest and defense of rights. It is a mid-point between public interest in consistent clarification of facts necessary for issuing decisions in proceedings and the defense of certain rights, respectively justifiable interests, which prevent the application of some proper evidence. In general, we can state that public interest has priority in thorough clarification of decisive matters necessary for issuing a decision, however, in parallel with a collaboration of checks existing with regard to guarding certain rights, resp. authorized interests. By this it is given that not all means, by help of which it could objectively be possible to determine and clarify the real state of affairs, resp. rather the issue in fact, can be used in the respective proceeding.

This means, that in an administrative proceeding the administrative agency has to examine the legal consistency of formal and procedural procedures, by means of which a certain evidence was obtained and executed, and has to unambiguously respond to the question, whether this certain evidence is admissible in the proceeding, and if it is possible to proceed to the elaboration also in contextual sense and consider its usage as a basis for decision. In the field of administrative punishment, an administrative agency has to enforce all principles referring to this proceeding, whether they should be explicitly expressed in the Act No. 71/1967 on Administrative Proceedings subsequently amended and respective international documents, or implicitly deduced by analogy of criminal law. This poses high demands on the process of substantiation in administrative punishment.

In examining the relations between legality and admissibility of evidence in administrative punishment, these four situations can occur:

- a) the evidence is obtained in a legal manner and its usage is admissible in administrative proceeding,
- b) the evidence is obtained in a legal manner; however, its usage is inadmissible in administrative proceeding,
- c) the evidence is obtained in conflict with the law and despite of that is its usage admissible in administrative proceeding,
- d) the evidence is obtained in conflict with the law and its usage is not admissible in administrative proceeding.

Evidence obtained in a legal manner and its usage is admissible in administrative proceeding

To this group of evidence belong pieces of evidence executed by administrative agencies in compliance with the demands for substantiation. Evidence obtained by other agencies can also belong here, e. g. by agencies operating in criminal procedures, or by courts through assignment of issues because of the fact that it is not a criminal case and similarly, if their further usage in administrative proceedings is not prevented by any obstacle. Usually these are pieces of evidence that are nonrecurrent, as a notice from the scene of accident with photo documentation, record from the search of premises etc. To this group can belong also evidence obtained, respectively executed by participants of the proceeding, e. g. record from industrial video camera used in compliance with the law.

Evidence obtained in a legal manner, its usage is, however, inadmissible in administrative proceeding

This group includes evidence, the strict liability of which with a certain type of procedure does not enable its usage in other proceedings, or it is significantly limited. Usually these are pieces of evidence obtained by the application of information-technology means in accordance with § 114 and § 115 of the Act No. 301/2005 St. of the Criminal Law subsequently amended, eventually in accordance with the Act No. 166/2003 St. on the Defense from Phone-tapping.

The question of applicability of this type of evidence in administrative proceedings was debated by the Constitutional Court of the Slovak Republic in the above-mentioned ruling II ÚS 502011-77 from 15 December 2011, as well as by the Supreme Court of the Slovak Republic in ruling Sžo 29/2013 from 25 December 2013. The Constitutional Court within this context specified that from the provisions § 114 and § 115 of the Act No. 301/2005 St. of the Criminal Code emerges a fundamental prohibition of using a video-audio record obtained within a particular criminal proceeding in another criminal proceeding, however, with some enumeratively named exceptions. The Criminal Code makes provisions for obtaining and applying video-audio records elaborated by information-technology means only within criminal proceeding. On the other hand, obtaining and applying video-audio records elaborated by information-technology means in other proceedings, respectively for the purposes of other proceedings, is regulated by the Act No. 166/2003 Statute on the Defense

from Phone-tapping in provisions § 1 Article 1 and 2. The Constitutional Court in this ruling in question pointed out the wording of § 3 of the Act No. 166/2003 Statute on the Defence from Phone-tapping, according to which information-technology means can be used only if it is necessary in a democratic society for protecting the rights and liberties of others.

An administrative agency should therefore, in order to determine the admissibility of evidence in administrative proceeding, the admissibility of which is disputable, carry out a test of evidence admissibility, within which it should respond to these fundamental questions:

1. if the evidence was secured already in the original proceeding in a legal manner,
2. if the administrative agency has evidence at its disposal in a form that it can verify its authenticity and rightness,
3. if the administrative agency has a legal right to verify legality and authenticity of evidence,
4. if it will be possible to legally implement the evidence also in a respective specific administrative proceeding, and that with due regard for substantive object of regulation, which is said to be violated by administrative delinquency.

A negative response to either of the above-mentioned questions does not enable the administrative agency to come to an univocal conclusion about the admissibility of evidence in the proceeding on the administrative delinquency. For example, the administrative agency will have at its disposal a copy of records from the tapping according to § 115 Art. 6 of the Act No. 301/2005 Statute of the Criminal Procedure, subsequently amended, however, it will not have at its disposal the original records, in order to verify the authenticity of this evidence, as the degree of confidentiality does not allow to gain an order to become familiar with the audio record. Proceeding on an administrative delinquency is an autonomous proceeding, which is independent from the criminal proceeding, therefore the administrative agency cannot establish a statement on the legality and admissibility of evidence on just one easy presumption that the evidence was forwarded in a legal manner from another state agency. The administrative agency should have at least the possibility to verify, whether the command to implement the informational-technology means according to the Act No. 301/2005 St. on Criminal Procedure subsequently amended, or according to peculiar provision, had been issued.⁵

⁵ MOLITORIS Peter: Zborník Studia Iuridica Cassoviensia. Vzťah medzi zákonnosťou a prípustnosťou dôkazov vo veciach správneho trestania, p. 38, ISBN 1339-3995, issue 6/2018, number 1.

Inadmissible evidence includes for example findings obtained by the employees of the administrative agency, by participation in local examination executed by another administrative agency. The administrative agency cannot, in a proceeding on issuing an administrative sanction, use instead of due proof procedurally not underpinned findings, which are not a content of their writing. For example, protocol on local inquiry and oral proceedings led by the building authority and not by the administrative agency, which imposes fines, in its own right provides bases for conclusions, which are of concern for the building or building acceptance proceeding, but these conclusions are not an evidence of for example that fact, that a participant of the proceeding in the matter of imposing a fine produces waste, does not provide their amount, composition etc. Therefore, the protocol of the building authority cannot be used as an evidence material and deduce from it evidence on filing the signs of merits of the case of the administrative delinquency, for which it has to be punished. Thus, findings deduced from the protocols of other proceedings, led by other agencies in different matters, form inadmissible evidence.⁶

Evidence obtained in conflict with the law, however, its usage can be admissible in administrative proceeding

These concern evidence obtained by participants of the proceeding by themselves and given to the disposal of the administrative agency. Practically this usually means audio-visual records made unknown to or without the consent of the person, whose personal communication is on this respective record captured. In this case, especially problematic is the inconsistency with provisions of civil law, regulating protection of personality and communication of personal nature in the sense of § 11 subsequent Civil Code, as well as in the Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms and in the Art. 16 and 19 of the Constitution of the Slovak Republic.

As far as the administrative agency considers using this kind of evidence, it should put it through a proportionality test and weigh, whether it is adequate to give priority to public interest in revealing anti-society acts, or to the right of the respective person to personality protection. On the ground of the provisions of Art. 16 of the Act No. 160/2015 St. on Civil dispute procedure, the court, by negotiating and seceding on the matter, does not consider facts and evidence that were obtained in conflict with the law, unless the execution of the evidence obtained in conflict with the law is deduced from application of Art. 3 section 1 of the cited statute. Within the framework of the admissibility test of using the evidence obtained

⁶ ŠIŠKEOVÁ Sylvia a kolektív: Přehled judikatury ve věcech správního trestání. Issued by ASPI, a. s. at Nákladové nádraží č. 6, Praha 3 in 2006 as 36th Svazek ediční řady – Přehled judikatury, pgs. 665-666. ISBN 80-7357-200-1.

in conflict with the law, the administrative agency should answer these questions:

1. if, in this specific case, occur so extraordinary circumstances, that any other procedure is absolutely impossible and by inadmissibility of that evidence should occur a threat of apparent injustice,
2. if, in spite of admitting evidence, which was obtained in conflict with the law, guarantees of a just process will be held in relation to all participants of the proceeding,
3. if, in this specific case, will be, with due regard for the principle of proportionality, evincible preferring public interest, resp. interest of the injured party, to the protection of interest of the subjects aggrieved by the evidence, which was obtained in conflict with the law.

Resulting from the provisions of Art. 15 section 2 of the Act 160/2015 St. of Civil Dispute Procedure, the court does not consider facts and evidence obtained in conflict with the law, unless the evidence obtained in conflict with the law is justified by applying the Art. 3 section 1 of the above-mentioned Act. From these provisions of the Civil Dispute Procedure results that each provision has to necessarily be explained in conformity with the Constitution and European regulations, respecting the jurisprudence of the European Court of Human Rights and the European Court of Justice, i.e. in conformity with the Constitution of the Slovak Republic, public procedure and principles, on which the Civil Dispute Procedure rests, with international commitments of the Slovak Republic, which take preference over the law, the jurisprudence of the European Court of Human Rights, and this with lasting regard on the values, which it protects. In extraordinary cases, the court can exercise also evidence obtained in conflict with the law, if the rights of the opposite party were judged in conformity with the Constitution, in particular case as the stronger right than the violated right of that person, at the expense of whom this right is exercised. For example, in case of registration of video and audio by electronic devices, which were obtained without the consent of the person, whose communication had been captured, it has to be justified by that the right to protection of personality of this subject is in this respective case proportionally weaker than the constitutional right, which has to be by this obtained evidence material proven (proportionally stronger would be e.g. right to racial, gender or other non-discrimination).

Factors underlying the consideration of the court, resp. the agencies of public administration by reviewing the admissibility or inadmissibility of illegal evidence via the test of proportionality, vested in naming the right, which had been violated by obtaining evidence (e.g. moral rights) and the right, which will be violated, resp. will not be fulfilled in

case of omission of the illegal evidence material (e.g. fundamental rights and liberties including right to just process), will be also in the regime of civil dispute procedure kept upon lose consideration of the court, resp. the administrative agency, which will have to come out from the particularities of individual cases. The court will have to consider, e.g., the relevance of harm, which arises to each procedural party, accordingly the protection of the interest of which will override in terms of justice, public interest or moral rights etc. From the nature of proportionality results that the applicability of illegal evidence material will be conditioned by evidence deprivation, unless in case of existence of other legal evidence it is not necessary to execute illegal evidence, protection of moral rights takes precedence.

This implies that the admission of illegal evidence does not take a priori preference over the right, which was violated by obtaining the illegal evidence, its weight will depend on the right, the violation of which has to be demonstrated and of which the plaintiff seeks compensation for at the expense of moral rights of the opposite party. If the illegal evidence will be weaker, resp. disproportionately less significant as admissible evidence, then the illegal evidence will not be admitted. It is necessary to emphasize, that if a wrongful conduct was captured on an audio, resp. audio-video record, it is essential to apply the principle *ius ex iniuria non oritur*, which means, that from injustice no right can develop. This means, that if someone acts unlawfully, e.g. creates damage to property, no right arises to grant approval for duplication and usage of this record for the purposes of the proceeding on the delinquency, the consequence of which is the fact that the evidence is considered to be legal. In this case, the test of proportionality is excluded from the nature of the issue, as the right of the opposite party does not exist. On the side of the person, who created and put to use this record without the consent of the respective person, occurs no wrongful act, as her/his act shows, with the application of analogy, elements of act in distress. Proving wrongful conduct is in interest of the matter and reaching reasonable justice has to tolerate its documentation also in a manner that does not have to inevitably be in conformity with the law, unless there is a heavy interference in the rights of a third person, resp. against her/his rights, e.g. if the information was not provided by this person voluntarily and freely, but it was captured by a recording device by torture or bad and violent behavior. If the person provides this information voluntarily and freely, there is no reason not to admit the audio record containing this wrongful information.⁷

In order to seek justice in the proceeding on the respective issue, the interest in determining the issue in fact should outweigh the personality protection of the other side of

⁷ Internet <http://ulpianus.sk/blog/k>: K prípustnosti nezákonných dôkazov podľa Civilného sporového poriadku, pgs. 2 a 3.

the proceeding. On the side of the accused, the principle, that nobody can benefit from hers/his own unlawful conduct – *nemo turpitudinem suam allegare potest*, should be considered. This means that the person, who committed the deed, cannot benefit, in the sense of success, from the proceeding only because of the fact that she/he refuses to agree with the execution of the evidence, which proves hers/his unlawful act. In admission of the evidence, e.g. audio record of a conversation, which is able to influence significant factual discovery by unreasonable preference of the right to personality protection of the recorded person over the right to fair trial, by which the stronger right has to be proven, cannot be regarded as a procedural proceeding in conformity with the constitution.

This implies that the Act No. 160/2015, Civil criminal procedure *expresis verbis* regulates the limits the application of illegal evidence within the basic principles of the proceeding. The application of illegal evidence is understood as usually inadmissible, but there is **an exemption from the inadmissibility of illegal evidence, and that is, if it is constitutionally justified.** ⁸

In accordance with stabilized jurisprudence, **as evidence only counts means, by which it is possible to identify and clarify the facts of the matter, which is anticipated by respective procedural regulation and which is executed in conformity with this procedural regulation.** Evidence, which does not fulfil whichever of the above listed requirements, is regarded as illegal evidence. **Faults can consist in illegal resources of the evidence, lack of competences of the agency, which obtained or executed the evidence, but also in the way of obtaining or executing the evidence. This can include examination of a witness without proper briefing or secrecy acquittal, completion of an audio-video record without fulfilling the conditions of legal background, legitimate purpose and the principle of inevitability and adequacy.** It can be said that evidence can be qualified as illegal, if there was a breach of law within the process of its obtainment or execution, whereas this fact cannot be corrected even by pointing out the proportionality in the respective rights.

Evidence obtained in conflict with the law and its usage is inadmissible in administrative proceeding

These include evidence, which is qualified from the beginning as defect, that prevents its usage in further proceedings. In practice, this can concern examination of a witness without proper briefing or secrecy acquittal, completion of an audio-video record without fulfilling the conditions of legal background, legitimate purpose etc. This means, that in the

⁸ Internet <http://ulpianus.sk/blog/k:K-pripustnosti-nezakonných-dôkazov-podľa-Civilného-sporového-poriadku>, p.4.

process of obtaining or executing the evidence, there was a breach of law, whereas this fact cannot be corrected even by pointing out the proportionality in the respective rights.

In accordance with stabilized jurisprudence, as evidence only counts means, by which it is possible to identify and clarify the facts of the matter, which is anticipated by respective procedural regulation and which is executed in conformity with this procedural regulation. Each piece of evidence, which does not fulfil this requirement, is necessary to be regarded as illegal evidence. If the information, which is included in the evidence, is not obtained by procedurally admissible means, it has to be excluded from the object of reflections heading to obtaining the facts of the matter.⁹

Conclusion

Among the cardinal fields of the administrative agencies' activity within the realisation of the proceeding on administrative delinquencies without doubt belongs the determination of bases in order to issue an individual administrative act, which is connected with a certain sanction. The process of obtaining basis for decision in administrative proceedings has certain particularities, which we listed especially in comparison with judicial proceedings, which is tightly connected with legitimate application of administrative punishment in the administrative delinquency under consideration.

An important part of administrative proceedings with regard to administrative punishment is substantiation. Substantiation is a complicated abstract procedure, but not all evidence can be, in terms of obtainment and execution, regarded as legal and admissible in administrative proceedings. An administrative agency is by evaluating any evidence required to examine legal conformity of formal procedural practices, via which the evidence was obtained and executed. If the administrative agency considers that the evidence was obtained and executed in such a manner, that it is admissible in the proceeding, it is possible to accede to a further phase, i. e. to the evaluation of evidence from a contextual point of view and consider its application as a basis for decision for the administrative agency.

In administrative punishment, the principles referring to this proceeding have to be taken into consideration, which are explicitly expressed in the Act on administrative punishment, or in respective international documents. Moreover, it is essential to apply principles implicitly deduced by analogy from the field of criminal law, both substantive and procedural, and procedures deduced by analogy from relevant jurisprudence. This, without

⁹ MOLITORIS Peter: Zborník Studia Iuridica Cassoviensia. Vzťah medzi zákonnosťou a prípustnosťou dôkazov vo veciach správneho trestania, pgs. 39-40, ISBN 1339-3995, issue 6/2018, number 1.

doubt, poses high demands on the process of substantiation in administrative punishment. For example, it is possible to point out the principle “in dubio pro reo”- in doubts in favor of the accused, which in case of doubts about the facts of the matter does not allow the administrative agency to declare guilt against the accused.

From the above-mentioned results, that on the administrative proceedings in the field of administrative punishment, are posed increasingly higher requirements, which approximate to the demands posed on the decision of courts in criminal proceedings. By the term judicialization of administrative punishment is in juristic theory characterized approximation of criminal and administrative disciplinary sanction in that line, that a lawmaker supports taking over the institutes of criminal law in the adaptation of the competences of the public administration agencies to negotiate administrative delinquencies and impose sanctions. The trend of judicialization of administrative proceedings is an objective fact. For example, the application of criminal law principles in the field of administrative punishment specifically regulates in § 195 letter c) and d) of the Act 162/2015 of the Administrative court procedure, which explicitly establishes that „an administrative court is, in issues of administrative punishment, not bounded by the extent and reasons of the indictment, i fit concerns basic principles of criminal proceedings according to the Criminal procedure, **which is necessary to be applied on administrative punishment**, and when it comes to observance of principles administering punishment according to the Criminal Code, **which is necessary to be applied also for administering sanctions within administrative punishment**“.

This legislative step has, however, huge importance also for the decision-making process of administrative agencies. Although the Act No. 162/2015 of Administrative court procedure in its cited provision constitutes a regulation editing especially the activity of administrative courts by examining the decisions of administrative agencies in the field of administrative punishment, this will have indirect impact also on the activity and decision-making of administrative agencies, which by not applying analogy of principles of criminal law on the sphere of administrative punishment put at risk the abolition of its decisions by administrative courts.¹⁰

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¹⁰ HAMULÁKOVÁ Zuzana: Správne delikty právnických osôb vybrané inštitúty a problémy, pgs. 165 – 167. Publishing house of law literature Wolters Kluwer s.r.o, Bratislava in 2017.

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European Union agencies, founding treaties, regulations, directions and decisions, internal and supplementary international acts and supranational features of the European Union law

The European Union agencies are:

The European Parliament (EP)

It is a directly elected agency of the EU with legislative, controlling and budget responsibilities. It consists of 751 members of the EP (MEP) and the current President of the EP is David Sassoli. The EP was established in 1952 as a common assembly of the European Coal and Steel Community and since 1962, as the European Parliament. The first direct elections into the European Parliament took place in 1979. The EP has its seat in Strasbourg (France), Brussels (Belgium) and Luxembourg (Luxembourg).

At the head of each of the 3 main EU institutions, is a President. The President of the European Parliament is currently David Sassoli. His term of office is July 2019 – January 2021. The President is elected by the members of the European Parliament. The President fulfils the following tasks:

- ensures proper exercise of the rules of EP operation,
- supervises diverse activities and committees of the EP,
- represents the EP in all legal issues and in international relations,
- definitely approves the budget of the EU.

(source: https://europa.eu/european-union/about-eu/presidents_sk)

What did the last elections show?

The last elections showed some trends in European Union member states. The political centre (traditional socialists and conservative) have been losing their position. The comfortable majority established by the fractions of People's parties and Social Democrats has already become past. The era is ending, where the agencies of the Union were occupied by lobby agreements and in which politics often resembled rather a meeting of technocrats than a discussion of politicians. Many in Europe are reminding, that it eventually need not be harmful.

The conglomerate of the two largest factions will have to seek agreements with a third.

The leadership of the People's party and Socialists already declared that nationalists, the extreme right and those, who want to curtail the Union until its destruction, are unacceptable for them. An interest in cooperation with the European Liberals has been declared, to whom the steps of our national winners of the Euro-elections, from the Progressive Slovakia and the party Together, also lead. It is understandable, as the Liberals are currently a natural partner in basic questions, for example maintenance and the future of the Union, for both central factions.

The nationalistic right has been slightly strengthened in the European Parliament. Matteo Salvini won in Italy, Marine Le Pen in France, Viktor Orbán in Hungary and Law and Justice in Poland – thus in countries, where a centric alternative to them was decimated long before the elections, or where it exists, as by Emmanuel Macron, there it is weakened by its own crises. No united front of enemies of liberal democracy has, however, been preliminary outlined. Even because, that these parties cannot agree on anything, besides their antipathy towards the European status quo. Nor can they agree on their own crucial issues. Has, for example, anybody told the voters of Richard Sulík or Boris Kollár, that Salvini requests obligatory quotas for taking refugees, as it would unburden his Italy? Many media are reminding, that the Polish party PiS or Swedish Democrats will hardly have Salvini's or Orbán's appreciation of Vladimir Putin. When it comes to economics, the advocates of deregulations from AfD or Danish People's Party find hardly a common issue with Le Pen, who is requesting higher state expenditures. And so on. The political centrum experienced a loss, those, however, were not usurped by exclusively the nationalists. The radical Left and the Green also got strengthened (but not so much that they would overtake the main factions). After these elections, the European Parliament is going to be livelier and politics in it is going to sparkle. And that actually does not have to be harmful.

(source: [Javůrek https://nazory.pravda.sk/komentare-a-glosy/clanok/513694-pestrejsi-europsky-parlament/](https://nazory.pravda.sk/komentare-a-glosy/clanok/513694-pestrejsi-europsky-parlament/))

What is the EP good for?

The EP has 3 main tasks:

- 1) Legislative – in conjunction with the Council of the EU, it adopts legal regulations, which arise from the proposals of the European Commission, decides on international agreements, decides on EU enlargement, evaluates the work programme of the EC and requests it on proposing legal regulations.
- 2) Reviewing – it exercises democratic review of all EU institutions; it elects the President of the EC and authorizes the EC as an EU agency. By voting on a proposal to declare non-confidence, it can force the EC to resign during its term in office. It

also gives discharges (approves the usage of resources from the EU budget), examines petitions from the citizens and arranges committees of inquiry, negotiates on the monetary policy with the European Central Bank, reviews the EC and the Council and institutes observing missions.

- 3) Budget – sets up the EU budget with the Council and approves the long-term EU budget – a multi-annual financial framework. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-parliament_sk)

The European Council

The European Council defines the general political direction and priorities of the EU. Within the European Council, leaders of EU countries meet in order to establish the political programme of the EU. As one of the seven official EU institutions, it meets (quarterly) at summits among the leaders of the EU countries, which are led by a permanent President. The European Council has the following tasks:

- decides on the direction and political priorities of the EU, but it does not adopt legal regulations.
- deals with complicated and sensitive issues, which are not solved at lower levels of intergovernmental cooperation.
- determines the EU Common Foreign and Security Policy, and makes provisions for strategic interests of the EU and defence consequences.
- proposes and appoints elected candidates to certain high positions at EU level, as the European Central Bank and the European Commission.

The members of the European Council are heads of EU member states and prime ministers of these states, and also the President of the European Council and the President of the European Commission. It was established in 1974 (informal forum), 1992 (formal status), 2009 (official EU institution). Its headquarters is in Brussels (Belgium).

(source: https://europa.eu/european-union/about-eu/institutions-bodies/european-council_sk)

The President of the European Council is Donald Tusk. Term in office: June 2017 – November 2019. The President is appointed by the leaders of member states (heads of states or prime ministers of EU countries). It ensures the preparation and continuity of the work of the European Council in relation to its task to establish general political directions and priorities of the EU – in cooperation with the European Commission, it seeks to facilitate achieving cohesion and consensus within the European Council, ensures EU representation outwards in issues concerning the Common Foreign and Security Policy. (source: https://europa.eu/european-union/about-eu/presidents_sk)

Conclusions of the President of the European Council

The European Council negotiated in Brussels on 9th March 2017 and published the Conclusions of the President of the European Council. It was supported by 27 member states, but a consensus was not reached about it. The document includes conclusions in these fields:

1. *Employment, growth and competitiveness.* The programme of reforms, which the EU and its member states implemented as a consequence of the 2008 crisis, has already borne fruit. In all 28 member states, economic growth was renewed and the prognosis are encouraging, for the Eurozone, as well as for the EU as a whole. Unemployment, although still too high, has achieved its bottom level since 2009, the state of public finances has been improving and investments, albeit still too low, have been increasing. However, uncertainty persists, and therefore it is important to ensure the durability of revival and continue in structural reforms of economy modernisation, as well as to strengthen public finances and support investment, and that also via accelerated prolongation of the duration and enhancement of the European Fund for Strategic Investment. It is inevitable to effectively implement the already adopted decisions and eliminate the existing drawbacks through accelerated progress in the work on legislative proposals, and that in accordance with the Conclusions of the European Council from June 2016 and with the Joint Declaration from 13th December 2016 on Legislative Priorities of the EU for 2017. Trade is continuously one of the strongest drivers of growth, it supports millions of working places and contributes to prosperity. The European Council welcomes the positive vote of the EP on the Complex Economic and Trade Agreement between the EU and Canada (CETA) and expects its immediate preliminary execution.
2. *Security and defence* – the European Council maintains and strengthens the dynamic, which was stimulated by its Conclusions from December 2016 on External Security and Defence, and that on the ground of parameters defined in it. In the current international situation, Europe has to do more for defending its citizens and contribute to peace and stability in its neighbourhood and beyond. The EU has been continuously engaging in the support of member states with the aim to ensure internal security and fight against terrorism. We henceforward have to face unprecedented challenges. The European Council urges the co-legislators to agree on the proposal concerning the system of input/output and accelerate the work on the proposal on the European System for Travel Information and Authorisation. Therefore, it is paramount to continue the execution of the renewed strategy of the EU internal security for the years 2015-2020, the European Council will further deal with this issue.

3. *Migration* – from the report of the Maltese Prime Minister results that many of the operation measures, on which was decided at an informal meeting at 3rd February 2017 on Malta, have been already exercised. The European Council acknowledges its determination to fulfil all elements of the Malta Declaration and fully supports the activity of the Presidency of the European Council, which is exercised in tight cooperation with the Commission and the High Representative. It also supports measures adopted by the particular member states for supporting Libyan authorities and their North African and Southern neighbours in their struggle to resolve the challenges of illegal migration. Important partners in this respect are the UNHCR and the International Organisation for Migration (IOM).
4. *Western Balkans* – regarding internal and external challenges, which the Western Balkans faces, the European Council negotiated a fragile situation in this region, which is going to be repeatedly monitored. It emphasises that it is important to carry one with the reforms, good neighbouring relations and initiatives directed at inclusive regional cooperation. The European Council repeatedly affirmed its clear support of the European perspective of the Western Balkans.

Other points – European Prosecution – the European Council, after 17 member states, on the ground of Art. 86 section 1 second subsection of the Treaty on the Functioning of the European Union, submitted a proposal of a regulation to establish European Prosecution, negotiated about this proposal and stated that the condition set in the introductory part of Art. 86 section 1 of the third subsection was fulfilled, by which space was created to potentially enter into strengthened cooperation, in accordance with the enactments of the treaties. *The election of the European Council President* – the European Council repeatedly elected Donald Tusk as President of the European Council for the term from 1st June 2017 until 30th November 2019. The European Council acknowledged the decision of the heads of states or Prime Ministers of the contracting parties of the Treaty on Stability, Coordination and Governance in the Economic and Monetary Union, whose currency is the euro. Formulations of the document should not be explained as a formal approval by the European Council acting as an institution. (source: <https://www.consilium.europa.eu/media/24106/09-conclusions-pec-sk.pdf>)

The Council of the European Union

It represents the voice of governments of the EU countries, adopts legal enactments and coordinates the EU policies. Members are ministers of each EU country, according to the policy field, which is going to be discussed. The President comes from each EU country, on the basis of a 6-months long rotating presidency in the Council of the EU. It was established

in 1958 (as the Council of the European Economic Community). Its seat is in Brussels (Belgium). In the Council, the ministers of governments of the particular EU countries meet in order to discuss, change and adopt legal enactments and coordinate policy. The ministers have the competency to bind their governments to adopt measures, on which they agreed at their meetings. The Council is, alongside the European Parliament, the main decision-making body of the EU.

How it is different from the European Council? Those are quarterly summits, at which the highest representatives of the member states meet to discuss political priorities of the EU.

How it is different from the Council of Europe? It is not an EU agency.

What does the Council of the EU do?

- in conjunction with the European Parliament, negotiates and adopts legal enactments of the EU on the basis of the European Commission proposals.
- coordinates the policies of EU countries.
- elaborates foreign and security policy of the EU on the basis of European Council regulations.
- negotiate agreements between the EU and other states or international organisations.
- approves the yearly EU budget in conjunction with the European Parliament.
- The Council does not have any permanent members. On the contrary, it meets in 10 diverse compositions (fractions), of which each responds to a negotiated policy field. Depending on the composition of the Council, each country deputes a minister responsible for the respective policy field. For example, when the session of the Economic and Financial Affairs Council (ECOFIN) takes place, the minister of finances of each country is present.

Who presides over the sessions?

The Foreign Affairs Council has a permanent president – it is the High Representative of the Union for Foreign Affairs and Security Policy. Each other session of the Council is led by the respective minister of the country, which actually presides the EU. For example, the president of each Environmental Council in the period, when Estonia has the rotating presidency, is the Estonian minister for environment. The whole consistency is ensured by the General Affairs Council with the support of the Committee of Permanent Representatives (COREPER). The COREPER consists of permanent representatives of EU member countries to the EU, who are actually ambassadors of countries to the EU.

Eurozone countries

The Eurozone countries coordinate their economic policies via the Eurogroup, which is made of ministers of economy and finance. The Eurogroup meets a day before the session of the Economic and Financial Affairs Council. About the agreements reached at the meeting of the Eurogroup is decided at the Council the following day, whereby about these issues only the ministers of the Eurozone vote.

How does the Council work?

- All debates and votes are public.
- for authorisation of decisions, usually a qualified majority is required:
- 55% countries (by the current number of 28 member countries, this means 16 countries)
- representing at least 65% of the whole number of EU population.
- In order to block a decision, at least 4 countries are necessary (representing at least 35% of the whole number of EU population).
- Exception – sensitive topics as foreign policy and taxes require unanimous approval (all countries are for them).
- a simple majority is required in case of procedural and administrative issues.

Rotating presidency

The Council Presidency rotated among the EU member states each 6 months. During this half-year term, the presiding country leads meetings at all Council levels, whereby it helps to ensure the continuity of EU work in the Council.

Member states, which exercise the presidency, tightly cooperate in three-member groups, which are called “trios”, or “triplets”. This system was established by the Lisbon Treaty in 2009. The Presidency Trio defines long-term goals and prepares common programme, in which it determines topics and main issues, with which the Council will deal with in the upcoming 18 months. According to this programme, then, each from the three countries elaborates its detailed 6-month programme.

The current trio is constituted by the **Romanian, Finnish and Croatian Presidency**. (source: <https://www.consilium.europa.eu/sk/council-eu/presidency-council-eu/>)

European Commission - its task is to support general interests of the EU via proposing and enforcing legal enactments, as well as executing policies and the budget of the EU. It consists of a team or a board of commissioners, 1 from each country. The President is Jean-Claude

Juncker. Year of establishment: 1958 with seat in Brussels (Belgium). Website: https://ec.europa.eu/commission/index_sk
(source: https://europa.eu/european-union/about-eu/institutions-bodies/european-commission_sk)

EU Court of Justice

Its task is to ensure identical definition and exercise of EU legal enactments in each EU country, and to guarantee the observation of EU legal enactments on the part of EU countries and institutions. Members are:

- Court of Justice: 1 judge from each EU country and 11 Advocates-General
- General Court: 47 judges. In 2019, their number is increased onto 56 (2 judges from each EU member state).

The EU Court of Justice was established in 1952 and is seated in Luxembourg (Luxembourg).

(source: https://europa.eu/european-union/about-eu/institutions-bodies/court-justice_sk)

What does the EU Court of Justice do?

The Court of Justice gives judgements in cases, which were brought forward to it. The most usual types of examples are:

- Explanation of legal enactments (prejudicial decisions) – the interstate courts of EU countries have to ensure proper exercise of EU legal enactments; however, the courts of particular countries can interpret them differently. In case of ambiguities of intrastate courts about the interpretation or validity of EU legal enactments, this court can refer oneself to the Court of Justice with a request of clarification. The same mechanism can be applied on defining if the national law or praxis compatible with the EU law.
- Enforcement of legal enactments (proceeding on breach of duty) – this proceeding is carried on against the national governments for breach of EU legal enactments. It can be initiated by the European Commission or another EU country. If it is determined, that the country breaches its obligations, it has to immediately accomplish correction. If it be to the contrary, there is a threat that a second proposal on launching a proceeding will be submitted, the consequence of which can be a fine.
- Abolition of EU legal enactments (accusation of non-validity) – if there is suspicion that the EU legal enactments violate the EU Treaties or fundamental rights, it is possible to request the Court on their abolition. This can be requested by governments

of EU countries, the Council of the EU, the European Commission or in some cases, the European Parliament. Private persons can request the Court to abolish acts of EU, which directly concern them.

- Ensuring EU proceedings (accusation of nonactivity) – the Parliament, the Council and the Commission have to, under certain conditions, make certain decisions. If it be to the contrary, the governments of EU countries, other European institutions and (under certain conditions) individuals or companies can file a complaint to the Court of Justice.
- Sanctioning EU institutions (right to compensation for damage) – any person or company, whose interests were violated as a consequence as activity or non-activity of the EU or its employees, can file a proposal on commencement of action against them at Court.

(source: https://europa.eu/european-union/about-eu/institutions-bodies/courtjustice_sk)

European Central Bank (ECB)

Its task is to manage the Euro, maintain stable prices and lead the economic and monetary policy of the EU. Thereby it follows the support of economic growth and creation of jobs. Its President is Mario Draghi and its members are the President and the Vice-president of the ECB and governors of national central banks of all EU countries. It was established in 1998 and its seat is in Frankfurt am Main in Germany. It defines interest rates, at which it lends money to commercial banks in the Eurozone, and thanks to that, it controls financial reserves and inflation. It monitors foreign exchange reserves and purchase and sell of currencies, whereby it balances exchange rates. It ensures proper control over financial markets and institutions on the part of national agencies and fluent flow of payments systems. The ECB safeguards the security and reliability of the European bank system. It approves the production of Euro banknotes on the part of the Eurozone countries, and eventually, it monitors price trends and evaluates risks to price stability.

The President of the ECB represents the bank at the highest EU level and at international meetings. The work of the ECB is controlled by these 3 decision-making bodies:

- Board of Governors – the main decision-making body, it consists of six members of the Executive Board and the governors of national central banks of the Eurozone countries. It evaluates economic and monetary development, defines monetary policy of the Eurozone and determines interest rates, at which commercial banks can get money from the central bank.
- Executive Board – cares for the day-to-day operation of the ECB. Consists of the

President of the ECB, the Vice-president and four other members, who are appointed onto an eight-year-long term by the leaders of the Eurozone countries. It realises monetary policy, manages ordinary operations, prepares the meetings of the Board of Governors and exercises competences referred to it by the Board.

- General Board – it has a rather advisory and co-ordinational function. It comprises of the President and the Vice-president of the ECB and the governors of central banks of all EU countries. It takes part in the advisory and co-ordinational activity and helps to prepare future expansions of the Eurozone.

The ECB cooperates with national central banks of all EU countries. Altogether they create the European System of Central Banks, which manages the cooperation among central banks in the Eurozone. It is characterised as the Eurosystem.

(source: https://europa.eu/european-union/about-eu/institutions-bodies/european-central-bank_sk).

European Court of Auditors (ECA)

Its task is to control the proper choice and application of financial means of the EU, whereby it helps in enhancing the financial economy of the EU. The President is Klaus-Heiner Lehne and members are one from each EU country. It was created in 1977 and is based in Luxembourg (Luxembourg). It is an independent external auditor of the EU and cares for the interests of European tax payers. It has no legal competences; its aim is to improve the administration of the EU budget on the part of the European Commission and submit reports on the state of EU financial means.

What does the European Court of Auditors do?

- Exercises income and expense audits of the EU in order to determine gaining and proper spending of EU financial means, but also acquisition of adequate value and whether they were accounted for.
- Controls natural and legal persons, which operate with EU means, and that also in EU institutions, EU countries and in countries, which gain help from the EU.
- Elaborates audit reports with register of findings and recommendations for the European Commission and national governments.
- It reports suspicions of fraud, corruption and other illegal activity to the European Anti-Fraud Office (OLAF).
- Elaborates annual report for the European Parliament and the Council of the EU. The Parliament detailly examines this report and decides, if authorizes dispose of the European Commission alongside with the budget.
- Submits expert opinion to political representatives of the EU with the aim to help them

better and more responsibly manage financial means of the EU.

- Publishes opinions on the prepared legislation with scope on the financial economy of the EU, as well as positional documents, evaluations and ad hoc publications on issues concerning European public finances.

It exercises 3 types of audit: Financial audit (controls accounts), Audit of accord (controls if financial transactions take place according to the rules) and Audit of efficiency (controls if EU financial means fulfil their aims from the least resources and most low-budget). The Court of Auditors is divided into auditor groups (chambers), which prepare reports and opinions, that become official after approving by the Court members. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-court-auditors_sk).

European External Action Service (EEAS)

It conducts the diplomatic relations of the EU with other countries and executes the foreign and security policy of the EU. The High Representative of the Union for Foreign Affairs and Security Policy is Federica Mogherini. The EEAS was established in 2011 and is seated in Brussels (Belgium). It is the diplomatic service of the EU. Its aim is to achieve that the foreign policy of the EU was more effective and more united, what helps to increase impact of Europe in the world.

What does the EEAS do?

It helps the High Representative of the Union in executing the foreign and security policy of the EU. It conducts diplomatic relations and strategic partnerships with third countries and cooperates with national diplomatic services of EU countries, with the UN and other influential institutions. Among the practical examples belong: peacebuilding – via political, economic and practical support, ensuring security – within the Common Security and Defence Policy, maintaining good relations with immediate neighbours of the EU via European Neighbourhood Policy, development and humanitarian help and reaction to crisis, and solving issues of climate change and human rights.

1.3 The European External Action Service is led by the Foreign Minister of the EU (the High Representative of the Union for Foreign Affairs and Security Policy). The EEAS operates in Brussels (experts from the Council of the EU, European Commission and diplomatic services of EU countries), but also worldwide – network of EU embassies (delegations). (source: https://europa.eu/european-union/about-eu/institutions-bodies/eeas_sk).

European Economic and Social Committee (EESC)

It is an advisory body representing organisations of employees and employers and other interest groups. The President is Luca Jahier and it has 350 members from all EU countries. It was established in 1957 and is seated in Brussels (Belgium). It is comprised of representatives of organisations of employers and employees and other interest groups. The EESC submits opinions to the European Commission, the Council of the EU and the European Parliament to issues concerning the EU. It is a sort of bridge between the EU institutions with decision-making power and EU citizens.

What does the EESC do?

The EESC provides interest groups the possibility to officially express themselves to legislative proposals of the EU. It has 3 main tasks:

- ensure that the politics and legal enactments of the EU adjust to economic and social conditions via looking for consensus for the common good,
- promote participatory character of the EU, so that it provides the organisations of employers and employees and other interest groups with the possibility to express themselves via dialogue,
- enforce values of European integration and support progress in participatory democracy and task of organisation of civil society.

The European Parliament, the Council of the EU and the European Commission consult the EESC on many issues. The Committee also submits opinions on their own initiatives. Members work by the EU, independent from their own governments. They meet 9-times a year. Statements are adopted by a simple majority of votes. The sessions are prepared by a specialized division of the EESC and by an advisory committee for industrial changes. Groups of EESC experts (known as monitoring centres) and the Steering Committee of the programme Europe 2020 follow progress in fulfilling EU strategies. The EESC cooperates with regional and national economic and social councils within the whole EU, especially with

the aim to exchange information and discuss particular issues. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-economic-social-committee_sk).

European Committee of the Regions (CoR)

It is an advisory board representing European bodies at regional and local level, consisting of representatives of all 28 member states, elected at local and regional levels. They thus exchange opinions on legal enactments of the EU, which have a direct impact on regions and towns. Its President is Karl-Heinz Lambertz (SES) and was established in 1994 with seat in Brussels (Belgium).

What does the CoR do?

Via the CoR, regions and towns can officially join the creation of EU legal enactments, whereby it is ensured that the needs and positions of local and regional agencies are respected. The European Commission, the Council of the EU and the European Parliament have to advise the CoR in case of proposing legal enactments in the field of local and regional administration (health, education, employment, social policy, economic and social coherence, transport, energy and climate change). Otherwise, the CoR can file a suit at the EU Court of Justice. If the CoR gets a legislative proposal, it elaborates and approves a stance, it sends it to the respective EU institutions. The CoR publishes its positions to their own initiatives as well. The members of the CoR are elected representatives working at local and regional bodies. Each country nominates members according to their own selection, who are appointed by the Council of the EU on a five-year term with the possibility of prolongation. The number of members per each country depends on the number of its population.

The members of particular countries create a national delegation, which reflects political, geographical, regional and local structure of the respective country. The Committee appoints, among its members, a President for a two-and a half year-term. Annually, there are 6 plenary sessions at the most, at which positions are adopted, covering 50-80 legislative projects. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-committee-regions_sk).

European Investment Bank (EIB)

It provides financial means onto projects contributing to achieving the goals of the EU, and that within the EU and also beyond. Its President is Werner Hoyer and the presidency comprises of one member for each EU country and one member from the European Commission. It was established in 1958 and is seated in Luxembourg (Luxembourg) and is in

common EU property. Its aim is to promote the potential of Europe in the sphere of growth and employment, support the measures on mitigation of climate change, and enforce EU politics outside the Union.

The EIB lends money on capital markets and provides, at favourable conditions, credits for investments, which promote the goals of the EU. Approximately 90% of credits are realised within the EU. The bank does not use any financial means from the EU budget. The EIB provides 3 main types of products and services: Credits (constitutes 90% of the whole financial duties and support growth and employment, what helps attract further investors), combined financing (enables to combine financing of EIB with other investments) and counselling and technical help (the aim is maximalisation of money value).

The EIB provides direct credits in the sum of more than EUR 25 million. In case of smaller credits, it opens credit links for financial institutions, which then lend means to creditors. It decides on received and provided credits on the ground of expedience of each project and opportunities available on financial markets. Within the EU, the EIB has special credit priority, and outside the EU, it supports EU policies in the field of worldwide development and cooperation.

As an independent body, the Bank adopts its own decisions on its own received and provided credits. It cooperates with EU institutions, especially the European Commission, the European Parliament and the Council of the EU. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-investment-bank_sk)

European Ombudsman

It examines the complaints of the citizens on administrative procedures of institutions, bodies, offices and agencies of the EU. The European Ombudsman is Emily O'Reilly and the function were established in 1995 with seat in Strasbourg (France). The European Ombudsman investigates complaints concerning improper administrative procedure on the part of institutions and other EU agencies. Complaints can be submitted by particular citizens, people with residence in an EU country or associations and companies with seat in the EU. The ombudsman investigates diverse types of improper administrative procedures, as unfair act, discrimination, abuse of rights, insufficient information or failure of providing information, unreasonable delay, wrongful procedure. The European Parliament elects the Ombudsman for a renewable term of five years. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-ombudsman_sk).

European Data Protection Supervisor (EDPS)

It ensures that the EU institutions and agencies abide the rights of people to privacy

by administering their personal data. The EDPS is currently Giovanni Buttarelli and his deputy is Wojciech Wiewiórowski. The position was created in 2004 and has a seat in Brussels (Belgium). Administering includes gathering, recording, storing, sending, blocking or deleting data. The European Data Protection Supervisor has to monitor observance of strict rules of privacy protection, by which these activities are administered, and the rules of privacy protection were observed. The EDPS gives advice to EU institutions and agencies in all aspects of administering personal data and related politics and legal enactments. It arranges complaints and leads investigations. It cooperates with national agencies of the EU countries with interest of ensuring consistency of data protection. The EDPS follows new technologies, which can have impact on data protection.

The Supervisor and his Deputy are appointed on a prolongable term of five years. For the purposes of daily activities, the EDPS is divided into 2 main units: Controlling and enforcing unit (assesses the observance of data protection by EU institutions and agencies) and Policy and consultation unit (advises to legislative bodies of the EU in issues of data protection in diverse policy fields and by proposals of new legal enactments).

EU institutions and bodies might not process personal data concerning your racial or ethnic origin, political opinion, religious and philosophical confession and membership in trade unions. They might not process any data about your health condition or sexual orientation, except for the case, when these data are necessary for purposes of health care. However, even in this situation, it has to be done by a health expert or other person bound by maintaining service secret. (source: https://europa.eu/european-union/about-eu/institutions-bodies/european-data-protection-supervisor_sk).

Interinstitutional Agencies

European School of Public Administration (established on 10th February 2005) provides expert preparations to employees of European institutions in certain specific fields, whereby it contributes to the expansion of common values, supports better understanding among employees of institutions and leads to savings in scope.

European Personal Selection Office (EPSO, since January 2003) creates exams by the form of public competition for admission of employees in all EU institutions. It is more effective than if all institutions had to organize their own selection procedures.

Computer Emergency Response Team (CERT since September 2012) helps to monitor threats for computer systems of EU institutions and provides support to units for security IT of each institution and to public agencies of EU member states in the same scope.

The Publications Office of the European Union operates as a publisher for EU institutions, which publishes and distributes all official publications of the EU in paper or

electronic form.

(source:https://europa.eu/european-union/about-eu/institutions-bodies/interinstitutional_bodies_sk).

Founding Treaties, Regulations, Directives and Decisions

EU regulations have direct binding force, but EU directives not, thus it is questionable, to what extent is their wording binding and what happens in case that a member state “takes them over” improperly? In practice, there arises a problem in connection with direct effectivity of EU directives, when the regulation set in the EU directive has priority over national regulations of the member state. EU directives are binding for member states regarding the achieved outcome, whereby the form and the method of reaching the respective outcome is left at the member state. As directives do not bind and do not create law directly to natural and legal persons, their implementation into the national system of law is required, the task of which is to ensure harmonisation of legal enactments of EU member states. That is exactly the place where problems occur.

The member states can freely decide, by which means they ensure achieving the outcome defined by a directive. This freedom was brought into praxis by a situation, when national legal regulations were, indeed, at the first sight, in accordance with the directive, but in fact they did not follow the goal defined in it. The reason of improper implementation of a directive is not always only improper understanding of the goal defined by the directive. Member states often seek to make full use of the regulation coming from the EU and they take it over into their national legal regulations, which does not correspond with the goal of the directive. The state, which violates the obligation to implement the directive has a problem. Direct effect of directives leaves member states with two obligations:

1. to implement the directive in time (i.e. within the deadline defined directly in the directive, respectively within 20 days from its publication in the Official Reports) and
2. to implement the directive properly.

It is no unique case, that a member states implemented a directive into its national legal regulations “as for itself”, i.e. it did not adhere to the deadline of directive transposition, it did not respect the requirements of the directive or did not follow the goal the directive has. The doctrine of direct effect of directives is the product of the EU Court of Justice, which was created with the aim to solve the situation, when a member state does not implement a directive within the defined deadline, respectively in a certain way and, at the same time, the four conditions of direct effect recognition are fulfilled. By creating this doctrine, the EU Court of Justice granted the directives in certain cases a similar effect that regulations have. The EU Court of Justice followingly returned back to the question of direct effect of

directives in some further decisions, which formed four conditions, which have to be fulfilled in order to be able to apply this doctrine in practice. These conditions are the following:

1. clear, precise and sufficiently certain obligation included in the directive,
2. unconditioned obligation,
3. expiration of a deadline for transposition of the directive into the national legal order,
4. it is no commitment, that directly dictates an obligation to individuals (but it acknowledges them some rights).

The EU Court of Justice repeatedly emphasized in its decisions that it does not allow horizontal direct effect of directives, that means that individuals do not have a right to appeal for direct effect of an improperly implemented directive against other natural or legal persons.

(source:<https://www.epravo.sk/top/clanky/nezabudajme-na-priamu-ucinnost-smernic-eu-3458.html>).

Internal and complementary international treaties

The Treaty establishing a Constitution for Europe (or Constitutional Treaty) was an international treaty with the aim to establish a constitution for the EU. Ratification, however, was not successful in member states (2005), and therefore it did not become effective until 1st November 2006. Not until the Lisbon Treaty, in force since 1st December 2006, completed this process. It consists of a Preamble, seven Articles, twelve Protocols and 51 Declarations. The Treaty in its first Article amends the Treaty on the EU, in its second Article amends the Treaty on establishing the European Community, which it renames as Treaty on the Functioning of the European Union. The further five articles include provisional and final clauses. Protocol No. 2 added to the Treaty on the EU and to the Treaty on the Functioning of the European Union amends also the Treaty establishing the European Atomic Energy Community. In the attachment to Protocol No. 2, the Lisbon Treaty offers already a second renumbering of EU Founding Treaties (the first one was introduced by the Amsterdam Treaty). The Founding Treaties of the EU will include, according to the Lisbon Treaty, these mentioned important treaties. From formal point of view, the Treaty only amends and complements the current Treaties in effect. (source: https://sk.wikipedia.org/wiki/Lisabonská_zmluva).

Supranational features of European Union law

Prusák indicated that “the summary of legal norms is a system only under the condition that there are responsible ties among the norms determined by national specific features of norms, among which especially hierarchical ties have an important function, i.e. hierarchy of legal

norms”. This hierarchy is even characterised as the “spine” of the legal system structure. (source: Prusák, 1995, Teória práva, s. 245).

There is a system of formal sources of the EU law, the traditional division of EU law sources defines primary and secondary law. The historical division of EU law (or EC) mentions community (first-pillar) and union (second- and third-pillar). This division arises from the three-pillar structure, which was established by the Maastricht Treaty, but after the abolition of the pillar structure by the Lisbon Treaty, this, however, is not actual any more. Certain differences among the fields, divided before the Lisbon Treaty into particular pillars, henceforward remain. In connection with the EU law, we can mention also other than traditional division of sources of law – division into written and unwritten law. (source: Zoufalý, Munková, Velká kniha smluvních vzorů, s. XLII – XLIII).

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