



# DEFENDOLOGY

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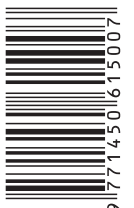
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## EDITORIAL

In front of us is the fifty-third issue of Defendology magazine. Thanks to the authors, we still remain on the principles of profession and science, on principles of a transdisciplinary, multidisciplinary and interdisciplinary character, so that the richness of diversity of the authors could be displayed in an appropriate way. In this magazine, the authors prioritize topics from different areas, such as: regionalism as a promoter of spatial development; forms of legal responsibility of political officials and officials of the administrative authority; legal and phenomenological aspects of media literacy of women of the third age; the status of the mortgage creditor; debt financing. Regional policy is the key to the development and progress of candidate countries for membership in the European Union, and Bosnia and Herzegovina and Republika Srpska are no exception. The responsibility of public authorities, based on law, also represents an indispensable segment of European integration. Special attention is paid to the media literacy of all, and especially to thinking about the role and responsibility of the media in representing women of the third age. The mortgage, as a set of rights, is given great attention, with an emphasis on the fact that it is not only a set of obligations of the creditor. The budget, as the most important product of fiscal and monetary policy, is also the most important factor of fiscal cohesion. The authors of the Defendology magazine and all editions of the European Defendology Center made the greatest contribution in the previous twenty-seven years to the foundation, scientific and educational shaping of Defendology as a science of protection, defense and security, but they also promoted, through their vision and mission, the third mission of development of faculties and universities, i.e. versatile engagement in the community. Defendology magazine is recognizable throughout the region, it is present on citation bases that are recognized on national, regional, European and global level. Defendology has maintained and continues to develop depoliticized, de-ideologized, professional, scientific, autonomous, and in the interest of the common good for all citizens and peoples, regardless of race, religion and nation.

*Diversity is an asset, not a handicap.*

EDITOR IN CHIEF



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## **REGIONAL POLICY**

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# THE REGIONAL COMPONENT AS THE INITIATOR OF THE SPATIAL DEVELOPMENT OF THE REPUBLIC OF SERPSKA

*REVIEW SCIENTIFIC PAPER*

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**Assistant Professor Predrag Obrenović**<sup>2</sup>  
**MSc Vesna Rodić**<sup>3</sup>

**Abstract:** Due to the specific appearance and natural and social characteristics of the Republic of Srpska (RS) as an obstacle to its uniform territorial development, it is noticed the absence of a middle level of management, ie. absence of regional territorial division. Obtaining the status of a candidate for membership in the European Union (EU) Bosnia and Herzegovina (BiH), and therefore the Republic of Srpska (RS) they took on the obligation to fulfill certain conditions, among which is the harmonization of legislation and territorial organization in accordance with the rules of the EU Code of Conduct. One of those conditions is the establishment of NUTS regions, and the benefits are also reflected in the possibility of withdrawing funds from regional development funds. The trend of regionalization is obvious in Europe, which is also confirmed by the fact that at the EU level bodies have been formed that deal exclusively with regions. The goal of the paper is to point out the necessity of establishing NUTS regions in accordance with the EU Code of Conduct, as well as creating preconditions for withdrawing funds for own development that are available through regional cooperation funds. By establishing NUTS regions, it is possible to monitor statistical data that are unique for all EU countries and in this way, the assumption is created for a more objective monitoring of the development of BiH within the European space.

**Keywords:** territorial development, regions, regional policy, cohesion policy, NUTS, EU

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## 1. INTRODUCTION

One of the most important issues of spatial planning, both in theory and in practice, is the question territorial organization of the space. The biggest challenge of the macroeconomic policy of every country is to find a way to ensure a balanced economic development in its entire territory.

Many countries have legal regulations that regulate issues of regional development, which indicates the complexity and importance of this term. The trend of regionalization is obvious in Europe, which is also confirmed by the fact that at the level of the European Union (EU), special departments dealing with regions have been formed. One of them is Eurostat, the Statistical Office of the European Union. Eurostat's mission is to provide high-quality data and statistics about the EU (Eurostat, 2022), and in accordance with that, all EU members should have established legislative regions. It is precisely this fact that puts before BiH, and therefore the RS, the need to solve the issue of regionalization, given that it has received the status of a candidate for EU entry (European Council, 2022). The reason for writing this paper lies precisely in the newly created situation in which BiH found itself, and in connection with its status as an EU candidate.

Observing throughout history, the area of BiH/RS has undergone numerous changes, with many aspects, such as state organization, territorial organization, political, social circumstances, etc. The result of all this is a complex state arrangement and disharmony in spatial and functional arrangement. When it comes to the territorial organization of the RS, the problem is also manifested in the absence of an intermediate level of organization (eg districts, regions, cantons, etc.). In addition, this issue is not precisely regulated by legislation, and the absence of political will towards such forms of territorial organization is also noticeable.

The subject of the paper is focused on the issue of spatial and territorial organization of the RS from the regional aspect. The issue of regions and regional development did not find its place in the Constitution of the RS, and therefore not in the law and by-laws. The amendments and additions to the spatial plan of the RS until 2025 provided guidelines and recommendations for the functional and economic regionalization of the RS

(Amendments and additions of the Spatial Plan of the RS, 2015), which is conditioned by its shape and position, the layout of urban centers and traffic connections, as well as the condition and potentials of the economy in certain parts of its territory, administrative and political circumstances in the entity and legal regulations.

The aim of the paper is to point out that one of the limiting factors of sustainable and planned development is precisely the inadequate territorial organization of local self-government units and the absence of an adequate regional division of the RS. If one wants to continue on the path of acquiring EU member status, the issue of regionalization of BiH/RS will have to be resolved. In accordance with the aim of the paper, emphasis was placed on the need to establish the NUTS classification and the formation of regions.

The assumption is that through the establishment of a policy of balanced regional development, achieve a better use of natural potentials (territorial capital), economic capacities and population (human capital) throughout the territory. Rapid economic development of underdeveloped areas would reduce migration and increase people's quality of life.

## **2. THE BASIC DETERMINANTS OF REGIONALIZATION, REGIONALISM, REGIONAL PLANNING, REGIONAL POLICY AND REGIONAL MANAGEMENT**

According to European experiences, it can be seen that the regions were a cohesive element in the even development and democratization of society. The regional level in the modern age represents the most important level of management and management of public affairs.

In professional literature, regionalization is mentioned as a process by which a unitary centralized state tries to implement decentralization in the form of certain administrative divisions. Regional planning has established itself as one form of regional management and national socio-economic and spatial planning, or development policy in the broadest sense ("Steuerung", "steering", etc.) (Vujošević, et al. 2014).

Regionalism is the development of political, economic, or social systems based on loyalty to a particular geographic region with a mostly ideologically and culturally homogeneous population (Longley, 2021). The term

regionalism contains, first, an important political characteristic in which the will to strengthen the political reach of regional units in the construction of the division of state power is manifested. Precisely because of this, the concept of regionalism is most easily observed in the existence of autonomous regional political organizations (Pavlić, 2021). Regionalism often leads to formally agreed arrangements between groups of states that aim to express a shared sense of identity while simultaneously achieving common goals and improving the quality of life (Longley, 2021).

The right to regional self-government implies the possibility and duty of regions to manage certain public affairs (substantial share of public affairs) of regional importance, with autonomous responsibility for their management, whereby they have to respect the principle of subsidiarity.

According to that regionalism as a political direction and regional self-government as its legitimate and political expression define political projects and a constant political conflict for power between the regions and the central government. The degree of democracy affects the possibility of carrying out this process at an acceptable level, without scales and conflicts.

Defining the term region and displaying different types of regions is difficult, primarily because facts that it is possible to put emphasis to very different characteristics (economic, political, constitutional, historical,...).

A region, within the social sciences, represents a cohesive area that is homogeneous in selected defining criteria and that differs from neighboring areas or regions according to those criteria (The Editors of Encyclopaedia Britannica, 2022). "Region, by definition, means an area, region, zone, neighborhood, surface, district, field, space, place" (Mirić, 2009, p.15). When looking at one specific country, regardless of its size, the region represents its territorially rounded whole. The region, on the one hand, has a set of characteristics that connect it to the entire country, and on the other hand, a set of (other) characteristics that make it specific. The functions of the region can be in the field of: health, education, infrastructure, industry, production, communal activities, urban planning, environment, etc., and they should be the starting point when it comes to establishing assumptions for regional planning, regional policy and regional management in the territory of the RS. According to the aforementioned definition, the role of local self-government units within the region can be clearly seen.

More complex approaches to regionalization also include the imperative to ensure significant political and broadest social legitimacy of decisions in decision-making, through the broad social mobilization of interested (and decision-affected) actors, starting from the definition of the development problem, through the widest communication and interaction during the preparation and decision-making, to the definition of much more complex implementation instruments, and thus a wider spectrum of necessary support for the implementation of decisions (logistics, IT, institutional, organizational and others) (Vujošević, et al. 2014).

Regional policy is characterized by a system of relations that direct and improve the economic development of the region, as well as interregional relations. "It also includes the realization that regional conditions and interregional relations are not predetermined, which emphasizes the aspect of regional politics" (Bogunović, 2011, p.58). One of the important regional policies of the EU is the Cohesion Policy. Cohesion policy is the main investment policy of the EU. It provides benefits for all regions and cities in the EU and supports economic growth, creation of jobs, business competitiveness, sustainable development and environmental protection (Official Gazette of the EU, 2022).

In the EU, several development processes of regional administration gradation can be distinguished. Parallel with the fundamental processes that strive for decentralization and the strengthening of democratic possibilities and the political legitimacy of the existence of autonomous units, as well as the complex process towards the territorial reorganization of the state and the turning of autonomous administrative units in the direction of democracy, in certain European countries it is possible to distinguish different and special tendencies inherent in the regional level of administration (Pavlič, 2021).

### *Concept of European Union (EU) regional policy*

Since the 80s of the 20th century, the EU has been paying special attention to regional development policy and encouraging the development of less developed regions in the EU member states. The regional development policy of the EU is based on the principles of solidarity and cohesion, and regional development projects are financed through the

corresponding structural funds. “Regional policy is aimed at the regions and cities of the EU, and its goal is to improve economic growth and improve the quality of life through strategic investments” (Directorate for European Integration, 2020, p. 145). This is one of the most important instruments for achieving economic and social cohesion of the EU. The main instruments for the implementation of regional policy are three main funds: the European Fund for Regional Development, the European Social Fund and the Cohesion Fund.

The European Regional Development Fund (ERDF) is one of the basic instruments of the European cohesion policy. Its purpose is to mitigate differences in the development of European regions and reduce the underdevelopment of regions in the most disadvantaged position (Directorate for European Integration, 2020). The European Social Fund (ESF) is one of the European structural and investment funds and is the EU’s main financial instrument for achieving the strategic goals of employment policy (Directorate for European Integration, 2020). With the New Cohesion Policy, local growth strategies are supported and the role of regional/local administration bodies for fund management continues to be strengthened (Erlić, 2021). The Cohesion Fund is intended for EU member states whose GDP per capita is less than 90% of the EU average. The Cohesion Fund’s purpose is to reduce economic and social differences, as well as to promote sustainable development (Directorate for European Integration, 2020). So, the cohesion policy implementation program for the period 2021 - 2027 is currently in force (Official Gazette of the EU, 2022).

The existence of EU regional policy and the process of European integration can be justified with the help of political economy. In this regard, integration is understood as a common good, but it is also recognized that different EU member states, developed and underdeveloped countries, have different political goals if their economic development differs. “An additional economic argument for the existence of EU regional policy is reflected in the existence of the European monetary union” (Tondl, 2004, p.11).

It is of crucial importance for every country that aspires to become a full member of the EU (such as BiH) to establish its national policy of regional development and cross-border cooperation, which would be an integral part of the EU regional development policy. The expectations and demands of the European Commission refer to the obligation

for candidate countries, i.e. countries on the way to acquiring that status, to harmonize the policies and goals of regional and spatial development with EU goals, as well as to incorporate certain mechanisms in national legislation and other documents for harmonizing their interests with the interests of the EU and the interests of other EU member states. The adoption and implementation of the national regional development policy, which is based on the principles of the EU regional policy, is actually a key prerequisite for access to EU structural funds.

*The regional policy as the main investment policy of the European Union (EU)*

In addition to the political reasons for the existence of EU regional policy, there are also reasons of an economic nature that need to be brought to the fore. Along with many practical solutions, institutional, political and economic reforms, the EU Treaty laid the planning foundations for a full economic and monetary union that was to be formed by the end of the 20th century. By setting such high, strategic goals, the EU member states gave qualitatively new importance to economic convergence in the Union. In Article 3, the EU promotes economic, social and territorial cohesion and solidarity among EU member states (Official Gazette of the EU, C 202/13). It was clearly observed that the absence of economic and social cohesion would jeopardize the entire integration project in all its elements.

“Regional cooperation is an indispensable instrument for the economic and social stability of Europe” (Directorate for European Integration, 2020, p. 145). Regional cooperation should be seen as a factor of integration through the development of infrastructure and networks and the establishment of free trade between neighboring countries. For Bosnia and Herzegovina, regional cooperation is one of the key conditions for EU integration.

Through the design and development of the EU’s regional policy, key structural funds were created, which have grown into essential factors of economic development, but also of the process of integration in all areas of social life. For BiH, since it received the status of a candidate for EU membership, these funds can be significant for its future development.

The four structural funds do not form a single source of funding within the EU funding system. Each of these funds has specific goals for equalizing development at the level of European regions: European Fund for Regional Development (ERDF); European Social Fund (European Social Fund - ESF) - European Agricultural Guidance and Guarantee Fund - (EAGGF) and Financial Instrument for Fisheries Guidance (FIFG). BiH does not currently have access to any of these funds, which also applies to RS.

Interreg, or European Territorial Cooperation, represents one of the two goals of cohesion policy and provides a framework for the implementation of joint actions and the exchange of practices and experiences among national, regional and local actors from different EU member states. “The main goal of European territorial cooperation is to promote the balanced economic, social and territorial development of the EU as a whole, in other words, solving problems that go beyond national borders and require a joint solution, as well as joint realization of the potential of various areas” (Directorate for European Integration, 2020, p. 50).

In addition to the basic structural funds, there are also four Community Initiatives, i.e. development programs through which support is provided to solve specific problems of EU regional development. These are: INTERREG, which includes cross-border cooperation, transnational cooperation and interregional cooperation, and was financed from the ERDF; LEADER, which includes rural development, and was financed from the EAGGF; URBAN, which includes the economic and social revitalization of urban areas, and was financed from the ERDF, and EQUAL, which includes the fight against discrimination and inequality in the labor market, and was financed from the ESF. Currently, only INTERREG is available for BiH.

The European Union Solidarity Fund (EUSF) was established in 2002 as a response to the great floods that hit Europe that year, and it is a fund exclusively for EU regions. This Fund is intended for quick EU aid in cases of natural disasters. Since it was formed until now, over 7 billion dollars of the Fund’s resources have been used about 100 times in 28 countries (European Commission, 2023). EU member states have the right to use the Fund, as well as countries that have entered into negotiations on candidacy for EU membership.

Three additional instruments were also established: JASPERS (Joint Assistance in Supporting Projects in European Regions), a joint initiative of EIB and EBRD intended for the creation of large infrastructure projects (Romania and Poland used this instrument the most); JEREMIE (Joint European Resources for Micro to Medium Enterprises), a joint initiative of the EIF and the EC, intended to support small and medium-sized enterprises in EU member states, and JESSICA (Joint European Support for Sustainable Investment in City Areas) – a joint initiative of the EIB and the Council of Europe Bank, intended for investments in urban areas. BiH does not have access to these funds.

Instrument for pre-accession assistance - the EU has developed a wide range of external assistance programs over time, which resulted in a complex set of over 30 different legal documents. In the context of the preparation of the new seven-year EU budget for the period from 2014 - 2020, and within the framework of the external aid instrument, the European Commission introduced a certain revision of the previous instrument of pre-accession aid IPA, i.e. it adopted the instrument of pre-accession aid IPA II for the period 2014-2020 and then IPA III 2021 – 2027. The most important novelty of IPA III is that funds will no longer be allocated to each beneficiary state (state envelope), but the principle of distributing funds according to the merits of the beneficiary states will be applied (Directorate for European Integration, 2021).

The goal of the IPA program is to provide concretely targeted assistance to countries that are candidates and potential candidates for EU membership (such as BiH). The IPA program is also designed to better adapt to the various goals and pace of progress of each beneficiary by providing focused and effective support according to real needs and evolutionary development. The IPA program is particularly focused on strengthening democratic institutions and the rule of law, public administration reform, implementing economic reform, improving respect for human rights and the rights of minorities and gender equality, supporting the development of civil society and strengthening regional cooperation and contribution to sustainable development and reduction of poverty. There is also an additional goal for the candidate countries for EU membership - the adoption and fulfillment of all conditions for EU

membership, while potential candidate countries for EU membership will be expected to approach these conditions.

BiH participates in six territorial cooperation programs in the financial period 2021-2027. Of these, there are three cross-border (Croatia-BiH-Montenegro, Serbia-BiH and BiH-Montenegro) and three transnational (Danube, ADRION, Euro-MED) (Directorate for European Integration, 2021) projects. All activities related to the implementation of cross-border/transnational cooperation programs in BiH are under the jurisdiction of the Directorate for European Integration/Department for Cross-Border Cooperation, International and Special EU Aid Programs within the EU Aid Coordination Sector.

### **3. NUTS - Statistical Classification of European Regions**

The European Parliament and the Council of the EU are 26.05.2003. adopted the Nomenclature of Territorial Units for Statistics (NUTS) (FR: Nomenclature des Unités Territoriales Statistiques), i.e. standards related to the administrative division of countries for the purposes of statistics, and for the purpose of enabling the collection, processing and publication of regional statistics of the European Community. The NUTS classification has been used by the European Community since 1988, but it was adopted only in 2003 after three years of preparation (Eurostat, 2007). The standard was developed by the EU and thus covers all member countries in detail, and the NUTS classification does not have to match the administrative division of the country into regions.

EU member states collect statistical data, which is analyzed by an authorized statistical body at the state level, after which these statistical data are sent to Eurostat. Eurostat systematizes, consolidates and publishes these statistical data. Data related to general statistics, economy and finance, demography and social conditions, industry, trade and services, agriculture and fisheries, foreign trade, transport, environment and energy, science and technology, etc. are continuously analyzed and monitored, and these analyzes and predictions are used by EU institutions to create and implement common policies.

The current NUTS 2021 classification is effective from 1 January 2021, which states that: 92 regions at NUTS 1 level, 242 regions at NUTS 2 level and 1,166 regions at NUTS 3 level are registered. NUTS classification is a hierarchical system: NUTS 1 - main socio-economic regions, NUTS 2 - basic regions for the application of regional policies and NUTS 3 - small regions for specific diagnoses (Eurostat, 2023). The NUTS system operates according to three basic principles: population thresholds (defines the minimum and maximum population thresholds for the size of the NUTS region), favors administrative divisions (supports data availability and policy implementation capacity) as well as regular and extraordinary changes (classification can change, but generally not more often than every three years).

Table 1: Regions according to NUTS standards in the EU in accordance with the population

Level	Minimum population	Maximum population
NUTS 1	3.000.000	7.000.000
NUTS 2	800.000	3.000.000
NUTS 3	150.000	800.000

Source: Eurostat 2023.

If there are no corresponding administrative units for a certain NUTS level, then the NUTS level is constituted by merging the necessary number of smaller territorial units, taking into account other relevant criteria such as geographic, socio-economic, historical and geopolitical circumstances, cultural and natural circumstances. In order to determine in which NUTS category to place a certain group of administrative units, the standard of the corresponding population is applied. It is important to note that NUTS II regions are designated as the main framework for the implementation of regional policy by the EU member states and from that aspect are relevant for the analysis of regional and national problems. The NUTS I level provides data used to analyze the relationship between regions within the EU, while NUTS III, as a

small region, does not offer data for more complex analyses, but it indicates areas where certain specific regional policies are needed (Jakšić, Rodić, Đekanović, 2006). The NUTS classification of territorial units represents an attempt to present standardized statistical data of geographical areas throughout the EU. It is not a practical proposition for every country within the EU to discard its locally acceptable territorial units, which may have deep historical roots and give the essential name of the organization of local authorities in favor of a centrally-imposed geographical hierarchy. The NUTS approach classifies the territorial units used by individual countries into a series of levels, each of which provides a broad degree of comparability across the EU (Commission of the European Communities, 2007).

#### 4. DISCUSSION

EU rules require EU member states, and therefore candidate countries for EU membership, to be able to produce quality statistics in accordance with the principles of the European Statistics Code of Practice and statistics based on professional independence, impartiality, reliability, transparency and confidentiality. Common rules for the methodology, production and dissemination of statistical information are foreseen.

BiH is in the early stage of preparations in the field of statistics. There has been limited progress on this issue. It is necessary to work on completing the classification of regions that is equivalent to the NUTS classification. Referring to the statistical infrastructure, the law on statistics of BiH is still not harmonized with the principles of the European Statistics Code of Practice. “The equivalent of NUTS II regions is only temporarily defined and accepted by the European Commission until Bosnia and Herzegovina finalizes the entire classification and includes in it the definition of the equivalent of NUTS III level” (European Commission, 2022a).

In addition to the NUTS classification in some EU member states, municipalities and settlements are recognized as the lowest in the hierarchy of territorial levels, which are not distinguished according to the ESPON methodology, nor do they function on the same principles.

According to the Statistical Nomenclature of Territorial Units (NUTS) of the EU, municipalities and settlements are considered as parts of the region and have the character of LAU 1 and LAU 2, on the basis of which population data is used. However, these hierarchical levels will not be the subject of this paper's analysis.

In addition to non-compliance with the NUTS classification, RS has not established an intermediate level of management at the level of its entity, i.e. the regional level. The establishment of the functional-economic regionalization of the RS is additionally conditioned and complicated by its shape and position of the RS, the layout of urban centers and traffic connections, the weakened demographic potential, the development and potential of the economy in certain parts of the territory of the RS, as well as the administrative-political circumstances in the RS and legal regulations.

Through the work, a review was made of the statistical-planning regionalization of the RS, which was set in the Spatial Plan of the RS until 2025 as the highest spatial-planning document of the RS. The Spatial Plan of the RS (2014) states that balanced (sustainable) regional economic and social development is in direct connection with the internal circumstances of the RS, and is based on possible positive and negative scenarios arising from such circumstances. Integral treatment of physical (ecological) and socio-economic development today on the territory of the RS has almost negligible features: strong social and economic imbalance and development disproportions prevail, as well as a lack of common actions and strategies, horizontal disconnection and lack of coordination of local self-government units, an extremely bad demographic picture in space, unfavorable distribution of the population, economic crisis in most of the territory, and others.

The population of the RS is unevenly distributed, but with a relatively good distribution of urban centers at relatively short distance, however, this still did not make the overall development more certain. The largest population concentration is in the northern part of the RS, especially in the areas around the cities of Banja Luka and Prijedor, cities that have about half of the total population of the territory of RS. In addition, the eastern and southern parts of the RS have a small population and these parts of the RS are struggling with its population decline

and emptying of space. The transition that took place during the war years and immediately after the end of the war (90s of the 20<sup>th</sup> century) has slowed down and indicates that permanent resettlement has been completed in most cases. The level of urbanization in the RS is around 42%, which is among the lowest in Europe, while the overall level of development of the RS is extremely uneven (Popović, 2021). Underdeveloped and extremely underdeveloped local self-government units of the RS are mainly border rural municipalities of the RS (on the entity border of the RS), and the developed LGUs are located in the northern part of the RS, and they are: Banjaluka, Bijeljina, Gradiška, Doboj, Laktaši, Prijedor, Prnjavor, Derвента, with a few points in the eastern part: Zvornik, East Sarajevo and Trebinje.

According to the Spatial Plan of the RS until 2025, the main goal of the RS is the determination and interest-based organization of regions, i.e. the cooperation of functionally-economically organized and connected local self-government units in order to achieve balanced sustainable development and increase the territorial cohesion of the RS. According to the Spatial Plan of the RS until 2025, the main goal of the RS is the determination and interest-based organization of regions, i.e. the cooperation of functionally-economically organized and connected local self-government units in order to achieve balanced sustainable development and increase the territorial cohesion of the RS. This means defining regions as spatial entities that functionally and interestingly connect local self-government units among which traditional ties already exist, which will determine their spatial scope and real impact. “The territorial and economic organization of the RS in this spatial plan is conditionally made at the level of six regions (areas of possible interest, functional connections of municipalities with those units of local self-government that have the status of a city or that are organized around a larger urban center, i.e., that are the most economically developed). Within those regions, action areas can be formed for the better use of personnel, financial or institutional capacities” (IDPPRS, 2015, p.71).

Table 2. Regions and the system of centers of the RS according to the amendments to the Spatial Plan of the RS until 2025

Region	System of inhabited places Local self-government units covered		Local self-government units covered
	Primary regional center Secondary regional center	Secondary regional center	
BANJALUKA – GRADISKA – MRKONJIC GRAD Estimated 2012 – about 400.000 Estimated 2021 - 385.666 inhabitants	Banja Luka	Gradiska Mrkonjic Grad	Banja Luka, Knezevo, Kotor Varos, Prnjavor, Celinac, Laktasi, Mrkonjic Grad, Jezero, Kupres, Ribnik, Istocni Drvar, Petrovac, Sipovo, Gradiska, Srbac
PRIJEDOR Estimated 2012 – about 160.450 Estimated 2021 - 127.181 inhabitants	Prijedor	Novi Grad	Prijedor, Novi Grad, Kozarska Dubica, Krupa na Uni, Kostajnica, Ostra Luka
DOBOJ-DERVENTA -BROD-SAMAC Estimated 2012 – about 238.000 Estimated 2021 - 195.574 inhabitants	Doboj	Brod, Samac, Derventa	Vukosavlje, Derventa, Doboj, Modrica, Petrovo, Brod, Teslic, Samac, Pelagicevo, Donji Zabar
BIJELJINA-ZVORNIK Estimated 2012 – about 287.000 Estimated 2021 - 242.758 inhabitants	Bijeljina	Zvornik	Bijeljina, Bratunac, Vlasenica, Zvornik, Lopare, Milici, Osmaci, Srebrenica, Ugljevik, Sekovici

Region	System of inhabited places Local self-government units covered		Local self-govern-ment units covered
ISTOCNO SARAJEVO-VISEGRAD Estimated 2012 – about 101.000 Estimated 2021 - 88.932 inhabitants	Ist. Sarajevo	Visegrad	Visegrad, Pale, Rogatica, Rudo, Sokolac, Istocna Ilidza, Istocni Stari Grad, Istocno Novo Sarajevo, Han Pijesak, Trnovo
TREBINJE-FOCA Estimated 2012 – about 104.000 Estimated 2021 - 88.198 inhabitants	Trebinje	Foca	Berkovici, Bileca, Gacko, Ljubinje, Nevesinje, Istocni Mostar, Trebinje, Foca, Kalinovik, Novo Gorazde, Cajnice

Source: Regions and the system of centers of the RS according to the amendments to the Spatial Plan of the RS until 2025 (IDPPRS, 2015). The number of inhabitants according to the estimate of the Republic Institute for Statistics of the RS for the year 2021.

It should be noted that after the creation and adoption of the Spatial Plan of the RS until 2025, the official results of the 2013 population census, which was conducted after more than two decades in BiH, were published. In addition, the number of inhabitants in each of the mentioned regions was significantly reduced in 2021. That is, the difference in the number of inhabitants between these two time periods (2013 and 2021) is about 160,000 fewer inhabitants in 2021. All the above-mentioned regions have a significantly lower number of inhabitants based on the estimate from the year 2021, than it was during the period when the Spatial Plan of the RS until 2025. was being developed.

According to the Spatial Plan of RS until 2025, six regions are planned in the territory of RS:

- The region of the largest city - the region of Banjaluka - Gradiska - Mrkonjic Grad,
- Mining - industrial - tourist region - Prijedor,

- Transport - industrial polycentric region of Doboj - Derвента - Brod - Samac,
- Agro-industrial region of Bijeljina - Zvornik,
- Forestry - industrial region of Istocno Sarajevo,
- Energy - agro - tourist region of Trebinje - Foca.

Considering the criteria that must be respected and when it comes to the NUTS nomenclature, three regions out of the six mentioned do not meet the basic criteria according to the NUTS nomenclature, which is the number of inhabitants and it is necessary to look at them from a different aspect. These are the regions (Prijedor, East Sarajevo-Visegrad and Trebinje-Foca. The regions Istocno Sarajevo-Visegrad and Trebinje-Foca, considering that they are also naturally and geographically connected, it is possible to observe them and statistically process them as one statistical NUTS region. Since the region of Prijedor adjoins the region of Banja Luka - Gradiska, it should be considered together with that region. According to the estimate of the total number of inhabitants for the year 2021, RS can be seen as a NUTS2 region. The conducted analysis was done in order to create assumptions for the formation of the NUTS region, based on the already established spatial planning guidelines of the RS.

## 5. RESULTS

BiH has not yet established a legislative framework for the management of EU structural funds. In addition, BiH lacks strategies for the implementation of EU cohesion policy. An adequate regional development policy, with accompanying institutional structure and performance monitoring frameworks, has not been established in BiH. NUTS II regions are only temporarily defined in BiH and they are accepted by the European Commission until BiH finalizes and harmonizes the entire classification including the definition of the NUTS III level. (European Commission, 2022a). BiH, which also applies to the RS, needs to improve the statistical and analytical basis (including the definition of NUTS regions) in order to develop a healthy strategic framework for cohesion policy.

The current conception of the regional development of the RS excludes the existence of administrative regions with legal subjectivity and

administratively defined borders, i.e. it does not rely on the distribution of power and complete management mechanisms at the regional level. Bearing in mind the statistical nomenclature of territorial units at the European level (NUTS) where the area of the RS is in the NUTS 2 level, the regional division in this plan can be formally complementary to the European NUTS 3 level (level of the so-called district or area). Defining such regions is based on such an organization of space that contributes in the best way to the economic, ecological and social development of the territory of those regions, integrates the space between inhabited places, promotes a positive relationship between the countryside and the city and initiates the construction of infrastructure systems in order to increase the accessibility of the territory and better connectivity within and outside the region.

Currently, the issue of regional establishment and planning entails a series of questions that need to be answered. Only after extensive socio-economic analysis will it be possible to tackle this very complex problem. In the meantime, one should be guided by the proposal of the regions, which are given in the Spatial Plan of the RS until 2025, with certain corrections to the number of regions. In the meantime, one should be guided by the proposal of the regions, which are given in the Spatial Plan of the RS until 2025, with certain corrections to the number of regions, considering the changed socio-social picture and the number of inhabitants of the RS in relation to the period when this document was created. Some of the questions that need to be answered are:

- Could the formation of the NUTS region serve as a model for the establishment of the future regional territorial division of RS?
- Which institutions are in charge of defining the boundaries of the NUTS region in RS?
- Is one of the reasons for the establishment of regionalization in the RS to meet EU requirements, or the possibility of creating a more organized spatial and functional territory?
- What is the “new European regionalism”, in terms of its contextual determinants, and how well do they fit into the social context of RS society?
- What types of regionalism have a greater chance of contributing to the establishment of a new model of RS development? etc.

By sublimating all of the above, it can be stated that the definition of the new spatial-institutional model will depend on a number of factors. In the politicized environment in the RS, in which all reforms are tied into some general packages, the only support in the search for grounded and realistic solutions for the establishment of regional relations in the RS is in the analysis and transfer of experiences from countries that have successfully passed that path. Those experiences, especially those from neighboring countries, show that there are two ways to establish a regional division:

- administrative - by which the RS, with its legal regulations (spatial plan, law on spatial organization (the first steps have already been taken), law on local self-government, competences (functions), financing and other issues important for the functioning of the region or
- self-governing - according to which the municipalities (or citizens by municipality) of the RS would decide for themselves about the association of their municipalities into a region, the selection of regional functions, organization, financing, etc. However, the RS would have to regulate the decision-making process, organization, possible competences and financing in its own legal regulations.

Why is it important to mention the NUTS classification in particular? First of all, countries that want to join the EU (candidate countries) are obliged to determine the appropriate statistical spatial units according to the classification applied by the EU. After joining the EU, the statistical classification is officially accepted as the NUTS regions of the new member state, and the member states cannot change the existing classification for the next three years. One of the reasons for the emergence of this kind of classification is that the users of statistical reports at the EU level expressed the need for their harmonization for the purpose of data comparison. In this regard, statistical standards are required for the collection, processing and publication of both national and EU statistical reports. Regional statistics represent a very important element of the European statistical system and it is necessary that there should be at least three hierarchical levels of the NUTS classification. This does not limit EU member states, if they deem it necessary, to develop further regional sub-levels.

According to the conducted analysis, BiH can be divided into two NUTS 2 regions: the Federation of Bosnia and Herzegovina (FBiH) and the RS. Based on the Spatial Plan of the RS until 2025, that is, on the proposed planning and statistical regionalization of the RS, 4 (four) NUTS 3 regions can be distinguished: the region of Prijedor-Banja Luka-Gradiska-Mrkonjic Grad, Doboj-Derventa-Brod-Samac, Bijeljina-Zvornik and Istocno Sarajevo - Visegrad-Trebinje-Foca. In addition to fulfilling the conditions regarding the number of inhabitants, the region set up in this way also represents a naturally rounded whole.

## 6. CONCLUSION

In post-communist/post-socialist countries as well as in transition countries, the status of regional autonomy has been neglected for a long time. The accession of transition countries to the EU and their ability to use structural funds also had a very strong influence on the trend of regionalization of transition countries. The regionalization trend of post-communist/post-socialist countries is not uniform at all, but rather a complex mechanism. However, the influence of accession and participation in the regional policy of the EU, which is aimed at strengthening the middle, i.e. of the regional level of government is a big and important element in transition countries.

The conclusion is that for now there is no general agreement regarding the key issues of the comprehensive solution of the regional problem at the level of BiH, that is, RS. The aforementioned issue of regionalization of BiH, that is, RS, needs to be resolved as soon as possible, but it should be noted that when we talk about the existence of political will, we do not get the impression of political commitment to the public interest in any field of development, including in this one. However, by obtaining the status of a candidate for EU membership, the circumstances changed and BiH, that is, the RS, is obliged to establish the NUTS division, that is, to define the administrative division of the country for the purposes of statistics. In addition, BiH and the RS need to establish mechanisms for the establishment of their national regional development policy and for the implementation of cohesion policy.

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**RIGHT AND RESPONSIBILITY**

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# FORMS OF LEGAL RESPONSIBILITY OF POLITICIANS AND OFFICIALS OF THE EXECUTIVE AND ADMINISTRATIVE AUTHORITY IN BOSNIA AND HERZEGOVINA DE LEGE LATA AND DE LEGE FERENDA

REVIEW SCIENTIFIC PAPER

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**Summary:** The question of responsibility in general, and in particular forms of legal responsibility was, is and will be an actual problem of any social system. The social system is as stable and progressive as the principles and norms of responsible behavior are respected and implemented. Responsible behavior cannot be achieved by declarations and proclamations of norms, but rather, represents a permanent activity on the effectuation of legal norms by the administrative authority in the environment of a stable and progressive policy determined by the executive authority. In this way, responsible action is advocated and favored, as well as awareness of the inevitability of responsible work. Otherwise, sanctions will follow, which are the consequences of not complying with legal norms. The paper analyzes the legal and political responsibility of personnel in the narrower and broader sense, as well as all other forms of legal responsibility of politicians (criminal, civil, misdemeanor, and disciplinary). The legal and political responsibility of politicians is a consequence of the violation of the legal norm/s. Those legal norms explicitly instruct politicians to perform their duties in a certain way and according to a certain procedure. Hence the determination to objectively analyze the forms of legal responsibility of politicians and officials of the executive and administrative authorities in Bosnia and Herzegovina through a descriptive method. The results of the analysis indicate that the

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political responsibility of officials in our country is de facto extralegal, and therefore not regulated by legal norms. This practically means that the political responsibility of officials in Bosnia and Herzegovina is completely outside the sphere of law, which is nonsense.

**Keywords:** legal political responsibility, political functionaries, executive authority, acting responsibly

## 1. INTRODUCTION

The responsibility of the individual must coincide with the level of his/her authority, so those subjects that have greater rights and authority must be significantly more responsible concerning those subjects that have fewer rights and power. This by no means means that persons with fewer rights and authorizations are not responsible for their work. Personal responsibility should be the basis of all forms of responsibility. In any social system, responsibility should represent the assumption of social discipline and civic progress. Irresponsible behavior of an individual or a group of persons never happens by chance. This kind of behavior is an indicator of the state of social relations in a community. In order for functionaries or officials to be held accountable, their tasks and obligations must first be precisely determined, and their powers and responsibilities determined by normative acts. If this does not exist, then there is no reason to hold them accountable. For that reason, if the responsibility is not completely determined, standardized, and effective, then it irrefutably results in the disorganization of the social system as a whole. What is the approach to the responsibility of political functionaries and officials of the executive and administrative authorities in Bosnia and Herzegovina, which are the problems in personnel management, are precisely the questions whose answers we seek in this work.

## 2. POSITION CLASSIFICATION IN THE ADMINISTRATION IN RELATION TO THEIR POSITION, DUTIES AND AUTHORIZATIONS

The substrate of every organization is made up of personnel. Since every organization is unthinkable without people, it primarily depends on them. The human factor in any organization is usually referred to as personnel. We look at personnel in the narrower and broader sense of the word. Personnel in the narrower sense are management employees (political functionaries in the narrower and broader sense), and personnel in the broader sense, which includes all employees in an organization (officials and employees) as its professional staff

Such a large number of personnel in the administration, considering their different positions, duties, and authorizations, which are conditioned by their labor-legal/official status. It is necessary to classify them into three groups and only treat their rights and obligations in that way.

These are:

- 1) elected personnel,
- 2) appointed personnel, and
- 3) employees in administrative bodies (officials and employees).

1) **Elected personnel** are elected and dismissed by representative bodies. This category of elected persons at the state, entity and cantonal levels in Bosnia and Herzegovina includes ministers. Ministries, as the most important organizational form of administrative bodies, exist independently of changes in their personnel composition. Ministerial powers, who are political officials at the head of the ministries, are not their personal powers, but rather the powers of the function that the ministers have while they are in that position. Ministers, as heads of administrative bodies, are appointed and dismissed by the body determined by the constitution and law, because they are political officials. Their personal status is therefore subject to constitutional law and special laws apply to

them. The regulations on civil servants can also be applied to them, but only in an appropriate manner and under the condition that there are no special regulations regulating the personal status of political functionaries.

2) **Appointed personnel** include persons appointed and dismissed by governments. In Bosnia and Herzegovina, these are officials who manage the work of administrative bodies as part of an independent body, secretaries of ministries, assistant ministers, directors of administrative organizations and their deputies and assistants.

**Elected and appointed** personnel belong to the category of political officials, and their difference lies in whether they manage the work of administrative bodies or belong to a group of other political officials.

3) **Civil servants (Public officials)** in the administrative bodies are officials and employees who are hired by the decision of the official who manages the work of the administrative body, which is why they represent the most numerous group of personnel in the administration, but also the group with the least authority. Employees must be of equal quality at the disposal of every political party that wins power. Political changes do not affect their status. The personal status of an employee as a professional staff is regulated by special regulations on the civil service, i.e. civil servants at different political territorial levels of government in BiH, and these regulations represent the source of civil service law, which is increasingly separated from administrative law and becomes a separate branch of law.

Therefore, depending on whether the question is about elected personnel, as political functionaries in the narrower sense - ministers, or whether it is about appointed personnel appointed and dismissed by governments, as political-executive bodies (directors, deputies, secretaries, assistants) or on the other hand, when it comes to civil servants (officials and employees), all of them must be observed in this way only.

That is why they have completely different positions, duties and powers, and that means a completely different labor-legal status.

Political officials do not perform their jobs as a basic occupation, as their profession. Their duties are always temporal.

That is why they have entirely different positions, duties, and powers, which means a completely different labor-legal status.

The duties of civil servants are not transient. The virtue of civil servants (public officials) should be expertise, competence, political neutrality and impartiality, and as such they serve any political party that wins power. They perform their duties as their primary occupation, as their profession. Therefore, without such an approach to public officials, there will be no inevitable professionalization of the administration, which is a priority activity to obtain candidate status, and after that, setting the date for the opening of accession negotiations of Bosnia and Herzegovina's entry into the European Union.

Therefore, only the top of the administrative pyramid is related to politics and only it can be affected by political changes. That means that political functionaries cannot in any way be equated with civil servants (public officials) since their status is regulated by special regulations. Only if there are no such special regulations, then special regulations governing the status of professional civil servants applied to them, but in an appropriate manner.

### **3. LEGAL AND POLITICAL ACCOUNTABILITY AND ITS RELATION WITH OTHER FORMS OF LEGAL RESPONSIBILITY**

Criminal, civil, misdemeanor and disciplinary accountability are always regulated by legal norms, which should also apply to legal political liability. Legal political accountability otherwise, and especially in Bosnia and Herzegovina, would have to be completely bound by legal norms, as is the case with the remaining four forms of legal accountability.

In Bosnia and Herzegovina, legal and political accountability should by no means be allowed to fill the space between the above-mentioned four forms of accountability, in a way that would attribute to its elasticity and flexibility, and which often happens now. Political accountability, as one of the forms of legal accountability in

our country, unfortunately, covers the space of all other forms of legal responsibility, so it often excludes criminal, civil, misdemeanor and disciplinary accountability, as the remaining legal forms of legal responsibility. This fact creates the illusion that the system is functioning from a political point of view, although in our case, the principle of legality and the principle of equality of all citizens, as well as other accompanying legal principles, are completely endangered.

Given that legal political accountability is “reserved” only for political officials, it must under no circumstances overshadow or fully cover, i.e., exclude all other forms of legal accountability. That is why it is necessary to specify legal and political responsibility with legal norms and to take special account of how it functions in practice and how it is effected.

This form of legal accountability is truly special and specific, because only in it, politics and law meet and touch, but without their mutual interpenetration. Given that this statement is correct, it means that it is necessary and practical to prevent the law from being overshadowed by politics. In order to achieve this, it is necessary to continuously take into account the functioning of the system and the effects of legal and political accountability objectively and transparently.

The relationship between legal, political and other forms of legal accountability should be in the function of solving unresolved general and individual situations, all following the law and with respect for the equality of citizens. Otherwise, political accountability will cover and eliminate other forms of legal accountability and position political officials, protecting them as autarchic through crime, corruption, nepotism and other scourges of society that indisputably destroy and prevent the creation of a socio political system that would serve its citizens.

This situation is well present in Bosnia and Herzegovina, and it is the result of the fact that we, not only do not have a functional legal political responsibility for political officials, but this responsibility functions as an extra-legal political responsibility (without a foothold in the regulations) and as such has covered all the others forms of responsibility (criminal, civil, misdemeanor and disciplinary). This state of affairs has led to the fact that the remaining four forms of legal

responsibility do not have the necessary reach, which is why there have been negative consequences for the development and prosperity of society in our country for decades. The key reason for this state is that the criminal, civil-property, and disciplinary responsibilities of political functionaries and officials are covered up by political irresponsibility. If there is talk of political responsibility in our country, then as a rule it is usually about extra-legal political responsibility, not legal political responsibility. Extra-legal political responsibility is completely outside the sphere of law, which is why it is not even regulated at all, which is legal nonsense. This kind of responsibility is therefore without any effect and it directly petrifies the consociational socio-political arrangement.

### **3.1. Legal and political responsibility of political officials, as public office bearers**

Political responsibility is linked only to political officials who participate in the exercise of political power, and as such are part of the overall political structure of the country. Each of the political functionaries has the powers given to him by his office, but to adequately perform the powers of public office, not his own powers.

The political responsibility of public-political officials is one of the forms of legal responsibility. Therefore, in addition to criminal, civil, misdemeanor and disciplinary responsibility, there is also political responsibility, as a fifth form of legal responsibility that is compatible with holders of public political functions. Due to the insufficiently, incompletely and dysfunctionally regulated system in Bosnia and Herzegovina, we consider it unnecessary to treat the issue of extra-legal political responsibility in our country. Because the essence of extra-legal political responsibility is always determined by the socio-political arrangement, that is the moral-political responsibility of personnel (Popovic, Markovic, Hrnjez, Kuzmanovic, 1984:380). Given that the socio-political system of our country is insufficiently regulated, and taking into account the fact that the procedure of extra-legal political responsibility has never been regulated by legal norms, which is why it is completely outside the sphere of law, we objectively appreciate that

at this stage of the construction of the socio-political system country, this extra-legal responsibility is not needed, because it is ineffective for us.

Given that in our country, the work of political officials is often carried out with phrase words, and not with work and responsibility, then: greed, extravagance, egoism, babbity, ignorance and primitivism can only be prevented with all the above-mentioned forms of legal responsibility, including legal and political responsibility. Given that inactivity and irresponsibility at work in Bosnia and Herzegovina have become a frequent occurrence, we are afraid that the irresponsibility of political officials and public officials will not become an expression of the state of mind and social being, which is extremely dangerous if this existing negative progression is not stopped.

The legal political responsibility of public office holders is determined by:

(1) Ineffective or purposeless work of public office bearers that is not in line with the attitude, understanding, opinion, or interests of the political-territorial unit on whose behalf they perform the function;

(2) Responsibility is submitted to the body which: elected, appointed, or employed the holder of that public office, whose ineffective or purposeless performance is the basis for calling for responsibility

(3) The process of legal and political responsibility begins with the initiative to start the process, then goes through different stages of the process, and ends with the decision of the competent authority, established by legal norms and

(4) Finally, the sanction of legal and political responsibility is always only one. Unfortunately, the sanction is practically unknown to the holders of public offices in Bosnia and Herzegovina. Namely, the decisions of the competent bodies or organs towards the elected and appointed personnel consist of recall, replacement, or dismissal from office. In this way, the relationship of objective trust that connected the body or organ, on the one hand, and the holder of the public function, on the other hand, would be broken.

Between ministers - members of governments who bear political responsibility, and the largest number of personnel, which are public servants as members of the professional public service who are not subject to political responsibility, there is a certain number of political functionaries in a broader sense, who are between these two categories of personnel. However, no matter how specific this category of personnel is, which is between the two described, it must be said that it is still to a significant extent political, in the broadest sense of the word. Political functionaries in a broader sense are represented by personnel who are appointed to appropriate positions by the government.

Performing any political function implies mandatory compliance with the Constitution and laws. In the case of violation of constitutional and/or legal provisions, this implies the mandatory responsibility of political officials, which then actually represents their criminal responsibility. As legal responsibilities do not exclude each other, this means that political officials can simultaneously perform their function and cause damage to another, which represents his civil (property) responsibility. By performing their function, political officials can simultaneously commit a misdemeanor in their work, as a less socially dangerous act compared to criminal responsibility, which represents their misdemeanor liability. Finally, political officials can also violate the rules of discipline, performing their work tasks in compliance with the ethical code of conduct, so the violation of those rules for political officials also entails disciplinary responsibility. That is why it is necessary to explicitly regulate all four of these latter forms of legal responsibility through clear legal norms, especially concerning: the basis of responsibility, the competence of authorities, proceeding and sanctions.

As far as political responsibility is concerned, it should be a consequence of the greater or lesser powers given to the exercise of the political function that the official has at his/her own disposal (Purisevic, 2021). These powers are given to political officials directly or indirectly by those who elected or appointed them to these positions. However, this by no means means that the authorizing party waived its right to control the work of political officials and to call them to account if necessary.

When it comes to this control and responsibility of political officials in Bosnia and Herzegovina, the problem is the fact that political responsibility covers the entire area of legal responsibility and thus practically excludes all other forms of legal responsibility (criminal, civil, misdemeanor and disciplinary). In addition to the fact that in our country these are classic forms of abuse of power, which should entail all forms of legal responsibility, this does not happen in Bosnia and Herzegovina because political responsibility covered all other forms of legal responsibility, and thus excluded them from their application. Political responsibility is not based on an objectively determined criminal offense, nor on objectively determined civil responsibility, but on subjective elements valued by representative bodies.

The domain of political responsibility is very wide, and accordingly, the question of this responsibility could arise exemplarily due to: (1) every act of the minister in the exercise of his function, (2) the views and intentions of the minister, with the fact that his/her behavior should be appreciated according to the criterion of legality, and not according to the criterion of expediency or purposefulness adopted by the representative body.

Therefore, if the issue of the political responsibility of officials is not objectified, then it will mean that the representative bodies will continue to participate directly or indirectly in manifesting the will of individuals in power, and not the will of state authorities.

The relationship between a political official and the body that entrusted him with that political function is twofold. (1) A political official can be given that authority precisely and explicitly, and he should only exercise that authority. (2) On the other hand, there is a possibility that political officials, based on their general mandates entrusted to them, are given discretionary rights in the sense that it depends on them whether and how they will act.

Space for abuse of political responsibility is incomparably smaller if a political official does not act according to a precisely and explicitly given order by the grantor of authority, and accordingly, it is much easier to determine the eventual political responsibility of the political official in case of non-execution of authority.

We encounter a much greater space for the abuse of political responsibility with the discretionary right, because then it can happen that a political official does not act in a case when he was obliged to do so, or he acts when he should have refrained from acting, or he acted differently than he should have and the like. This automatically implies the fact that the possibilities of calling for political responsibility are greater in the case of the discretionary right of political officials (Jovicic, 1968: 9-17).

Political responsibility<sup>3</sup> in Bosnia and Herzegovina should be tied to a wider circle of officials of different political-territorial levels of government, such as officials of political-executive bodies, high-ranking officials appointed and dismissed by representative bodies and members of parliaments/assemblies.

The subject of our interest will be the political officials of the executive (government) and administrative authorities, namely:

- 1) ministers, as members of political-executive bodies (government), whose responsibility is determined by representative bodies;
- 2) governments, as political-executive authorities as a whole, whose responsibility is determined by representative bodies and
- 3) high political officials who are directly appointed by governments, as political-executive bodies, i.e. whose appointments are approved by the government, and in doing so, these high political officials are not members of governments, whose responsibility should still be determined by representative bodies.

Therefore, only ministers, as individual members of governments and governments as a whole, as political executive bodies, bear political responsibility before representative bodies. In addition to them, this political responsibility should also be borne by a number of the highest officials who, although they are not members of the

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3 A synonym for “political responsibility” in Western countries is “parliamentary responsibility”.

government, nevertheless participate in the management of significant organizational units of the administration with recognizable powers, which is why they should also be legally politically responsible.

We emphasize, once again that the only sanction of legal political responsibility is the impeachment, removal, or dismissal of a political official.

As a rule, a single head of state, and it is rarely a collegial head as is the case in our country, neither in a parliamentary monarchy nor in a republic, as another form of state government, does not bear legal political responsibility. This also applies to members of parliaments/assemblies, since in any country with a parliamentary system they cannot be recalled before the end of their mandate.

Some of, in our opinion, particularly important reasons why we should formally and actually insist and practice the issue of legal political and the other four forms of legal responsibility for political officials in Bosnia and Herzegovina are:

1. It is a truism that the executive and administrative powers are the gravitational centers of political power. The political primacy, especially of the executive and even the administrative authorities over other authorities, is based on the concentration of the interests of the rulers. Appreciating the stated statement, it is not difficult to conclude that the executive and administrative authorities represent a powerful tool for preserving and consolidating the rule of political parties. The crucial reason for practicing the application of all five forms of responsibility to political officials is to prevent these authorities from interfering with the individual rights of citizens, i.e. preventing the possible abuse of the position and authority of officials, i.e. protecting the legality of their work. An objective and real reform of the executive and administrative power is unthinkable without consuming all the mentioned forms of legal responsibility. One of the main reasons why the results of reforming these authorities so far have been insignificant lies precisely in this. Individual, partial and ad hoc changes do not contribute to the reform of the executive-political and administrative-legal power but serve as a means to maintain the ruling political parties, and thus the authorities in our country are petrified and lead directly to the consociational socio-political system.

2. Given that the executive power is primarily concerned with formulating policy, as a political power, i.e. making the most important political decisions, implementing general principles of fairness, activities to shape the future of society and the like, then we can say that political responsibility is also reserved for the executive power, but only as one of five forms of legal responsibility, to which holders of public office are subject. Therefore, for political officials, political responsibility is only one of the five forms of legal responsibility. As political officials are empowered to perform their duties, this implies their obligation to comply with the constitution and laws. From this obligation comes responsibility for non-observance of the mentioned regulations, which then implies other forms of legal responsibility (criminal, civil-property, misdemeanor and disciplinary).

As the executive branch is primarily concerned with formulating policy, it was quite justified that the executive branch should be doubled to:

- general execution, the bearer of which is the political-executive power, i
- special execution, which is carried out by the administrative authority as the executor of rights, through which the state exercises its sovereignty (administrative bodies, administrative organizations and institutions entrusted with the exercise of public powers). Bearing in mind all the above, unfortunately, we have to state that the post-Dayton development of executive and administrative power in Bosnia and Herzegovina should be marked as a period in which political/politician parties and their leaders/autocrats, ruling on the principles of tribalism, represent the essential embodiment of executive and administrative power government that acts most often on the principle of expediency, and which should be changed immediately and as soon as possible. Bosnia and Herzegovina, especially in the administrative power, needs a meritocratic staff, not an egalitarian one, which is currently, unfortunately, a very common case. Due to all of the above, the use of all five forms of legal responsibility is therefore inevitable.

3. The executive, that is, the political-executive power should continuously work on studies and plans, using instructions, proposals, suggestions, and opinions of experts, all to adequately predict the improvement and development of the socio-political system. Without this adequate forecast, there is no conception of a specific and appropriate policy. This is especially important to mention in countries in transition of government with an insufficiently regulated socio-political system, because the executive and administrative powers in such systems, that is, in times of crisis, become dominant for solving an extremely complex situation in the state. It must be significantly more resistant to the influence of individuals and groups, or different types of pressure, to resist different private and particularistic interests. In this essential activity of the executive and administrative authorities, immense help and support should be provided by the professional and technical teams of the administrative authorities. After all, today having a parliamentary majority means having its government, that is, power because the government is the most influential and active institutional expression. The electoral battles of political parties today are not fought to protect abstract interests, but to obtain a parliamentary majority that can form a government. For political parties, elections are primarily an opportunity to get their political officials (ministers), i.e. their members' seats in the parliament/assembly. Appreciating the importance of these activities, the issue of all forms of legal responsibility of political officials is indispensable, both from a preventive and a repressive aspect.

4. As for modern executive and administrative powers, which are the result of general right to vote, they are by their nature under the control of representative bodies. In Bosnia and Herzegovina and the countries of the region, the meaning of parliamentarism is not that the minister has the trust of the representative body, but of the majority that formed the government. Our ministers practically do not answer to the representative body, but to the majority that formed the government. To be even more precise, ministers in Bosnia and Herzegovina are "answerable" to their political party, which is the electoral or coalition winner and which inaugurated them to these political positions.

That is why today the ministers in Bosnia and Herzegovina are almost “all-powerful”, because behind them stands their political party, that is, the coalition of political parties that formed the government and are considered the election winners. Starting from the latter statement, primarily the executive, and consequently the administrative authorities are influenced by: a) the government, which has the necessary technique provided by the administrative authority in drafting and proposing laws, and since it has a majority in the representative bodies, it quickly adopts the drafts and proposals in the form of laws b) in the same way, decrees (by laws) are passed, i.e. the appointment and recall of high administrative officials and c) executive and administrative power are today viewed outside the social context, independent of the social forces in whose hands executive and administrative power is. Instead of these authorities dealing with the protection of the individual and abstract interests of their citizens, they are just a concentration of ruling political forces whose individual and group interests they selflessly serve, and in this way consolidate their rule by preventing significant economic, legal, social and political changes in society. Through political parties and general elections, party leaders often come to the head of executive and administrative power and create, as a rule, party policy. During the term of office, political parties control the political officials they inaugurated in executive and administrative power. Those holders of executive and administrative power are helpless if they do not have the support of political parties, and as such they cannot remain in power until the end of their mandate, nor can they appear as serious aspirants for the same or greater positions in the next general elections. In other words, if political officials lose the support of their political parties, then they lose power. That is why political officials can be said to be the bearers of power, but at the same time, they are prisoners of their political parties.

Appreciating the above, the need for all forms of responsibility of political functionaries of the executive and administrative authorities is indisputably imposed.

## 4. CRIMINAL AND CIVIL RESPONSIBILITY OF POLITICAL FUNCTIONARIES

While respecting misdemeanor and disciplinary responsibility, as the remaining two forms of legal responsibility, on this occasion we will still point out only the criminal and civil responsibility of political officials. We will do this only because the degree of social danger that endangers the public interest of a socio-political community is greater and with more severe consequences for these two types of legal liability, concerning a misdemeanor and disciplinary liability, pleading for the application of these two latter types of legal responsibilities.

### 4.1. Criminal responsibility of political functionaries

The institute of criminal responsibility of ministers was created in medieval England.<sup>4</sup> Today, the most common and basic question is: what are the ministers responsible for? One could say that the crimes that can be committed by ministers are threefold.

First, performing their function, they can violate constitutions and laws, thus causing damage to the state - society, that is, to its political-territorial units.

Second, while performing their functions, ministers can also violate the rights of citizens, as individuals, and other entities.

Thirdly, like all other citizens, ministers can commit any criminal act independently of their function, as citizens. High-ranking political officials who are directly appointed by governments, as political

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4 The institute of criminal responsibility appeared in the form of impeachment, as an accusation by the House of Commons on which the House of Lords tried the minister against whom the impeachment was initiated. This institute was one of the strongest means of the House of Commons' struggle against the crown and its ministers. As with other institutes of English law, this institute is not regulated by legal regulations but was built based on a series of precedents. The last conviction by impeachment took place in 1805, and since then the House of Commons has had a more effective means of removing ministers, because since then ministers are accountable to the House of Commons for their work, and it can, without the participation of the House of Lords, remove them from power when it wishes. It should be noted that the institution of impeachment has not been abolished, but it is not applied in practice. This institute of criminal responsibility of ministers has been adopted in most other countries.

executive bodies, i.e. whose appointments the government approves, and these high-ranking political officials are not members of governments, are in principle subject to criminal liability, like all other citizens, for all their actions that are punishable by the corresponding criminal legislation. Appreciating the fact that these high-ranking political officials, who are not members of the government, are to a very significant extent similar to ministers, because they are the heads of certain departments, or at least services and departments for whose work they bear personal responsibility, to the most significant extent, everything can be applied to them what also applies to ministers regarding their criminal responsibility.

#### **4.2. Civil (property) responsibility of political functionaries**

Property (civil) responsibility is borne by anyone who causes damage to another, which consists of the obligation to compensate for the damage caused. Damage can be different, such as property (material) and non-property (moral) damage, direct and indirect damage, then concrete and abstract damage and such. For this occasion, it is not important for us what the property responsibility consists of, but the goal is to point out the specifics of the property responsibility of political officials, concerning the property responsibility of citizens and officials. By the way, the question of property responsibility is one of the basic questions that arise in the field of obligation law, including modern types of responsibility that follow the overall social development in multi-party political systems.

On this occasion, we will specifically point out the issue of civil or property liability of political officials in the narrower sense (ministers), without minimizing the political responsibility of officials in the broader sense of the word, and they represent responsibility for the damage they cause to others while performing their political functions. Political officials can cause damage to citizens and political territorial units. Damage can be caused by the commission of a criminal offense by political officials, and it can be inflicted independently of the criminal offense.

The political responsibility of officials is, as a rule, attached to the holders of the highest political positions, namely ministers as heads of the basic administrative body for performing administrative tasks in one or more administrative branches. Also, the criminal responsibility of these same political officials is specific concerning other political officials, officials and citizens, because only ministers, given their function, are subject to special criminal acts. In contrast to political and criminal liability, general civil liability rules apply to ministers, just like other political officials, employees and citizens. Of course, one must take into account the nature of their position, that is, the powers they have. Therefore, if a minister causes damage to a political-territorial unit, i.e. causes any other damage, the minister is liable like any public administration official, even though ministers can more easily get into a situation of causing damage to a political-territorial unit than other political officials and officials even though this damage can be significantly greater. In this way, their responsibility, in accordance with their powers, is further tightened, which is desirable. In addition to these latter specificities, the responsibility of the minister remains a civil responsibility.

The civil responsibility of political officials in the broadest sense of the word, which concerns their obligation to compensate for the damage caused, is the same as the civil responsibility borne by civil servants. In other words, they are responsible for their illegal work, including gross negligence, by which they cause harm to others. Therefore, the only question is whether they will be directly responsible for the claim of the damaged party (physical or legal) or indirectly, based on the recourse claim of the political territorial unit that has already compensated the injured party.

## **5. FORMS OF LEGAL RESPONSIBILITY OF PUBLIC OFFICIALS**

As for public servants, they do not bear political responsibility, nor can they be considered political functionaries in the narrower sense, or the broader sense.

Public officials can bear criminal, civil, misdemeanor and disciplinary, but not political responsibility. It is important to note that all forms of the mentioned legal responsibilities don't exclude each other.

Professional officials are hired into public service, they progress in it, and in some cases, they should also be removed or dismissed from the service. The conditions and criteria for hiring and firing civil servants should be determined objectively because only in this case the public service system ensures adequate stability of civil servants.

If this is not the case, then this situation also contributes to the dysfunctionality of the administration. True, dysfunctional administration is most often found in the case when the previous administrative bodies are not closed, new ones are established, employees from the closing bodies are kept, and at the same time, new employees are hired for the bodies that are being established. In this way, along with the dysfunctionality of the administration, sinecure personnel is also created (a staff who does not have the expertise, but is politically suitable and obedient and whose main function is to be the electoral base of the political parties that participated in the placement of such personnel).

In situations where this occurs, it would have to be the subject of legal and political responsibility of elected and appointed political officials.

Given that the spoil system is often applied in Bosnia and Herzegovina, then, unfortunately, when political parties or coalitions of political parties in power change, a certain, and we would say very significant, number of public servants also change, which is real and legal nonsense for public administration. Namely, it is necessary to emphasize that the change of public servants is not done because of their political responsibility, but it is simply the need of the new bearers of political and institutional power to have “their” people in public services, especially at their top, which they, due to their participation in “robbery”, they reward abundantly in different ways. If in this case not all forms of legal responsibility are applied to political officials who do or tolerate this occurrence, then the future of this country is questionable.

It is high time that the engagement of such political officials in Bosnia and Herzegovina ceases to exist and that, legally and politically, along with other forms of legal responsibility, such political officials are finally prosecuted. Otherwise, the further exodus of its citizens will

further intensify, which is unacceptable. That is why it is the right and obligation of its citizens to approach the control of the work of holders of public-political functions, i.e. so that the legal political responsibility of political officials, and consequently other forms of legal responsibility starts applying.

We believe that the working relationships of civil servants represent a special - official relationship, today often regulated by separate legal norms classified under civil service law, as a separate branch of law.

Modern legal systems require a non-contradictory and consistent public official organization based on doctrinal principles, scientifically processed on empirical knowledge, and planned and methodically organized.

Given that the different levels of government in Bosnia and Herzegovina did not approach the resolution of the labor relations of employees and appointed staff in the above manner, and in accordance with the provisions on civil servants, this led to an incoherent, legally uncertain and inconsistent civil service system with different status of civil servants, although work of the same nature is performed in the same country. Unfortunately, given that the authorities in Bosnia and Herzegovina are not doing enough or even doing nothing to equalize the status of civil servants throughout the country, the differences and inconsistencies continue to deepen, which makes the civil service system in Bosnia and Herzegovina completely and petrified fragmented, primarily ethnicized, politicized, and ideologized and partisan.

In the wake of what was said, and to start the creation of an official system in the entire country, all citizens of Bosnia and Herzegovina should be reminded of the need to live our statehood by all its citizens because statehood can only be lived by its citizens. If that's the case, then no citizen can have an advantage over another citizen, regardless of which national ethnicity he/she belongs to. That is, according to the words of Krzalic (2017), "it is necessary to turn to joint actions that would imply the coordinated action of all levels of government, i.e. all resources - human, scientific, financial and material, in order to achieve the concrete goals set by the governments" (Krzalic, 2017:70 ).

A functional civil service system, i.e. the prosperity of the social community as a whole, can only be built by experts, politically neutral and impartial officials, who, as its citizens, are at the same time representatives of the national ethnic groups to which they belong. Therefore, if all citizens are primarily and truly its citizens and only citizens can be citizens, then that community can be additionally culturally enriched through the multiple ethnonational affiliations of its members, which then makes it even more utilitarianly desirable.

A holistic approach to solving complex social issues rarely provides explicit answers, which also includes solving ethnonational issues. Just as complex social issues cannot be resolved without the application of multiple knowledge in their totality (multidisciplinary), so the issues of multi-national social communities, such as Bosnia and Herzegovina, cannot be resolved in a utilitarian and pragmatic way until the individual rights, obligations and legal interests of all its citizens-residents are resolved. Satisfied citizens, as residents, are a prerequisite for satisfying the general or common interest in a social community.

Satisfied individuals directly and utilitarianly, as resilient persons, increase the satisfaction of the national ethnicities of which they are members and satisfied national ethnicities in their cultural totality are a guarantee of the prosperity of the social community as a whole, as a community of citizens, without consociationalism (Purisevic, 2021:110-111 ).

We consider it quite justified to single out special legal norms concerning official relations, namely legal norms concerning civil service relations, and to treat the civil service relationship with a special law (Dedic & Purisevic, 2016).

Building a coherent, professional and consistent civil service system in a country is an extremely important task for everyone, especially the executive and administrative authorities. Without this system, there is no satisfactory exercise of the individual rights of citizens and no satisfaction of the general or common interest of the social community in its entirety.

## 6. CONCLUSION

We begin the final observation with the statement that in Bosnia and Herzegovina, at all its political territorial levels of government, legal political responsibility *de facto* does not function and is not applied, and as such it has covered and thus, as a rule, excluded all other forms of legal responsibility of political officials (criminal, civil, misdemeanor and disciplinary).

The legal political responsibility of political officials is a consequence of the violation of the legal norm/s. These legal norms explicitly order political officials to carry out their duties in a certain way and according to a certain procedure.

In all forms of legal responsibility, political officials in the narrower sense deserve special attention and treatment. Their responsibility should be seen as functional responsibility for the results of work in a certain position, but also as responsibility for the destructive influence that a political functionary has.

Also, organizational responsibility is particularly interesting and important for management science. This responsibility concerns the organization of the government system. In this organization, leadership is of particular importance, which includes responsibility for the work of government bodies headed by a political functionary. The responsibility of the political officials concerns the process of planning, directing, coordinating, and controlling the results of the body's work in full.

In the same way, the responsibility of the political official refers to the work of all other personnel in the government bodies they manage, which is a consequence of their obligation to ensure the efficient work of the body as a whole.

Although governments, as political-executive bodies, are organized collegially or collectively, the responsibility of its members is primarily individual and only exceptionally solidary. Today, administrative bodies are exclusively organized on a monocratic or independent principle, and the responsibility of their managers and employees is individual. Political officials and officials are the personification of the government system. The system of authorities can be managed and

their basic activities are carried out only by professional figures as real authorities, which is why we need the most competent and conscientious personnel. Only diligent, creative, proactive, and capable personnel can reduce the existing large gap between the normative and the real.

Governments as collegial or collective bodies of government cannot be the basis and a cover for all legal forms of responsibility, collegial bodies would have to be responsible not only for their decisions but also for the procedure, i.e. the process of their adoption. Not only collegial but also monocratically organized authorities are not only responsible for making their decisions but should also be responsible for their possible non-implementation. Therefore, for each form of legal responsibility, there must be certain realistic and objectified sanctions that enable full responsibility. As with any other persons, the sanctions of political officials and officials should be realistic and socially acceptable, and sufficiently educational and corrective, both for the individual and for the wider social community.

The question of the responsibility of political officials and officials cannot be addressed if there is no corresponding political responsibility of the public. There are actually two sides to one political phenomenon. The responsibilities of political officials and public officials can only exist if there is political responsibility for public opinion. Otherwise, it inevitably brings with it the irresponsibility of political functionaries and public officials. Therefore, if the existing course of political responsibility of public opinion in Bosnia and Herzegovina is not changed, we will not be able to have adequate and effective institutional solutions, and even with more generous financial and other material assumptions. To achieve this goal, i.e. to bring to life the systemic solutions that are advocated every day, along with the indispensable real expertise of personnel and their continuous education and modern technology, more time, professional work, and political and civil-human socialization are necessary.

The executive and administrative authorities are the most immediate and concrete guarantors of the prosperity and development of a society. That is why responsible and expert individuals must be at the

head of these bodies. A system of such personnel is unthinkable based on the principles of double morality, which is now a common phenomenon in our country. Namely, it is incomprehensible that we talk about the responsibility of political functionaries and public officials every day, and that these same personnel who ostensibly call themselves responsible, actually behave irresponsibly. This kind of their behavior is the immediate cause of the general social disorder and lack of discipline, and the immediate cause of this is inappropriate personnel policy. In Bosnia and Herzegovina, an appropriate personnel policy should prioritize the development of awareness of political culture, and especially in the direction that political office can be left with honor, even when there were mistakes in its performance, because this is characteristic of humans, and thus of political activity.

Unfortunately, we lack a culture of dialogue and constructive discussion. Among other things, the quarrelsome mood, the devaluing and belittling of the other, and the rude and unprincipled disqualification of the other speak of this daily. Our political officials must understand that building a culture of dialogue is a part of political culture, and this is one of the most important conditions for political and other decision-making. In this connection, the objectified facts must have a determining specific gravity, in order to accept the arguments based on the factual substrate and criticality, and not, as is the case now in our country, keeping in mind only the fact of who represents which ideas.

To conclude, political responsibility would have to be a consequence of the given greater or fewer powers to exercise political functions that functionaries have at their disposal independently. These powers are given to him directly or indirectly by the person who elected or appointed the political functionary to these functions. However, this should by no means mean that the authorizing party, at the moment of election or appointment of a political official, waived his right to control their work and, if necessary, call them to account. When it comes to this control and responsibility of political officials in Bosnia and Herzegovina, the problem is the fact that often political responsibility covers the entire area of other forms of legal responsibility, thus practically excluding criminal, civil, misdemeanor and disciplinary responsibility.

Although such actions of political officials enable classic forms of abuse of power, which would have to entail all forms of legal responsibility, this does not happen in Bosnia and Herzegovina because political responsibility has covered all other forms of legal responsibility, thus practically excluding them from applications. The fact that the political responsibility of officials in our country is de facto extra-legal and therefore not regulated by legal norms, is of additional concern. This practically means that the political responsibility of officials in Bosnia and Herzegovina is entirely outside the sphere of law, which is nonsense.

Following the above, in our country, de lege lata and de lege ferenda, the legal and political responsibility reserved for political officials would have to start practicing immediately, and together with it all other forms of legal responsibility, both for political officials and for professional personnel.

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**WOMEN AND LITERACY**

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# LEGAL AND PHENOMENOLOGICAL ASPECTS OF MEDIA LITERACY OF WOMEN OF THE THIRD AGE IN BOSNIA AND HERZEGOVINA MEDIA PEDAGOGY

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**Abstract:** In this paper, the author is primarily concerned with reflecting on the role and responsibility of the media in representing women of the third age (over 65). No less important is the question of their media literacy in terms of active or passive participation in the creation of media content, as well as proper understanding and objective acceptance of the media message. In order to realistically and comprehensively look at the complex relationship between the media and the elderly female population and their position in the Bosnian and Herzegovinian media space, the author starts from determining the general phenomenological position of women of the third age through an analytical review of the theoretical assumptions and knowledge of domestic and foreign authors who have dealt exhaustively with the population of this age group as a media subject. A proper understanding of the status of Bosnian women of the third age in the age of new media requires the term media literacy to be conceptually and notionally redefined in the context of media policy in Bosnia and Herzegovina. Finally, it is necessary to point out the (non)existence of a special legal framework when it comes to media literacy and the presence of Bosnian women of the third age in the media. In the end, the author concludes that women of the third age in Bosnian and Herzegovinian society are significantly underrepresented in the media space, and the reason for this is the low level of media activity and literacy, the passive/inert attitude of the given population towards the media and the production of media content, but also conscious media neglect of them by the society in which they live. The absence of a special legal framework that would regulate the relations between the media and this age population in Bosnia and Herzegovina is also evident, as well as

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indicating the need for greater involvement of all social actors in the area of improving media literacy.

**Keywords:** women of the third age, media literacy, new media, right to freedom of expression, media policy, media regulation.

## 1. INTRODUCTION

Ever since the second half of the 20th century, the media have become an indispensable part of the present. Their role is multiple, from mediating information, knowledge, socialization of young people and their self-assessment, all the way to the creation of personal and collective identities (Vrhovski-Peran, 2022). Research shows that there is great trust of the general population in the media, so opinions about life, national identity, ideologies, religious communities, and gender roles are primarily created on the basis of media content. Personal identity is built through the media, but also global culture, and therefore it is not unimportant how the media portrays it.

The distorted stereotypical image of a woman in the media space is particularly emphasized, it tells a woman how she should behave as a mother, wife, working woman, woman in a leading position and how society should treat her, which greatly limits a woman's freedom to choose her own model of behavior. (McQuail, 2010: 438). In the media, women are often talked about as the weaker sex, while violence and rudeness towards women is presented as something normal and justified, which significantly affects the attitudes of young people in terms of attitudes towards women. Gender hegemony and distorted stereotypes are particularly present in the media representation of women of the third age. In a modern society that is no longer afraid of aging (Featherstone, 1995: 123) and is forced through the media to impose "the myth of beauty and eternal youth", the older female population suffers multiple discrimination. They are primarily presented as 'otherness', then as 'invisible' and, finally, as 'synonymous' with illness, loneliness, worthlessness, vulnerability, dissatisfaction and decrepitude (Hunt, 2007: 1). In order to take a realistic position in the social and media space, women of the third age must learn to critically evaluate existing media content, but also to create it. In other words, they must be involved in the process of media literacy, which implies "the

ability to access, analyze, evaluate and transmit messages through the media” (Aufderheide, 1993: 9).

Distorted understandings of the socio-media role of the older female population are also characteristic of Bosnian and Herzegovinian society, which is dominated by a patriarchal attitude towards women in general. In order to better understand the reasons for the decadent portrayal of women of the third age in the Bosnian and Herzegovinian media space, which becomes a role model and template that women of the third age accept as a standard of appearance and behavior, and which also reflects the negative influence of the media, as a means of education, on the formation of attitudes among this age population, including their apparent underrepresentation in the media content and how much this can damage their already shaky position in androcentric society, it is necessary to first deconstruct the paradigms of “ageism”, “otherness”, “invisibility” and “synonyms” that are closely related to this age and gender category. After the phenomenological consideration of women of the third age as a media subject/object, through an analytical approach to the existing theoretical contents, with a clearly emphasized pedagogical role of the media, it is necessary to place it in the context of the contemporary understanding of the phenomenon of media literacy, and the role of the media as a means of education, including the regulatory context that sets the limits of the presence of the women of the third age in the media.

## **2. PEDAGOGICAL INFLUENCE OF THE MEDIA ON THE CREATION OF PHENOMENOLOGICAL CHARACTERISTICS OF WOMEN OF THE THIRD AGE**

In today’s time, when the influence of educational institutions and other authorities is felt to be weakened, the media occupy these places and have an influence on educational processes and occupy an important place in the process of building personal identity. Thus, under the influence of the media, as a source of information and knowledge, the phenomenological features of women of the third age as a media subject/object are created. Identity features are mostly negatively positioned, and include age discrimination of women (ageism), women of the third age as otherness, invisibility of women of the third age, and age as a synonym for women of the third age.

### 3. AGE DISCRIMINATION AGAINST WOMEN (AGEISM)

The act of putting anyone in a less favorable position, based on race or ethnicity, gender, language, religion, national or social origin, education, birth, health condition, disability, etc., constitutes discrimination (Constitution of Bosnia and Herzegovina, Article II, Paragraph 4.). When we talk about discrimination based on age or ageism, we refer to the process of systemic stereotyping and discrimination of older people, which is exclusively based on age, and not morally, ideologically or politically motivated (Butler 1975: 12). Age discrimination is a consequence of the environment's reaction to death as a natural phenomenon associated with aging (Friend 2017), then to one's own feeling of vulnerability, but also to the reaction to frustrations and stresses that are increasingly common in everyday life of younger or working people (Rusac, Štambuk and Verić 2013: 96). The term "ageism" is attributed to Robert Butler, an American physician and author of several scientific works, which consider the problem of age-based discrimination and the causes of the creation of age stereotypes at the institutional level. Unlike racism and sexism, ageism is directed against a group that gravitates between the position of "center" and "otherness." Young people are especially afraid of the idea of aging, which inevitably leads to the creation of age stereotypes, in which the media plays a key role, which indirectly forms attitudes about the elderly population among young people (Hant 2007: 2).

According to American research results, in 2016 alone, American female senior citizens spent more than \$16 billion on cosmetic surgery to bridge the gap between inner vitality and outer decay (Friend 2017). They were primarily encouraged to do so by American society, which looks down on this category of population, considering it a "burden" and "surplus" that consumes vital resources, while not being a productive part of society. Such attitudes of the younger social population are a product of the negative portrayal of women of the third age in the media, as an important source of information. However, according to the claims of North and Fiske, Western societies treat women of the third age better than Eastern ones, and the reason for this is neither capitalism nor mentality, but the sudden increase in the number of women of older age in former socialist societies, as well as societies in transition (North, Fiske

2015: 993). This kind of age discrimination makes the younger generations perceive the elderly as different, to such an extent that they stop seeing them as human beings (Butler, 1975: 12), which is to be blamed on the lack of educational media guidance of young people in the direction of accepting aging as a natural personal future. The distorted image of older women, which the media send, becomes the new normal on the basis of which attitudes about the uselessness of this social group are built. Also, research conducted by the American portal GraphJoy shows that in the film industry, aging significantly affects the (non) engagement of renowned actresses, as well as the quality of offered roles, all in favor of younger and more sexually attractive film debutantes, which further encourages the spread of sexist paradigms on screen, as a popular media space (GraphJoy, 2015). It seems that until a solution to the “transience of life” is found, older women will be represented in the media, as senile, rigid in thought and behavior, and morally limited (Butler, 1975: 12).

#### **4. THE WOMAN OF THE THIRD AGE AS OTHERNESS**

Back in the 1940s, a French feminist philosopher Simone de Beauvoir pointed out the problematic identification of women as “otherness” in her polemical monograph “The Other Sex”. By “otherness” she meant the decentralized position of a woman whose identity could only be determined in relation to a man as a measure of humanity (De Beauvoir 1977). According to the same principle, the standardization of femininity was carried out, whereby youth was considered the main parameter. Aging distanced a woman away from the essential principle of femininity, placing her in the position of “other”, that is, “different”. A woman in menopause was no longer the object of the “male gaze”, and therefore neither was a woman, which is why she is forced to direct her actions towards restoring the status of a “young woman”, which leads us to the conclusion that both youth and old age equally participate in the creation of social construct, but age is defined as something negative, which is systematically promoted through stereotypical media messages, Simone de Beauvoir notes with regret that “otherness” excludes the woman of the third age from the concept of humanity. Over time, she becomes a victim of the social exclusion of “others” and “different”, because “if an

older woman shows that she has the same passion, feelings and desires as younger people, society will despise her.” (de Beauvoir, 2009: 10).

Betty Friedan also points to the distorted media images of the people of the third age. In the book “The Fountain of Old Age”, Friedan shares the concern of the American gerontologist Vern Bengston regarding the presentation of the third age as a social problem, rather than as a creator of solutions. Under the influence of such media messages, older people are occupied with efforts to maintain the illusion of youth, which society imposes on them through the media, in the form of a stereotype of aging as decay, instead of seeing aging as a triumphant proof of living (Friedan, 1993: 63).

For Susan Sontag, women of the third age face double standards of aging, because unlike men, they strive throughout their lives to achieve the adolescent ideal of a woman, which is closely related to physical appearance (Sontag 1997: 19). Frueh comes to the same conclusion, pointing out that “an older woman is doubly different, doubly degraded, doubly injured by her external identity; she is female, visually different from a man, she is older, and, despite cosmetic procedures, different from a younger woman” (Frueh 1997: 202). Older women often internalize the self-loathing promoted through the ageist stereotype in the media, and make great efforts to separate themselves from the despised “old age.” Namely, millions of women are convinced that if they try hard enough and buy enough, they will not be “rejected”. “Accepting age becomes a state of consciousness, a measure of self-worth, a choice. The moment we show ‘youthful taste’ in choosing clothes, cosmetics, activities, friends and partners, it means we are accepted” (Wray, 2003: 510). As long as older women are accepted, they believe they can still play the role society has assigned them, of an object and a mother, even though they no longer have reproductive power. The demand of youth placed before an older woman also has its own moral dimension, because the status of an older woman in society largely depends on her ability to present herself as a young woman. Hence the view that “happiness and fulfillment in later years depend greatly on the moral responsibility of the individual to reconstruct their body, identity and social life”, which are the messages of society in the media space (Wray 2003: 515).

In a patriarchal culture, in addition to being forced to adhere to the standards of living imposed on them by the male population, older women are in constant rivalry with the younger female generation, as both groups readily accept the media promoted “myth of youth” and oppose each other. “Older women shy away from younger women, younger women shy away from older women, while both are dominated by the media constructed myth of beauty” (Wolf 1991: 14).

## 5. (IN)VISIBLE WOMEN OF THE THIRD AGE

The idea of “invisibility” implies, in fact, the impossibility of being seen or the absolute acceptance of stereotypical media notions about one’s identity. Men often shy away from older women because they are no longer young, no longer the object of sexual desire, and no longer reproductive. Social roles that are tolerated for older women are the roles of mother and grandmother. The media representation of the elderly woman as an intellectually vital, sexually active, productive member of society is an unusual exception. Presenting an older woman as an intellectually vital, sexually active, productive member of society is an unusual exception. “In patriarchy dominated by the myth of youth, aging for a woman means becoming invisible, formless” (Bolen 2001: ix).

According to Naomi Wolf, women’s magazines, as sources of information, ignore older women, and if they do appear on their pages, they are usually retouched photos of women who look 10 to 15 years younger, so readers don’t have the opportunity to find out what an older woman really looks like. (Wolf 1991: 82). Not wanting society to treat them as a problem, gender and age aware famous older women from the world of fashion and film agreed to pose for a special issue of Vogue magazine (2019), entitled “Age is not an issue”, but also to speak openly about society’s prejudices when it comes to aging and the absence of older women in the media.

Treating older women as socially and media invisible means depriving them of their self-confidence, declaring them fragile, weak and unattractive. They are the manifestation of everything that younger women want to avoid. Germaine Greer believes that “thanks to the negative influence of the media, a middle-aged woman can no longer

meet the demands of a patriarchal society. She can no longer play the role of obedient daughter, sex object or madonna. Unless she embarks on an expensive, protracted, and utterly futile enterprise of age denial, sooner or later she will have to come to terms with the fact that consumerist culture has rejected her” (Greer 1997: 261). However, the invisibility of women of the third age is not only a media imposed construct of patriarchal society, but also the result of the consent of that same female population, influenced by a suggestive media message. Namely, numerous studies show that the woman herself is largely to blame for her marginal status, who, following the line of least resistance, chooses anonymity, isolation, and even disappearance, or acceptance of media stereotypes about personal identity, instead of activism, presence and acceptance, as a product of media literacy. Based on research conducted by the Serbian television station KTV in 2019, it is assumed that 10,000 women in Serbia undergo plastic surgery annually, not so much for personal satisfaction as for satisfying media stereotypes about personal identity (KTV 2019). Media promotion of cosmetic surgery additionally affects the popularization of the “myth of beauty and youth” among the elderly female population, whose social status has already been greatly impaired by aging. In order to become visible, a woman of the third age must break the media constructed myth of eternal youth herself, by breaking the chain “buy - consume - rejuvenate”.

## **6. OLD AGE AS A FEMALE SYNONYM**

Often, older women symbolize illness, loneliness, worthlessness, vulnerability, dissatisfaction and decrepitude. They are portrayed in the media as excessively caring or grumpy mothers who live with their families or alone, which affects the creation of personal attitudes among the older female population as well (Friedan 1993: 56; Zita 1997: 96). Research has shown that older people are viewed in the media as stubborn, eccentric, foolish, dependent, fragile, vulnerable, worthless, grumbling and a burden on society (Friedan 1993: 49). With age, a woman’s acquired intellectual competences are denied through the media, and she ceases to be a desirable interlocutor in the media or creator of a media message. At best, she is assigned the role of the object of the media message (victim,

figure or statistical figure) or the exaggeratedly caricatured secondary role of grandmother, mother or housekeeper. As the consumerist society does not benefit much from women of the third age due to their minor purchasing power and weak market share, so the media, which are primarily in the service of consumerism, have limited advertising space for this population, and it is, again, dedicated to developing consumer habits no matter how limited the offer is (pharmaceutical products, cosmetics, life insurance or microcredits). According to Amy Merrick, a journalist for Forbes magazine, in 2017, less than 10% of the member states of the United Nations had a woman head of state (Merrick, 2017). Those countries that have given their political trust to older women most often record a noticeable increase in GDP, as well as socio-cultural prosperity. Despite these positive examples, older women are reluctantly assigned to leadership positions, their professional judgment is often doubted, which further contributes to the degradation of the position of women of the third age in the public space, which is often to blame for the stereotypical role that is imposed on older women through the media.

## **7. THE CONCEPT AND NOTION OF MEDIA LITERACY IN BOSNIA AND HERZEGOVINA**

The media significantly influence the way we think about the world, each other and ourselves. Media content conveys cumulative messages that shape, create, and reinforce attitudes, values, behaviors, preoccupations, and myths that define a culture (Silverblatt, Smith, Miller, Smith, and Brown 2014: 5). The rapid and dynamic development of information and communication technologies has influenced frequent changes in the media environment and habits, which has had a significant impact on the interpretation of the term and concept of media literacy. By the general concept of media literacy, we mean “the ability to access the media, understand and critically evaluate various aspects of the media and media content, and achieve communication in a variety of contexts” (European Commission, 2007). Although the interpretations of this term differ depending on the context and society in which it is used, there is a certain consistency in its definition in EU, SE, UNESCO documents, which is manifested through the presence of four basic elements: access,

analysis, evaluation and communication. However, the most important dimension of media literacy is the ability to think critically in the process of interpreting a media message. By “reading” a media message, the user weighs his own notions of language, history, democracy, national identity, as well as beauty and truth (Moyers, 1989).

As interest in the media grows, so does the need to improve the knowledge of media users, which has encouraged UNESCO to advocate for the introduction of media education in curricula, SE to intensively develop the correlation between the media and the realization of the right to freedom of expression, and the EU to prioritize the protection of media consumers. With new technological achievements and new forms of communication, media literacy implies a certain level of information literacy. Digital media shape messages and information in a way that requires the development of new knowledge that also constitutes media literacy. As the media have become an indispensable part of the daily functioning of individuals and society as a whole, hence the need for permanent education of citizens regarding their safe access and use of the media, not only as a means of entertainment and information, but also of education. Although media literacy is still considered an individual skill whose adoption is voluntary, the existing activities of the media industry, non-governmental organizations and some regulatory bodies announce the obligation to improve media literacy.

The very concept of media literacy, as part of media policy and the goal of media education, is rarely encountered in Bosnia and Herzegovina (Tajić 2013: 51). Often, the term is attributed to the media, and not to an individual, and the literature that deals with the concept and state of media literacy, as well as a critical approach to media and media content in Bosnian society, is very scarce.<sup>2</sup> In particular, little attention is paid to the educational role of the media in the media literacy of the general population, especially women of the third age.

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2 The topic of media literacy in Bosnia and Herzegovina was dealt with in more detail by: Nada Zgrabljic-Rotar (2005), *Media literacy and civil society*, Sarajevo: Medijacentar; Jelenka Vočkić-Avdagić (2006), “Adult education and media”, *Adult education*, vol. VI, p. 83-94; Ingrid-Franisce Reichmayr (2001), *In support of media education*, <http://www.mediaonline.ba/ba/?ID=115> [last visited 01/12/2023]; Lea Tajić (2013), *Media Literacy in Bosnia and Herzegovina*. Sarajevo: Internews; Vuk Vučetić (2020), *Media and information literacy in Bosnia and Herzegovina: Current problems and recommendations*, Sarajevo: Medijacentar;

According to research conducted by the European Policy Initiative at the Institute for Open Society in Sofia, Bosnia and Herzegovina ranks 32nd out of 35 countries in Europe in terms of media literacy of its citizens (Lessenski 2019: 2). The reason for this should be found in several factors, starting with corruption, mistrust towards scientists, journalists and citizens in general towards each other, and the absence of media freedom (Lessenski 2019: 9-14). The media themselves make a major contribution to the slow development of media and information literacy in Bosnia and Herzegovina by publishing low-quality news with a predominant dose of sensationalism (Zvijerac, 2019). Vajzović believes that media and information literacy play a significant role in the development of a democratic society, because democracy implies an informed and educated citizen who actively participates in the decision-making process, and as such is the bearer of sovereignty in modern society, with the media playing a special part as a means of education. Without media literacy and critical thinking, the citizens of Bosnia and Herzegovina becomes a victim of technology companies that keep their attention on IT devices, applications, and commercial content, which is in the service of spreading the stereotypical image of the older female population (Zvijerac, 2019).

Although the media, with its activities and objective presentation, can significantly improve the media literacy of citizens through their activities, by informing them about the way the media functions and encouraging them to be interactive, little attention is paid in Bosnia and Herzegovina to the pedagogical relationship between the media and members of the third age, which results in the distorted image of an older woman and the exclusion of this population from the world of media, and therefore from society. In accordance with the broad definition and the role of the media, it can be concluded that traditional media (radio, TV, press) do not invest enough effort to educate their elderly users as competent media consumers, just as digital media (internet) do not encourage them sufficiently to get introduced to new technological advances, nor do they point out the potential dangers that threaten them. A significant level of media activity in the field of improving the media literacy of young people is noticeable, but little is being done on the media literacy of the older female population through this means of education, but also through any other competent body (Tajić 2013). For now, the competent institutions

of Bosnia and Herzegovina do not offer a special strategy or an action plan for familiarizing women of the third age with the advantages and disadvantages of new media, in the way that neighboring countries do<sup>3</sup>, although an increasing number of articles and researches have appeared recently. which refer to the discrimination of the elderly in the context of modern communication technologies (Abad 2014; Vasil, Wass 1993) or to the evaluation of coping of persons over 60 or 65 years old in the modern technological environment (Dhar 2017).

## **8. LEGAL ASPECTS OF MEDIA LITERACY OF WOMEN OF THE THIRD AGE IN BOSNIA AND HERZEGOVINA**

In Bosnia and Herzegovina, there is no specific legal framework that would deal with the issue of media literacy of women of the third age, but their rights and obligations can only be discussed in the context of general legal norms, both international and domestic, which operate erga omnes.

The road to a democratic and civil society is paved with the fundamental right of every citizen in every country in the world, including Bosnia and Herzegovina, to freedom of thought and expression. This right also means the freedom to form an opinion unhindered, and to seek, receive and communicate information and ideas through various media and regardless of borders (UN General Assembly, 1948). Media and information literacy gives citizens the competencies they need to claim and enjoy all the benefits of this basic human right, and its realization is guaranteed by many international and national regulations and recommendations.

As a member of the United Nations Educational, Scientific and Cultural Organization (UNESCO), Bosnia and Herzegovina participates in programs and projects dedicated to media education and literacy that

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3 In 2022, the Republic of Croatia published the first e-manual on new media intended for people of the third age. This kind of “Guide for silver surfers” offers useful tips, instructions and guidelines for using new media, a small dictionary of Internet terms and a dozen practical exercises, with the aim of developing critical awareness among people of the third age. In designing the concept and content of the manual, the authors used earlier theoretical and practical experiences, knowledge and materials, acquired and used within the framework of two educational projects aimed at media literacy of the elderly, “New media age for the third age” and “Walking through fake news”. (Levak, Zekić Eberhard, 2022).

are under the responsibility of this organization. UNESCO has a long tradition of activities in the field of media education and guidance, which goes back to the sixties of the 20th century. However, the Conference on Media Education, which was held in Grünwald (Germany) in 1982, and which resulted in the Declaration on Media Education, stands out as the most important international document in the field of media literacy. The Grünwald Declaration recognizes the need for the political and educational systems of the member countries to improve citizens' critical understanding of the "phenomenon of communication" and to encourage their participation in the media, through a programmatic approach to media literacy at all levels of education from preschool to university, including adult education. A further contribution to the improvement of media awareness was manifested through the UNESCO Conference held in Toulouse in 1990 under the title "New Directions in Media Education". Namely, the Toulouse conference proposed the meaning framework of the concept of media literacy as "knowledge about the structure, economy and function of mass media systems in society, as well as analytical skills to read the aesthetic and ideological content of mass media messages" (Thoman 1990). The importance of this Conference is primarily reflected in the recognition of electronic literacy as an inevitability, and that the goal of media education should not be to protect the recipients of the media message from the harmful influence of the media, but to train them for an active relationship with the media.

At the Vienna conference held in 1999, under the title "Education for media and the digital age", media education acquires a new meaning dimension by including all communication media, which should be available to everyone, which implies adequate training of media users in order to properly analyze, interpret, and access media content (UNESCO, 1999). For this purpose, the recommendation of the Conference is the introduction of media education into curricula, with the aim of lifelong learning. Special attention is paid to the issue of the media and people with special needs, as well as those who are in a state of economic or social need, which would indirectly include women of the third age. At the Seminar on media education of young people held in Seville in 2001, the recommendations from Vienna were supplemented. The position is taken that media literacy consists of a creative and critical

component, and that media education should be included in formal and informal education in two directions: education about the media and for the media. Four years after the Seville seminar, the Conference on Information Literacy and Lifelong Learning was held in Alexandria. At this Conference, information and media literacy will come together, which will result in recommendations at the meeting in Paris held in 2007. All 12 recommendations were aimed at developing the concept of media education, which meant education about the media and for the media, then strengthening the connection between media education and respect for cultural diversity and human rights, which in a wider context would include media users of the third age. The crown of UNESCO's long-term engagement with the issue of media education and literacy is the publication entitled "Media and Information Literacy Curriculum for Teachers (Wilson, Grizzle, Tuazon, Akyempong, Cheung, 2011), which foresees the empowerment of citizens in terms of the formal acquisition of knowledge and skills in the field of media and ICT in order to meet the challenges of the 21st century.

As a member of the Council of Europe since 2002, Bosnia and Herzegovina has been actively involved in all aspects of the organization's mission and work. It is its obligation and duty to respect all standards of the Council of Europe that arise from membership, and are prescribed by binding legal acts, such as conventions, recommendations, and reports. Thus, Bosnia and Herzegovina is obliged to respect and apply the Convention on Transborder Television from 1989, which regulates and introduces standards for television broadcasting in Europe, and is directly related to the provisions of Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms from 1990<sup>4</sup>, by which every person is given the right to freedom of expression and information, as one of the fundamental principles on which every democratic society rests and is a fundamental condition for its advancement, but also for

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4 European Treaty Series, No 5. The original text of the Convention was changed in accordance with Protocol no. 3 (ETS No. 45 – entered into force on 21 September 1970). Protocol no. 5 (ETS No. 55 - entered into force on December 20, 1971) and Protocol No. 8 (ETS No. 118 - entered into force on January 1, 1990). The text of the Convention also contains the text of Protocol No. 2 (ETS No. 44) which, based on its Article 5, para. 3, became an integral part of the Convention from the moment of entry into force on September 21, 1970.

the development of every person (SE, 1989). In the Preamble of the Convention, the policy of gender equality is emphasized through “the development of principles on television advertising with respect for equality between men and women in the media” (SE, 1989).

As an important source of regulation there are ministerial conferences of CE member states, which deal with mass media policy and whose conclusions form an integral part of resolutions and recommendations as binding legal acts, which promote media education and literacy, as well as the protection of media consumers. The Ministerial Conference held in 2009 in Reykjavik, where the Resolution titled *Towards a new understanding of the media* was adopted, in which the importance of media literacy and freedom of expression in the media space, including objective informing, is especially highlighted.

The most important documents of the Council of Ministers and the Parliamentary Assembly of SE that indirectly deal with the issue of media literacy of women of the third age include: Declaration on European policy regarding new information technologies (1999); Recommendation Rec (2003) 9 on measures to promote the democratic and social contribution of digital broadcasting; Recommendation CM/Rec (2007) 2 on media pluralism and diversity of media content; Recommendation CM/Rec (2007) 11 on the promotion of freedom of expression and objective informing in the new information and communication environment; Declaration on the role of civil society/community<sup>5</sup> media for the purpose of promoting social cohesion and intercultural dialogue (2009); Declaration of the Council of Ministers on the Digital Agenda for Europe (2010 Recommendation CM/Rec (2011) 7 of the Council of Ministers to member countries regarding the new pedagogical meaning of media; Recommendation 1067 (1987) on the cultural dimension of broadcasting in Europe; Recommendation 1098 (1989) on audiovisual cooperation between East and West; Recommendation 1215 (1993) on ethics in journalism; Recommendation 1276 (1995) on the power of visual images;

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5 The term civil society or community media represents an informal, non-commercial form of media whose creators are members of minority groups, in terms of geography, identity or interest. The goal of civil society media is to offer information and content to members of their community, in a way and with mechanisms that are not typical of mainstream journalism (Deuze, 2006).

Resolution 1165 (1998) right to privacy; Recommendation 1407 (1999) media and democratic culture; Recommendation 1466 (2000) on media education; Recommendation 1586 (2002) digital gap and education; and Recommendation 1855 (2009) regulation of audiovisual media services. In all the mentioned SE documents, media literacy and education, including educational role of media, are mentioned in the context of protection and training of media users for equal participation in the media space, which certainly also applies to the older female population.

By signing the Stabilization and Association Agreement on its way to full membership in the European Union, Bosnia and Herzegovina undertook to harmonize state legislation with the Directive on Audiovisual Media Services<sup>6</sup>, which, among other things, prescribes the obligation to report on the state of media literacy. In the preamble to the Directive, the concept of media literacy includes “skills, knowledge and understanding that enable users to use the media effectively and safely. Media literate persons are able to make informed choices, understand the nature of content and services and take advantage of the full range of opportunities offered to them by new communication technologies” (European Commission, 2007). From this definition, it can be concluded that the focus of legal protection is on all media users, who are additionally warned to use media services responsibly, while media warn of objective informing and reporting.

The European Commission specifically dealt with media literacy in the digital environment, emphasizing the need for every media user to feel comfortable with all existing media, to have a critical approach to media content, to use media creatively, to understand media economics, and to be aware of copyright issues as key to the culture of legality (European Commission, 2007). In 2009, the Commission entrusted the European Association for the Realization of the Interests of Viewers (EAVI) with the preparation of a Study on criteria for assessing the level of media literacy

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6 Directive 2007/65/EC of the European Parliament and of the Council of 11 December 2007 amending Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the pursuit of television broadcasting activities Text with EEA relevance, Official Journal L 332, 18/12/2007 P. 0027-0045.

of EU citizens aged 16 to 74, taking into account the individual abilities of the tested media users, as well as environmental factors which affect the media literacy of an individual (EAVI, 2010). In this way, the Commission wanted to define the criteria for measuring media literacy, and based on the obtained results, determine the strategy of incorporating media literacy into the educational system (Tajić, 2013: 38).

All the mentioned sources of international law have found their place in the complex legal system of Bosnia and Herzegovina. Namely, in accordance with Annex 4 (Constitution of Bosnia and Herzegovina) of the Dayton Peace Agreement from 1995,<sup>7</sup> responsibilities over the media and public information were transferred to two entities (the Republika of Srpska, the Federation of Bosnia and Herzegovina), and later to Brčko District. Nevertheless, the state of Bosnia and Herzegovina has retained constitutional and legal guarantees when it comes to freedom of expression, which is additionally reinforced by the acceptance of international conventions and declarations on human rights that form an integral part of the legal system of Bosnia and Herzegovina. Thus, the Constitution of BiH expressly states “that the rights and freedoms provided for in the **EKZLJPOS** and its protocols are directly applicable in BiH and have priority over all other laws” (Constitution of BiH, Article 2, Paragraph 2). However, due to its atypical constitutional order established by the Dayton Peace Agreement, the legal framework for exercising the right to media freedom and freedom of expression represents a complex network of institutions, norms and practices (Halilović & Džihana 2012: 35-36). In addition to the highest legal acts (14 constitutions<sup>8</sup>), the issue of media and media literacy is also regulated by a number of legal and sub-legal rules and regulations, among which the Entity Laws on protection against defamation should be singled out, then the Law on Public Information in the Republic of Srpska, i.e. the Law on Media and public information in the FBiH, as well as the Law on Communications, which are based

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7 General Framework Agreement for Peace in Bosnia and Herzegovina - Dayton Peace Agreement, Paris, 14 December 1995, [http://www.ohr.int/dpa/default.asp?content\\_id=379](http://www.ohr.int/dpa/default.asp?content_id=379) [last accessed 01/02/2023]

8 There are 14 constitutions in force in Bosnia and Herzegovina: one national, two entity, ten cantonal and one Brčko District.

on the generally accepted standards of behavior, non-discrimination, fairness, accuracy and impartiality contained in Article 10 **EKZLJPOS** and Article 19 **UDLJP**<sup>9</sup>. Each of the mentioned legal acts guarantees freedom of expression not only for journalists and the media, but also for every person, which indirectly includes women of the third age.

When it comes to the right to information and access to the media in Bosnia and Herzegovina, the legislative contribution of the institution of the High Representative for Bosnia and Herzegovina to the overall normative aspect of media law in Bosnia and Herzegovina is significant. Using the powers given to him by Article 5 of Annex 10 of the Dayton Peace Agreement, in the period from 1998 to 2002, the High Representative made a series of decisions by which he directly intervened in the legislative process, imposing certain legal solutions by virtue of his authority. Although controversial in their legal nature, the imposed decisions of the High Representative still influenced the effective removal of obstacles of a political nature, especially when it comes to electronic media (Halilović & Džihana, 2012: 37-40).

Taking into account the specific dichotomous legal nature of women of the third age in BiH, in the sense that their position is measured and determined by double criteria - gender and age - hence it is not surprising that there is no *lex specialis* in the legal system of BiH, which would further regulate the issue of media literacy of this population of Bosnia and Herzegovina. Therefore, when it comes to the media literacy of women of the third age in BiH, what is applied are the provisions of the Law on Gender Equality of BiH<sup>10</sup>, contained in Article 21, which

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9 Law on protection against defamation of the RS, Official Gazette of the RS, no. 37/01; Law on protection against defamation of the FBiH, Official Gazette of the FBiH, no. 59/02; Law on protection against defamation of the BD, Official Gazette of the BD BiH, no. 14/03; Law on Public Information of the RS, Official Gazette of the RS, no. 10/97; Law on Radio and Television of the RS, Official Gazette of the RS, no. 49/06, 73/08; Law on Communications, Official Gazette of Bosnia and Herzegovina, no. 31/03, 75/06, 32/10; The Law on the Media of the Sarajevo Canton, KS Official Gazette, no. 13/98; Law on the Public Radio and Television Service of BiH, Official Gazette of BiH, no. 92/05; Law on the Public Radio and Television System of BiH, Official Gazette of BiH, no. 78/05; Law on Freedom of Access to Information in BiH, Official Gazette of BiH, no. 28/00;

10 Law on Gender Equality in Bosnia and Herzegovina - revised text (Official Gazette of Bosnia and Herzegovina, No. 32/10)

promotes the right of access to the media for all persons regardless of gender, then the prohibition of public display and presentation of any person in offensive, belittling or humiliating manner, with regard to gender, as well as the media's obligation to develop awareness of gender equality through program concepts. The provisions of the Law on Prohibition of Discrimination in BiH<sup>11</sup> can also be applied to the elderly female population in terms of their representation in the media, as well as access to the media space. Article 2 of the Law prohibits discrimination on the basis of "age [...] gender identity, sexual characteristics, as well as any other circumstance that has the purpose or effect of making it impossible or threatening for any person to recognize, enjoy or exercise on an equal basis, the rights and freedom in all areas of life." This Law applies to the actions of all public bodies at the level of the state, entity, canton and Brčko District in all areas of life, especially in the area of public information and media.<sup>12</sup> In addition, they are obliged to regulate the principles and postulates of equal treatment in their general legal acts, or through special legal acts, and to ensure effective internal procedures for protection against discrimination (**ZZD**, Article 24, paragraph 4). Within the Law on Communications of Bosnia and Herzegovina, the Council of Ministers and the Agency for Communications are responsible for respecting and promoting gender equality and removing all forms of representation of men or women in a stereotypical and offensive or humiliating manner (**ZK BiH**, Article 3, paragraph 4, point f ). On the basis of the existing legal regulation, which forms an integral part of the legal system of Bosnia and Herzegovina, and which intensively or extensively governs the issue of the relationship between the media and women of the third age, there is an impression that there is a large gap between the normative and the actual situation, especially when it comes to media literacy of the population of this age. Namely, the public and the media exclusively talk about and act on the third age through the prism of preserving their mental and physical health, while the skills of media literacy and critical

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11 Law on Prohibition of Discrimination (Official Gazette of Bosnia and Herzegovina, no. 59/09, 66/16)

12 Article 6, paragraph I, point h) of the Law on Prohibition of Discrimination (Official Gazette of Bosnia and Herzegovina, no. 59/09, 66/16)

thinking are completely neglected. The reasons for this state of affairs in Bosnia and Herzegovina are numerous, but the most important ones are the lack of research into the issue of media literacy and the representation of women of the third age, and the absence of any strategy or plan that would facilitate the participation and presence of women of the third age in the media space. as well as the lack of respect for the elderly, which is especially characteristic of developed countries with high incomes (WHO, 2016). With the aim of suppressing harmful age discrimination, violation of human rights and basic freedoms, including freedom of expression and literacy, competent ministries, agencies, (self-) regulatory bodies<sup>13</sup> and educational institutions of Bosnia and Herzegovina, including media industry, are obliged to provide clear guidelines and support for the improvement of media literacy of women of the third age.

## 9. CONCLUSION

The media literacy of women of the third age in Bosnia and Herzegovina belongs to the pioneering research endeavors, which systematically try to answer the questions: what is the phenomenological position of the older female population in the national media space, the importance of media as a means of education, what is media literacy in the era of digital media and what is the legislative framework in the field of improving media literacy of senior female citizens in Bosnia and Herzegovina. As a media subject, a woman of the third age is most often underrepresented, or stereotypically presented in the media. In order to take a realistic position in society and the media, a woman of the third age must learn to critically evaluate existing media content, but also to

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13 In addition to the Regulatory Agency for Communications of Bosnia and Herzegovina (**RAK**), whose primary task is the protection of freedom of expression and diversity of opinion, as well as the separation of broadcasters from political control and manipulation with the aim of establishing a civil society, and the participation of citizens in the promotion of a professional and responsible media sector and the development of information society in Bosnia and Herzegovina (Regulatory Agency for Communications of Bosnia and Herzegovina: Mission), in Bosnia and Herzegovina there is an active self-regulatory body for printed and, recently, online media - the Press Council of Bosnia and Herzegovina. The significant role of the Press Council is reflected in the strengthening of civil society by providing means for the protection of human rights of citizens through lodging objections to inaccurate, unprofessional or incompletely published content in the press and online media (Tajić, 2013: 71).

create it. In other words, she must be included in the process of improving media literacy, which requires greater involvement of the state and its educational actors, media being no exception, in the field of integrating media policy and literacy into legal and strategic frameworks.

In the absence of a constructive dialogue between the media and female members of the third age, this population suffers stereotypical imagery and exclusion from the media world, and therefore from society. Traditional media in Bosnia and Herzegovina do not invest enough effort to educate their elderly users as competent media consumers, which is why it is necessary, at the institutional level, to develop media education strategies for this social group.

The role of media in relation to the older female population should not be protective, but proactive in the sense that members of the third age, through lifelong learning, develop a critical attitude towards media content and the role of the media, which makes them active participants and educators in the decision-making process and bearers of sovereignty in the democratic Bosnian society. Without media literacy and critical thinking, Bosnian women of the third age easily become victims of technology companies that make them dependent on mostly commercial media content and low-quality media messages with a predominant dose of sensationalism.

Holders of media literacy and education in Bosnia and Herzegovina, media industry being their integral part, have not yet developed a special strategy, nor an action plan for familiarizing women of the third age with the advantages and disadvantages of new digital media, in the way that neighboring countries do, although the interest of the scientific and professional public in research on the position of the elderly in the context of modern communication technologies has been growing.

Improving media literacy is primarily a task and obligation of the state of Bosnia and Herzegovina, but also of other non-state actors, such as (self-)regulatory bodies, non-governmental organizations and the media industry. Their program activities must be aimed at informing women of the third age about the safe use of media and accompanying information technologies, through education programs on media literacy, as well as through regular data collection and reporting on the state of media literacy of the older female population.

Bosnia and Herzegovina must invest in scientific research works in the field of media literacy of women of the third age, as well as in ICT infrastructure so that this population has equal access to the media and participation in the creation of media content. Media literacy is no longer an individual competence of an individual, but a social necessity that protects the basic human right to freedom of expression and objective informing, which is why it is necessary to insist on strengthening the role of media pedagogy and media didactics, as an important backbone of modern upbringing and education of all citizens, including women of the third age.

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**LAW AND CREDITOR**

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# STATUS OF MORTGAGE CREDITOR

REVIEW SCIENTIFIC PAPER

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**Abstract:** When discussing the legal status of a mortgage creditor, it is necessary to observe and distinguish his real estate rights from two aspects. First, his rights prior the maturity of a claim secured by a mortgage, and secondly, his rights after the maturity of the claim secured by a mortgage. The mortgage encourages the borrower to fulfill his obligation arising from the obligatory relationship. The disposability over the mortgage subject matter is only “potential”, and only if this psychological pressure shows no effect on a mortgage debtor, the realization of a mortgage follows afterwards. The mortgage operates in the sphere of responsibility and originally exists with respect to possibilities, and can be activated only if certain conditions are met. Therefore, in the legal theory, the powers of the mortgage creditor are classified into a “static” and “dynamic” phase. The aim of the paper is to show, through the analysis of the status of the mortgage creditor, from the aspect of its rights and obligations, that in Serbia, with the passing of the Mortgage Law, both in theory and in practice, its status has been improved. That a mortgage for a mortgagee is nevertheless a set of rights, not an obligation.

**Key words:** rights of mortgage creditor, settlement, priority, ration rights, transfer, obligations of mortgage creditor.

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## 1. INTRODUCTION

The mortgage is a very old legal institute that was created in the ancient times (it is found in the Hamurbi Code, in the Mosaic Laws, in ancient Greek law, and in Roman law). It is a pledge right whose main characteristic is that it is an accessory right (non-exclusive right) which is related to the right of claim for whose security it serves. It differs from the guarantee that security is a personal security, and a mortgage is real security. A mortgagee is a lien of this pledge right and can settle his claim for mortgages that are at debtor's disposal. As mentioned earlier, the mortgage was developing during the antique period. Particularly more changes occurred in Roman law, where in the beginning the subject of the mortgage was in the creditor's possession until the debt was paid, when it was again returned to the property of a former debtor. Later, the notion of a mortgage related to movable and immovable things, but the subject of the mortgage remained at debtor's disposal. In the Middle Ages, the mortgage did not develop (excluding the then most developed country, Byzantium and Justinian Code). Its full expansion of the mortgage gets the rapid development of the economy and especially finance in the new century. She becomes a constant companion of banking affairs in which she serves as security.

## 2. THE RIGHTS OF THE MORTGAGE CREDITOR

### 2.1. The right to settlement

The primary right of a mortgage creditor is the right to settle claims secured by a mortgage from the value of a mortgage item. Therefore, it is a power to authorize a mortgage creditor to collect his claim secured by selling a mortgage subject matter, which serves as a security for him.

By establishing a mortgage, mortgages produce certain effects and burden the property on the subject of mortgage. Depending on the effect of the right to settle at different moments of the existence of a mortgage, legal science sees the pledge in two phases, static and dynamic. The static phase of the pledge has the function to "conserve" the value of the pledge and protect it from potential hazards that could jeopardize the future satisfaction of the creditor. At this stage, the mortgage creditor's

authorization is valid in the event of a decrease in the value of the mortgage item, and no affirmative right of settlement has been created yet (Vicković, 2009, p. 151).

The right of settlement is a “kinetic” force whose capacity to activate depends on the fulfillment of the foreseen conditions. In the static phase, the right of settlement is subject to psychological pressure on the mortgage debtor to voluntarily settle the claim (Lazić, 1994, p. 47). In the dynamic phase of the pledge, the right of settlement can be carried out in a forced manner in the enforcement procedure and out-of-court under certain conditions.

These phases could be referred to as “previous” and “final” phases. The final phase would occur at the moment of meeting the conditions for realization of the right of settlement, and the realization would also lead to the cessation of the mortgage. In doing so, it should be borne in mind that this division is only conditional and that it does not disturb the uniqueness of the content of the mortgage. The split into the previous and final stage of the mortgage is useful to indicate the different effect of the mortgage creditor’s right to settle at certain stages from the creation to the realization of the mortgage or its termination in another way (Lazić, 1994, p. 47). The mortgage creditor does not acquire the right to settle mortgage-related assets immediately.

The purpose of the mortgage is to serve for the present coverage and future satisfaction of the claim of the lien creditor (Stojanović, 1980, p. 292). Thus, the purpose of the mortgage is to secure the receivables. In this respect, the Mortgage Law itself in Article 1 stipulates that it is regulated by a mortgage, “for the purpose of securing and collecting receivables.” Also, if we return to the notion of a mortgage that is defined as a lien on immovable property, which is authorized by the creditor, that if the debtor does not pay the debt on the maturity of the claim, the collection of claims secured by a mortgage from the value of the real estate...

In the Law on Mortgage, in general rules, Article 24 paragraph 1 stipulates that “a mortgage creditor may, if the debtor does not pay his maturity, settle his claim on the value of the mortgaged real estate, regardless of the property or state of the mortgaged property in that moment.”

In order for a mortgage creditor to activate his right through settlement, it is necessary to fulfill three conditions: that the claim has become due, the debtor's delay and the choice of settling the claims through the realization of the mortgage.

The claim is due at the moment when the mortgage creditor is authorized to seek settlement of his claims. From this it follows that for the occurrence of the delay of the borrower, the assumption of the maturity of the claim of the mortgage creditor is necessary. In this case, we distinguish two situations: when the deadline for fulfilling the obligation is determined by the contract and when the time of fulfillment of the obligation has not been done. The first case is clear and the right settlement occurs when the debtor fails to meet the deadline for fulfilling the obligation. In the second case, when the deadline has not been determined, the debtor is late when the creditor invites him to fulfill the obligation. Article 324 of the Law on Obligations regarding the delay of the debtor stipulates: "The debtor is in arrears when he fails to fulfill the obligation within the deadline set for fulfillment."

The third condition is the choice of the way of settling matured receivables.

In the Article 25 regarding the choice of settlement, the Mortgage Act stipulates that:

"A mortgage creditor may require that his due claim be settled:

1. first from the value of the mortgaged real estate, then from the other property of the debtor;
2. at the same time, from the value of the mortgaged real estate and from the debtor's property, or;
3. first from the debtor's property, and then only from the value of mortgaged real estate."

It is only at the moment of choosing a mortgage creditor that his demand settles from the mortgaged real estate comes to the realization of his rightful settlement.

The remedy will be implemented in accordance with the rules of the Mortgage Act, the law establishing the compulsory collection of tax receivables on immovable property (the Law on Tax Procedure and Tax Administration) as well as the out-of-court sale procedure if the mortgage

agreement is made in the form of a credible document or executive document in accordance with Article 15 paragraph 1 of the Mortgage Act (Službeni glasnik, no. 115/2005, 60/2015, 63/2015 - decision of the Constitutional Court and 83/2015).

The mortgage law envisaged that a mortgage creditor can be settled from the value of the mortgaged real estate and after the obsolete secured claim. This is subject to the condition that his right is entered in the public book.

Also, paragraph 2 of Article 26 of the same law provides that in cases of obsolete claims, interest and other occasional benefits can not be settled from the subject of the mortgage.

The rules of Article 26 of the Mortgage Act are in accordance with Article 368, Paragraphs 1 and 2 of the Law on Obligations, which stipulates that when the outdated period of obsolescence expires, the creditor whose claim is secured by pledge or mortgage can only be satisfied from the burdened thing if held in the hands or if his right is entered in the public book. However, outdated interest payments and other occasional bonuses can not be settled out of burdensome things. So mortgage and pledge is a real right at all that does not become obsolete. The right of ownership is the absolutization of the effect of claims, so that this obligation right in the part secured by the pledge acquires the features of the real right and can be realized through the stock regardless of the obsolescence (Lazić, 1994, p. 60).

“In the banking sector, uncollectible claims are a serious threat to the stability of the entire financial system and require urgent resolution in the most efficient way possible. Unlike developed countries with more experience in the treatment of uncollectible claims, developing countries are in a position to use the experience of other countries, with the additional specificity that these countries need to absorb a much higher amount of risk in the absence of an efficient market (Mirković, 2015, p. 402).”

## **2.2. Rights in case of a decrease in the value of a mortgage item**

In the previous part of the presentation, we pointed out the right of settlement as the primary right of mortgage creditor. In addition to that primary right, the mortgage creditor also has secondary rights (powers) that have ancillary character and represent “modalities of right

of satisfaction that serve to make it safer and more successful (Marković, 1911, p. 172).”

Secondary rights include, among others, the rights of mortgage lenders in case of a decrease in the value of the mortgage item. These include the right of priority, the right of follow-up, the right of transfer, and so on.

The right of a mortgage creditor in the event of a decrease in the value of a mortgage subject matter is primarily for securing and protecting the interest of the mortgage creditor, from the moment of constituting the mortgage until the moment of realization of the mortgage.

From the moment of constituting the mortgage to its realization, there is the so-called static phase of the mortgage, where the right of settlement is stationary and not activated. This is the waiting period for whether a mortgage debtor will fulfill his voluntary commitment or not. The mortgage debtor, that is, the owner of the mortgaged real estate, in accordance with Article 16 of the Mortgage Act, has the right to hold the mortgage object, use it as usual, to collect the natural or civil fruits that the mortgage is subject to, and to omit the subject of the mortgage and transfer the right to an acquirer, in which case nothing changes in the debtor's obligation and secured claim.

It happens that the mortgage debtor does not behave like a good host in the subject of the mortgage, so that his behavior leads to a reduction in its value.

The protection of interests of the mortgage creditor was regulated differently in certain legal systems. Here we will look at some interesting cases. German law in the comparative legal systems developed the idea of protecting the interest of the mortgage creditor from the actions of the mortgaged property owner and third parties.

A mortgage creditor may, if the risk of damage and endangering the security of the mortgage threatens, require the court to order the owner of the mortgaged real estate or a third person who adversely affects the immovable property, to stop the threat of harm. When the harmful action arises from the owner of the matter, the court will, on the proposal of the creditor, force the owner to stop harmful activities. If the harmful action originates from a third party, it is required, through the court, to the owner of the matter to take protective measures against a third person.

Also, pursuant to paragraph 1133 of the German Civil Code, a mortgage creditor may, in the event that a deterioration of the immovable property has been affected to the extent that the security of the mortgage is endangered due to the harmful action of the owner or a third party, determine in particular an appropriate period for removing the consequences of the threat. If this deadline is unsuccessful, the mortgage creditor may request the fulfillment of a claim from the value of the mortgage regardless of the fact that the claim was not due.

In order to protect the interests of the mortgage creditor, it is also possible to ask the court to place the stocked item at the creditor's expense or to be given in the sequester, so that the old administrator is the sequester.

The previously applicable Law on Basic Property Relations stipulates that "if a mortgage debtor decreases the value of a real estate burdened by a mortgage or otherwise aggravates its condition, the mortgage creditor may require the court to order the mortgage debtor to refrain from such actions, and if he does not do so, may require forcible collection of a claim secured by a mortgage before its maturity."

The Mortgage Act also states in Article 17, paragraph 1 that "the mortgagee's owner must not physically change the subject of the mortgage (partitioning, upgrading, demolition, merger, division, etc.) without the creditor's written consent, which the creditor will not refuse to issue without justified reason." Paragraph 2 of the same article stipulates: "The owner is obliged to keep and maintain the subject of the mortgage as a good host, that is, a good businessman, so that his actions will not reduce the value of the real estate."

The novelty in the Mortgage Law is the obligation of the owner to secure the subject of a mortgage against all common risks before concluding the mortgage agreement, and that the right of access to real estate can not be used in the period from 22:00 to 07:00, as well as during the celebration of the holiday.

Article 18 of the Mortgage Act regulates that a mortgage creditor, if due to the behavior of the owner of the real estate, has a decrease in the value of the real estate or threatens the reduction, requires additional security. If the debtor does not provide additional security, the mortgage creditor may request the collection of all claims from the real estate value without delay.

The reduction of the value of a mortgage item shall be determined by a court expert at the request of the creditor. Unlike this legal solution, according to Article 982 of the Law on Obligatory Relations, sale before the maturity of the receivables serves for self-disclosure, and not an arrears, because the received monetary amount is deposited with the court up to the maturity of the receivables.

Also, the Law on Mortgages in Article 19, paragraph 1, foresees a court injunction against damage to the real estate object.

A mortgage creditor may ask the court, or he has the right to demand that the owner or the immediate holder be allowed to stop the behavior that caused the value of the mortgaged property to be reduced, that is, to stop the behavior they intend to take, which would directly reduce the mortgage value real estate.

The court may then allow the mortgage creditor to take the necessary measures to avoid the reduction in the value of mortgaged real estate. If the circumstances do not suffer a delay, the mortgage creditor may take the necessary measures even before receiving the court's license, if the mortgage is based in accordance with Article 15 of the Mortgage Act (executive document) or if it is explicitly provided for by the mortgage agreement or the pledge statement. The owner is obliged to pay the fee for the court costs incurred. They are provided without enrollment and enjoy primarily billing in respect of all recorded loads.

### **3. PRIORITY RIGHT OF THE MORTGAGE CREDITOR**

Under the real right of the mortgage lender (*ius prioritatis*) in collecting receivables, it implies an authorization given to the mortgage creditor to seek the settlement of claims from the value of a mortgage subject before creditors who do not have a mortgage on their mortgage (ordinary, hypothecation creditors), and prior other mortgage lenders who got a mortgage on the same thing earlier.

The right of priority is a consequence of the fact that the real right is more in competition with the law of obligations and with the same real right of the later date (Stanković and Orlić, 1980, p. 5).

Therefore, between the pledge rights on the same real estate, a

mortgage ranking is established, so that the right of the mortgage creditor to prioritize the collection of claims is called a mortgage ranking.

The right of the priority can be viewed from two aspects: the right of collection priority and the right of ranking priority (Krkljuš, 1980, p. 4).

The right of charge collection is regulated by the relationship of the mortgage creditor and ordinary (high-risk) creditors. The claim of ordinary creditors is not secured by a mortgage and is guaranteed by the debtor for all of his property. Here, the mortgage creditor is in a protected position and has the priority of collecting receivables.

When there are more mortgages on the same real estate, the order of settlement of the mortgage creditor is determined by the moment of creation and registration in public books, according to the principle of the prior period of the *potior jure* (first in time, stronger in law). This is about the right of priority.

This new principle also came up with the new Law on Mortgages, which regulated the order of settlement of mortgage creditors by Article 40 in a similar way: "When one mortgage object is pledged to a number of mortgage creditors, the order in which their claims from the price obtained by selling the mortgage items are determined according to the day, time and minute of the creation of the mortgage, counting on the receipt of the application for registration of the first mortgage." And in the concept of a mortgage, the law prescribed that a mortgage creditor performs collection of claims before ordinary creditors and before late mortgage lenders.

The novelty of the Mortgage Act is the possibility of constituting a mortgage on a building under construction. Here one can ask an interesting question on the manner in which the priority of collection between mortgages based on the whole building under construction and on its special part (apartment, business premises) is exercised. The advantage is the first mortgage mortgage. If a mortgage is first entered in the apartment, then on the whole facility, a mortgage on the whole property is a second-class mortgage in relation to a mortgage at the apartment and vice versa applies the same rule.

#### 4. THE SEQUENCE OF A MORTGAGE SUBJECT

Tracking the subject of a mortgage represents the possibility of the owner of the real right to exercise the content of his right against any third party in whose hands the matter as the subject of that right is found (Stanković and Orlić, 1980, p. 5). The right to follow is the consequence of the functioning of the real rights *erga omnes* (according to everyone). So the mortgage works for everyone.

In the case of a mortgage, the right of follow-up is reduced to the possibility given to the mortgage creditor to settle his claim regardless of the ownership and mortgages of the mortgaged real estate. It is constituted as a form of protection and security of mortgage creditor claims.

The right of priority of collection is not capable of protecting the claim of mortgage lenders, so that the immovable property remains in the debtor's state, and as a fee, the creditor is given the right to collect from the mortgaged property always, regardless of whose property the mortgage has in the meantime passed (Marković, 1911, p. 521).

The right to follow the mortgage creditor was also familiar with the earlier Serbian legislation. Thus, Article 328 of the Serbian Civil Code prescribed: "If such property, under inherited lien, is transferred to another party, if bears with itself the entered debt as well. Whoever pays out for such property, and does not pay attention whether or not there is a debt inherited (intra-burdened) on it, he/she should assigned by himself/herself when that debt has to be paid for."

The Law on the Basic property rights relations in Article 63, Paragraph 1, stipulated the right to follow "regardless of the change of the owner of the burdened real estate."

The right of follow-up arises from the real-legal character and direct attachment of a mortgage to a mortgaged real estate. The mortgage operates according to the everyday owner of the pledged thing as a mortgage debtor. Changing the owner of a pledged item does not change the content of a mortgage (Lazić, 1994, p. 91).

By virtue of Article 24, paragraph 1, the Mortgage Act regulated the right of follow-up in the manner that it stipulated that "a mortgage creditor may, if the debtor does not pay at its maturity, settle his claim on the value of the mortgaged real estate, regardless of whose property or disposal he is found at that moment."

The right to keep track of the mortgage is different from the law of property tracing and manual stocks. The owner and the mortgagee have the right to possess, and the right of follow-up enables him to demand the return of things from a person who holds the thing without a legal basis or on a lesser legal basis. The mortgagee is not entitled to hold the mortgage subject either at the time of the occurrence or at the time of the realization of the mortgage (Lazić, 1994, p. 91).

The mortgagee creditor has the right to follow if the mortgage registration is made before the mortgaged property is alienated. The realization of the right of follow-up is made possible by the publicity of a mortgage, which is done by registering in the real estate registers (Vicković, 2009, p. 159).

The publicity of the mortgage is used by the mortgage lender because it allows him to keep track of things without compromising the legal certainty of third parties, but also uses the mortgage debtor as potential lenders and buyers are free from fear of the existence of hidden pledges and allows the mortgaged property to be disposed of without the consent of the mortgage creditor (Kovačević and Lazić, 2004, p. 320).

## 5. TRANSFER OF MORTGAGE

The right to transfer a mortgage to a third party can only be carried out with the transfer and claim as the main legal transaction.

The mortgage is in this case a minor right that is transferred to another title only with the transfer of claims as the main right.

Independent transfer of the mortgage is not allowed, although there is an understanding that “in contrast to the availability of the stock, it is its substantive character and that a special transfer of liens is possible (Gams, 1955, p. 145).”

The old Law on the Basis of Property Relations stipulated by Article 66, paragraph 1, the right to transfer a mortgage by stipulating: “Mortgage can be transferred to the other only with the transfer of claims secured by the mortgage.”

The mortgage law envisaged the right to transfer a mortgage through the provision on the transfer of claims in Article 20. Thus, in paragraphs 1 and 2, it is stipulated: “The claim secured by a mortgage can be given on

the basis of a contract between the creditor and the person to whom the claim is given.

A mortgage transfer contract that is concluded separately from the transfer of the claim does not produce a legal effect. Contract referred to in paragraph 1 of this Article:

1. it is concluded in the form prescribed by Article 10, paragraph 1 of this Law, that is, in the form of a public notary or a publicly-recognized certified document;
2. transfers the mortgage to the person to whom the claim is granted;
3. Produces legal effect to third parties from the date of registration in the real estate register.

The rules contained in this article in their entirety are the principle of access to the mortgage, according to which mortgages and claims constitute an inseparable entity. Legal transactions in which the mortgage without a claim and vice versa will be canceled are null and void. For the transfer of receivables, as well as for the transfer of a mortgage, contracts are required in written form and the entry of such a contract into the real estate register.

In the legal theory, there is an opinion that in the case of a mortgage for the purpose of securing loans and in the case of a mortgage, no further separation is possible, to transfer the mortgage, although no credit transfer has occurred. Specifically, the secured claim is transferred out of the ground. The mortgage then survives (Selma, 1994, p. 54).

Amendments to the Mortgage Act of 2015 introduced a new article that gave the possibility for a mortgage creditor or more of them to order a third party or some of them to undertake legal actions to protect their claims. The name of that third party shall be entered in the register of immovable property. The reason for inserting this provision into the new text of the Mortgage Law is the need to allow creditors to make the so-called syndicated loans (affiliates) are determined by one person who will take care of their rights and obligations.

Transfer of receivables is most often done by transferring receivables, i.e. by the assignment of claims, which is regulated in detail by Article 436-446 of the Law on Obligation Relations.

For the assignment of claims, the consent of the cedant is necessary, i.e. the former mortgage creditor who gives the claim and the depositary, as a new mortgage creditor, which takes over the claim and the mortgage by the contract.

The assumption that a mortgage monitors the claim as its accessory is provided for by Art. Article 437, paragraph 1 of the Law on Obligatory Relations, by “transferring to the receiver the subsidiary rights, such as rights of collection, mortgage, pledge, rights from the contract with guarantors, right to interest, contractual penalty, etc.”

The transfer of receivables requires the agreement of the will of the Contracting Parties, the Securities and Creditors. The consent of the debtor is not required, but according to the Law on Obligations, the assignor is obliged to inform the debtor about the performed assignment. After that, the debtor can no longer fulfill the obligation to the assignee.

The assignee does not respond to the receivable for the collection of the transferred claim, but only for the existence of a claim at the time of assignment, and only when the transfer is effected by a contract of compensation. The aforementioned rule could also apply analogously to the mortgage.

The transfer of the contract should be different from the transfer of the claim. The contractual obligation, ie all the rights and obligations arising from that relationship, is transferred to the contract. The consent of the other contracting party is necessary for the validity of the contract award. Also, the transfer of the contract does not work, in contrast to the transfer of the claim, in relation to the secondary rights. The pledge and the pledge that secured the claim from the transferred contract do not transfer to the recipient, unless the guarantor and the pledgee agree to respond to the new creditor (Article 145, paragraphs 4 and 449, paragraph 1 of the Law on Obligations); (Lazić, 1994, p. 95).

## **6. THE RIGHT ON *IUS OFFERENDI***

The right of the mortgage creditor to the *ius offerendi* is the authorization of the mortgage creditor to pay the claim to another mortgage lender whose claim requires the forced sale of a mortgage item and enters its place. A mortgage creditor using the *ius offerendi* pillar

(subrogate) in the place of the creditor whose claim has paid off, both in an obligatory relationship - by taking the claim, and in a mortgage - by taking up a mortgage (Lazić, 1994, p. 97).

By using this right to take over claims, a mortgage creditor acquires another mortgage without losing it so far (Kovačević and Lazić, 2004, p. 322).

The Mortgage Act has adopted a fixed mortgage ranking. The interest of the creditor with a later mortgage rate to pay off the creditor with the earlier rank remains, since he will take his place and have both mortgages (both in respect of claims and in respect of mortgages). The hypothesis is that a mortgage lender of a later rank will use this right in the event of a collapse in the value of the mortgage (Vicković, 2009, p. 162).

In Roman law, initially only the first creditor had the right to sell the pledged thing (*ius distrahendi*), and the other to pay the first and take its place (*ius offerendi et succedendi*). Later the right to *ius offerendi* is received by other creditors.

The right to *ius offerendi* belongs also to the real debtor, who, by paying out to the mortgage creditor of the receivables for which the requested sale of the item is acquired, acquires the right of recourse or receivables towards the personal debtor.

The right to an *ius offerendi* can be made from the moment when the sale is requested until the moment of selling the object of the mortgage (Vizner, 1980, p. 356).

The Serbian Civil Code only in paragraph 833, modeled on the first version of the Austrian Civil Code, foresaw that “whoever pays for the second debt, it has the first charge from the principal debtor, and all means are appropriately used for it.” According to him, the right to *ius offerendi* was not explicitly accepted. Our current law does not explicitly authorize mortgage creditor and real debtor to *ius offerendi*. Their right to repay the claims of other mortgage creditors is derived from the general rules on the creditor’s right to fulfill the subrogation, which is regulated by the provisions of Articles 299-311. law on bonding relations.

Subrogation under Article 299 of the Law on Obligatory Relations may be voluntary and legal (Article 300 of the Law on Obligatory Relations).

Legal subrogation exists when the obligation to the creditor in place of the debtor is fulfilled by a person with a legitimate interest in it (Lazić, 1994, p. 98).

In the case of legal subrogation, the creditor's claim with all secondary rights is transferred under the law itself. A mortgage creditor and a real debtor could call for legal subrogation.

The right to *ius offerendi*, in essence, allows the mortgage lender to prevent the sale of mortgage items at a time that is not favorable to him and at the same time improve his legal position. This right also confirms that the mortgage is essentially a property right and is closely related to the claim, without which it can not be transferred, nor to determine the value of the mortgage (Lazić, 1994, p. 99).

## 7. RIGHTS IN BANKRUPTCY PROCEEDINGS

If a bankruptcy procedure is initiated against the debtor, the mortgage creditor in bankruptcy proceedings has the status of a different creditor. Namely, the Law on Mortgages in Article 42 regulated the rights of the mortgage creditor in bankruptcy proceedings. The same member gave the member a mortgage creditor the status of a separate creditor or "a distinct right of a separate settlement from the value of immovable property." The Bankruptcy Act provides permission to the different creditors to settle their claims separately in the execution procedure, i.e. outside the bankruptcy procedure. In practice, it turned out that the only secured creditor is settled in full, with accrued interest and all expenses, while other creditors remain, if anything, very little to settle. By such legal possibilities, the disconnected creditors question the possibility of reorganization because the most often bankruptcy debtor is not able to continue the business without using the pledge asset (Dukić, 2010, p. 199-200).

This means that a mortgage creditor has the right to settle from the value of mortgaged immovable property of the debtor irrespective of other bankruptcy creditors.

In Article 49, the Bankruptcy Law regulated the detailed position of the secured and liable creditors.

The mortgage right through the application of the bankruptcy law institute, i.e. the rights of mortgage creditors in bankruptcy proceedings

come to be of full significance, since the diversified creditor *vis-à-vis* other creditors has an extremely privileged position.

The bankruptcy law left the possibility for the creditors to be entitled to a proportionate settlement from the bankruptcy estate, as bankruptcy creditors, if they renounced their status as a separate creditor or if they could not settle their separate claim without their guilt. Then they proportionally settle their claims against the debtor in relation to the amount of these receivables. Separated creditors are settled from assets that have been the subject of separate settlement - a distinct right on which the right of separate settlement is based. In order for the secured creditors to settle down as bankruptcy creditors, it is necessary that the bankruptcy debtor is personally responsible to them (Dukić, 2010, p. 213).

## 8. ESTABLISHING A SUPER – MORTGAGE

The creation of a mortgage-backed mortgage creditor is, according to the new Mortgage Act, set up as an advocate of secured mortgage (and not as a mortgaging mortgage).

The establishment of a super-mortgage is carried out by a contract, which is concluded between the mortgage creditor on the one hand and the super-mortgage creditor on the other, and the and it is only formal, ie it needs to be in the same form in which the mortgage agreement is concluded, in accordance with Art. 10. st. 1. and Art. 15. st. 1. The Mortgage Act. It is not necessary to approve the hypothetical debtor.

This contract must also contain *clausulu intabulandi* ie. explicit and unconditional statement of the mortgage creditor that the super-mortgage creditor can be registered in that capacity in the public register of real estate. The property is acting towards the debtor as of the day when a written advisory notice is received, and from that moment the debtor can only fulfill his obligation to the super-mortgage creditor. According to third parties, the above-mortgage company produces a legal effect from the date of registration of the property in the register of immovable property.

Thus, on the basis of a contract on the realization of the secured mortgage claim, the super-mortgage creditor gets a security that primarily consists of claiming a mortgage creditor against a mortgage debtor, and

only in the second line this claim is accompanied by a mortgage as an accessory right.

The earlier Law on the basics of property relations was known to the institution of the super-library. Article 66, paragraph 2 stipulates that “a mortgage creditor may initiate a mortgage on an existing mortgage in favor of a third party, without the consent of the mortgage debtor (sub-mortgage).” What is important for a mortgage is the fact that it can not last longer than a mortgage, and a super-mortgage creditor can not have more rights than a mortgage creditor.

## **9. OBLIGATIONS OF MORTGAGE CREDITOR**

The purpose of the mortgage is to serve as a mortgage creditor as a security for the execution of an obligation by the debtor, based on the repayment of the loan or the payment of the debt. The creditor’s actions towards the debtor were made even during the establishment of a mortgage. The function of the mortgage is to provide enforcement against the performance of the debtor. Mortgage therefore represents for the mortgage creditor a predominantly set of rights or powers, and not obligations (Lazić, 1994, p. 100).

Unlike the pledger, the mortgage creditor does not have the right to establish a possession on the subject of the pledge, and therefore, neither the obligation to keep the pledged item nor the obligation to keep it from being used. Nevertheless, the mortgage creditor as a property right holder derived from the property of a mortgage debtor has a certain obligation.

It is the obligation to grant the mortgage debtor the mortgage from the real estate register where it is registered.

This is a so-called wipe-out statement by a mortgage creditor that agrees to delete the mortgage from the real estate register. This is his formal legal action.

The mortgage law regulated this obligation through the terms of mortgage printing at the request of the owner of the real estate, provided that the mortgage debtor’s debt was paid in full.

On the one hand, it is a matter of the obligation of a mortgage creditor, and on the other hand, the right of the owner of the immovable property to erase the mortgage.

What is important here about the obligation of a mortgage creditor is that it is a statement that is given in writing that it agrees and agrees to print a mortgage.

According to Article 44, paragraph 4 of the Law on Mortgages, “the creditor is obliged to issue a receipt to the debtor and the owner of the immovable property, without delay, after the debt has been settled, and to give him the consent to delete the mortgage.” The formal legal termination of the mortgage by deleting the registration is necessary because the mortgage “although economically and legally dependent on the claims for which security has been established and exists, exists *ipso iure* and without receivables, it can only, as a rule, be enforceable in full (Stojanović and Pop-Georgijev, 1980, p. 224).”

Amendments to the Law on Mortgages introduced a new paragraph 5 of Article 44 of the Mortgage Law which stipulated that if there are more mortgage creditors and if only some of them settle down from the value of immovable property realized through out-of-court sales, then the Cadastre of Real Estate obligation to delete all registered mortgages of the real property.

When the mortgage is being wiped out, the mortgage debtor’s property right on the subject of the mortgage is freed from the burden and the right to property is restored in its full extent, the so-called property recapitalization.

A mortgage creditor also has an obligation not to abuse his rights. It is a general ban that all titles of subjective rights have, and which is prescribed by the Law on Obligations.

The prohibition of misusing the mortgage through the right of disposal particularly refers to the establishment of a super-mortgage, for which the mortgage creditor does not require the consent of the mortgage debtor. A mortgage creditor would abuse this right if, after the material termination of the mortgage, and prior to its deletion, or formal termination, he / she would establish a super-mortgage. It’s essentially about overstating here, rather than abuse of rights (Lazić, 1994, p. 101).

## 10. CONCLUSION

The adoption of the 2005 Mortgage Act, with amendments from 2015, and preceded by the re-establishment of the private property institute in Serbia, and the change in property relations has essentially changed. Private property has become a dominant form, and with it, mortgage law has become important.

The mortgage becomes the safest means of securing claims, and the status of mortgage creditor is significantly secured.

In this paper we have seen that the right of mortgage mortgage settlement is “kinetic” power. In a static phase, it exerts a certain psychological pressure on the mortgage debtor to voluntarily fulfill its obligation, while in the dynamic phase it is executed in a forced manner in the enforcement procedure and out-of-court.

What the Mortgage Act introduced as a novelty in favor of mortgage lenders is that the mortgage-holder’s mortgage must not physically change the mortgage object without the creditor’s written consent, and to keep it as a good host, so as not to diminish the value of the mortgage item.

Also, we saw that it is a significant novelty of the owner’s obligation to secure the subject of the mortgage, and that the right of access to real estate can not be used in the period from 22:00 to 07:00, as well as during public holidays. All these newspapers have significantly improved the position of the mortgage creditor in Serbia.

Regarding the right of priority of the mortgage creditor, and bearing in mind that the new Mortgage Law enabled the establishment of a mortgage on a building under construction, the question arises as to how the priority of collection between mortgages based on the whole building under construction and on its special part (apartment, business premise). The answer is that the mortgage that is first registered in the Real Estate Cadastre is preferred. If the first mortgage registered in the apartment, then on the whole facility, a mortgage on the whole property is a second-class mortgage in relation to the mortgage on the apartment and vice versa, the same rule applies.

With the amendments to the Mortgage Act of 2015, a new article was introduced giving the possibility for a mortgage creditor or more of them to determine a third party or one of them to undertake legal actions

to protect their claims. The Real Estate Cadastre shall enter the name of that third party. The reason for the insertion of this provision is the need to allow creditors to use the so-called. syndicated loans (affiliates) are determined by one person who will take care of their rights and obligations.

Mortgage lenders in a bankruptcy procedure have a special position. They have the status of secured creditors, that is, the “separate right of separate settlement from the value of real estate.” Bankruptcy law provides permission to creditors to settle their claims separately in the enforcement proceedings, ie outside the bankruptcy procedure.

Also, what is causing special attention is the establishment of a super-mortgage, as a real mortgage creditor. According to the new Mortgage Act, it was set up to advocate mortgages secured by mortgages (and not as mortgage mortgages). And what is very important is that the mortgage debtor’s consent is not required for the same.

Based on the stated rights of the mortgage creditor, it is clear that the norms of the new Mortgage Law have achieved the purpose of the mortgage institute in our legislation and practice. The mortgage is in the service of a mortgage creditor as a security of execution of a mortgage debtor’s obligation and the status of mortgage creditors in Serbia has been significantly improved. Of course, the time ahead will open up new needs and work on improving the mortgage institute. Therefore, it can rightly be said that a mortgage for a mortgage creditor is a set of rights, not obligations.

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**FISCAL AND MONETARY POLICY**

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# DEBT FINANCING

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**Abstract:** The budget, as a centralized instrument for the implementation of fiscal policy, usually performs the functions of allocation, stabilization and distribution. Whether it is about national economies or supranational entities like the European Union, the budget represents the most important factor of fiscal cohesion. Market economies are characterized by differences in levels of economic development. Different levels of economic development pose an objective challenge to fiscal policy bearers. The largest fiscal allocations are directed to the public sector, which is not expected to directly fertilize fiscal income, but primarily to fulfill social needs. Obviously, with the development of modern countries and with the increase in standards, expectations regarding the quality of public services also grow. Parliamentary democracies are under constant pressure to satisfy public needs, from a critical public. Enabling the availability of the level of services guaranteed by the Universal Declaration of Human Rights puts the authorities in charge of managing public finances in an unenviable position. Societies at a lower level of economic development strive to reach richer, more developed societies and, due to insufficient fiscal revenues, resort to debt financing of public finances. Developed societies in an effort to maintain the level of development and achieved dominance also multiply expenditures for public finances. For the above reasons, the creators of fiscal policies from local, national to multinational levels are reaching for different forms of debt financing. Global economic crises caused by various causes, which were connected to each other, with deficit financing of the budget in different currencies and debt monetization by the ECB, certainly encouraged a high rate of inflation in the European Union, which spread throughout the European economic area. Due to the largest volume of foreign trade exchange with the countries of the European Union, and the attachment of the domestic currency to the euro, the impact of

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externalities is multiplicative and cannot be stopped only through discretionary fiscal policy measures. For a long time, the professional public has advocated the need to change the course of the monetary policy of Bosnia and Herzegovina, that is, the existing “Currency Board”. It is an indisputable fact that for the effective management of economic policy, it is necessary to use a cocktail of fiscal and monetary instruments.

**Keywords:** Public debt, budget deficit, inflation, fiscal and monetary policy

## 1. FINANCIAL CRISES AND INFLATION

The convergence of long-term interest rates, that is, their convergence between the “weak” and “strong” regions of the European Union, was one of the strongest motivations for a certain number of EU countries to renounce their own currency and monetary policy and enter the Euro zone. In the period from 1997 to 2007, their expectations were fulfilled. Before the introduction of the euro, capital flows in the European Union were limited by uncertainty about exchange rates. By entering the Euro zone without currency risk, interest rates are formed based on the credit rating of the debtor countries. In conditions of unrestricted flow of capital, it flows unhindered from one part of the euro zone to another, deepening imbalances. Through cohesion instruments, the European Union seeks to mitigate the differences that exist within the real economic sector. Germany, as the leading power of the European Union, resisted the introduction of Eurobonds, i.e. the financing of European programs through debt instruments (Sinn, 2011).

We distinguish four sources of financing the budget deficit:

1. Borrowing from the Central Bank,
2. Sale of state property,
3. Borrowing on the domestic financial market i
4. Borrowing abroad.

A certain state can borrow from the Central Bank by taking direct loans or by purchasing state securities, such as treasury bills, bonds, etc.

Several securities purchase programs have been implemented since 2009 in order to stimulate growth in the Euro zone and in line with the goal of achieving an inflation rate below, but close to, 2% in the medium term. These programs included the Corporate Sector Securities Purchase

Program (CSPP), the Asset-backed Securities Purchase Program (AB-SPP) and the third covered bond purchase program (CBPP3).

In June 2014, the European Central Bank announced a series of Targeted Longer-term Refinancing Operations (TLTROs) whose purpose was to improve bank lending to credit institutions in the Euro area over an initial period of two years. The second series (TLTRO II) started in March 2016, and the third series (TLTRO III) in March 2019.

In response to the COVID-19 pandemic, the Governing Council of the ECB decided to significantly ease the conditions for the remaining TLTRO III operations, together with a temporary reduction in floating interest rates. In addition, it was decided to carry out eleven additional Longer-term operations refinancing due to the pandemic (PELTRO) in the period from May 2020 to December 2021.

Other already completed programs include the Securities Markets Program (SMP), the Covered Bond Purchase Program (CBPP) and the second Covered Bond Purchase Program (CBPP2). The monthly pace of net asset purchases initially amounted to EUR 60 billion (March 2015 - March 2016), and later this amount increased to EUR 80 billion per month (April 2016 - March 2017).

Net asset purchases were then gradually reduced to EUR 15 billion per month (September 2018 – December 2018).

In December 2018, the Governing Council of the ECB decided to suspend net asset purchases, with the aim of continuing to reinvest in principal repayments for maturing securities and to maintain the total net purchases under each asset purchase program at their respective levels. However, due to unforeseen circumstances, caused by the impact of the “lockdown” caused by the Covid 19 pandemic, the net purchase of assets was restarted in September 2019 with a monthly rhythm of 20 billion euros starting on November 1, 2019, expecting it to last “as long as as long as it takes to strengthen the accommodative effect of the interest rate and that it will end soon after the ECB starts to raise key interest rates”.

As an additional response to the crisis caused by the COVID-19 pandemic, the Governing Council decided to increase the existing net purchase of assets by the end of 2020 with an additional package of 120 billion euros. In addition, a new temporary crisis program for the purchase of Public and Private Sector assets (PEPP) was launched with an

initial estimated amount of 750 billion euros, which was supposed to last until the end of 2020.

The Governing Council of the ECB decided in June 2020 to increase the PEPP package from EUR 600 billion to EUR 1,350 billion. The aforementioned PEPP package was additionally increased in December 2020 by EUR 500 billion, to a total of EUR 1,850 billion. It was also decided to extend the PEPP net purchase period until at least the end of March 2022. It was also decided to reinvest the principal payments due within the PEPP at least until the end of 2023. Greater flexibility is built into the PEPP, allowing for “changes in the distribution of purchase flows over time, across asset classes and across jurisdictions.”

The causes of current inflation in the countries of the European Union, as well as in the countries that are directly or indirectly in the Euro system, can certainly be sought in the monetary financing of budget deficits and public debt, that is, intensive debt financing of the private financial and non-financial sectors.

The situation is similar in the United States of America, where inflation rose to the highest level in the last 40 years, when in May 2022 it reached the amount of 8.6% on an annual basis.

The US Federal Reserve (FED) despite recession concerns plans to continue tightening monetary policy in response to rising inflation. The public debt of the United States of America (USA) exceeded 30 trillion dollars for the first time.

The relationship between inflation and public debt may not be explicitly included in the objectives of public debt management itself, but it plays an important role in management decision-making. If the state has not agreed on a currency clause, then inflation works to reduce the public debt. In such a situation, inflation is considered a state income and one of the solutions against the debt.

The indebtedness problem is part of macroeconomic policy, which cannot be effective if the borrowing policy is not conducted in the appropriate direction. Borrowing policy should aim at choosing the optimal combination of risk and income from foreign capital.

The ratio of the total external debt to the gross domestic product indicates the degree of external debt load on current economic activity. If it continues to increase, it will mean possible problems of solvency and

inability to repay the debt for a certain country. If this ratio is less than 48%, the country is less indebted. Between 48% and 80%, it is a medium-indebted country, or if it is above 80%, then it is already a matter of high indebtedness. The export of goods and services is the main source of foreign currency income needed to repay the foreign debt.

According to world experience, if debt repayment in relation to exports is greater than 20%, there may be problems with the country's external liquidity. In the case of debt rescheduling, the interest is not rescheduled, but only the principal of the debt. The consequence of this is a change in the amount of interest due to a change in the amount of the principal when rescheduling the debt.

Greece, Italy, Belgium, Hungary and Malta had excessive public debt before the outbreak of the financial crisis in 2008. The mentioned countries had a high level of public debt because it exceeded the reference value of 60% of GDP. Other member countries had a level of public debt in reference values until 2008.

Greece has the highest public debt calculated as a percent of GDP in 2017, 175%. After Greece, Italy follows with a recorded percentage of 134.7%, and Portugal with a percentage of 132.1%. The member states with the lowest indebtedness are: Estonia 8.9% of GDP, Luxembourg 23.4% and Bulgaria 27.7% of GDP.

The highest nominal amount of public debt in euros in 2017 was recorded by Italy, in the amount of 1,606,200 billion euros. It was followed by France, Germany, Great Britain and Spain. Back in the last 10 years, Italy did not always occupy the first place in debt, Germany and Great Britain alternated. From 2008 until 2014, Germany was the country with the largest nominal public debt in euros, and Great Britain occupied that position during 2015. After 2015, until today, Italy has the highest public debt in euros. It is important to note that the ratio of public debt to GDP also depends on the method of calculation, that is, what is considered public debt. In this context, we cite the example of the German economy, which has the most indebted public companies in the EU, and their debt is 1.2 times higher than the German GDP (Andrašec, 2019).

At the end of 2021, Serbia's public debt amounted to 26.66 billion euros, which was 57.4 percent of GDP. The external debt of Bosnia and Herzegovina in the first quarter of 2022 amounted to 9.67 billion KM,

while the internal debt is about 3.50 billion KM, i.e. over 13 billion KM in total. Taking into account the GDP of 37.34 billion KM, it represents a public debt/GDP ratio of about 1/3 or 35%, which ranks us among less indebted countries. The above data do not include guarantees given to public companies.

European monetary unification in the 1990s should have been accompanied by fiscal convergence and harmonization. A similar scenario to the Maastricht Convergence Criteria, through which the budget deficit is limited to 3%, has already been seen in the USA. Namely, in 1985, the American Congress passed the Gram-Rudman Law, which provided for the automatic reduction of consumption in the event of an excessive deficit (James, 2009). It can be stated that there are two groups of factors that determine the direct fiscal consequences of membership in the European Union, namely: the size of Union transfers that are directly directed towards the state sector and the contribution of member states to the Union Budget. With the introduction of the Maastricht criteria and the Stability and Growth Pact, most of the fiscal rules have already been predetermined, while within the Eurozone, the monetary policy of individual member states has almost completely lost its sovereignty. Fiscal criteria are based on the principle of sustainable fiscal policy, i.e. preventing the possibility of increasing the rate of inflation in the future through irrational spending of public finances.

Recognizing the dangers of excessive spending by the general government, which during the 1980s on the example of certain European countries (especially Belgium and Italy) proved to be a very complex issue due to difficulties in stabilizing public finances, the European Commission under the leadership of the then president Jacques Delors, laid the foundations for the establishment of the Economic and Monetary Union. The Maastricht agreement was signed as the crown of the efforts made, which defined the fiscal rules through the five fundamental principles of convergence (Obadić, 2005).

The two most important criteria, the Budget deficit and the Public debt, which were supposed to serve for stabilization, with the introduction of the euro and the temporary equalization of interest rates, have significantly exceeded their limits (Sinn, 2011).

In the world of finding new attractive sources of financing, the idea of issuing Eurobonds has been advocated for a long time. The same would mean replacing the “every man for himself” strategy with the “all for one, one for all” strategy, which would enable joint borrowing (Ferry, 2011). In a certain way, the bonds issued by the European Commission can be considered as Eurobonds, even though they do not officially bear the mentioned name. The issuance of bonds by the European Commission additionally centralizes the fiscal authority at the level of the Union. Member states are required to submit Convergence Programs to the European Commission, upon approval of which funds can be withdrawn from the structural financial funds, which basically serve to stabilize the national economies. In this way, the European Commission directly and completely influences the fiscal policy of the member states.

The monetary stability of Bosnia and Herzegovina, due to the work of the Central Bank of Bosnia and Herzegovina according to the model of the Currency Board, is only apparent, since the Convertible Mark is fixed to the currency anchor, i.e. the euro, and the value of the Euro is effectively objectively decreasing, which multiplies the negative effects on the Bosnia and Herzegovina economy over higher prices of imported inputs and less favorable debt on the foreign market, instead of the domestic Central Bank, whose reserves are held in German and Swiss banks at an interest rate of 0.164% (2021) on an annual basis, and entities from Bosnia and Herzegovina on foreign financial markets they borrow at a rate above 4%, which is unacceptable. So, with this kind of monetary policy, we have come to the absurd situation that a small, underdeveloped country is stimulating the economic growth and employment of Germany and Switzerland with 13.5 billion at a symbolic interest rate (0.164%), and not the domestic economy.

## **2. FISCAL AND MONETARY POLICY INSTRUMENTS**

The importance of sovereignty in the conduct of a unified economic policy, as an example of the Eurozone crisis, with reference to the difficulties that Bosnia and Herzegovina has as a result of the multi-year implementation of the Currency Board system, proves the cause-and-effect relationship between the lack of coordination of monetary and fiscal policy instruments with the efficiency of the economic system.

Due to the inconsistent implementation of the Maastricht Convergence Criteria, i.e. the Fiscal Stabilization Rules by the member states, which are primarily reflected in the obligation to maintain the level of limitation of budget deficits and public debt, and the budget of the European Union which is insufficient to fulfill the macroeconomic functions of allocation, distribution and stabilization, the fiscal system of the European Union has not adequately demonstrated its effectiveness in maintaining the fiscal stability of the European Union.

As a forerunner of the euro, the EKI was created in 1974, which brought the monetary policies of the member countries under partial control. In this way, through the Exchange Rate Mechanism, mutual currency fluctuations were limited to 2.25%. Through the principle of graduation, the Economic and Monetary Union - EMU was gradually created.

The Maastricht Treaty of 1992, which was created in specific internal and foreign political circumstances, marked a turning point in further monetary and political integration. At the moment of the biggest steps towards the unification of European states, the Yugoslav republics experienced collapse and splitting. A bad foreign policy assessment of the timing for entering the transition of the political system with the situation of global imbalance has set us back a long way. The introduction of the euro into the payment system in 2002, as a single currency in nineteen member states, represented a major historical challenge in terms of monetary policy. Its lack arose from economic imbalances between member states, resulting in trade imbalances. In order to correct the aforementioned balances, extensive fiscal redistribution of income between countries via the community level is necessary, however, the aforementioned through the Budget of the European Union, which ranges from about 1% of EU GDP, is not even close to achievable. Until now, the structural reforms of the European Union have been characterized by the acquisition of greater powers in favor of the central countries, which at the same time benefit the most from the monetary union. By introducing a single currency, the European Union assumed the obligation to maintain monetary stability. As the European Central Bank was established on the model of the Deutsche Bundesbank, the minimum level of inflation was one of the most important goals. However, the global financial crisis of 2008, and the rescue of large private banks through public finances, violated the aforemen-

tioned postulates. The crisis caused by Covid-19 has further undermined the fundamental principles of EU monetary policy.

Also, the European Commission, due to insufficient sources of financing, resorted to debt financing. A fundraising model was introduced through the issuance of bonds with high solvency. The collected funds are further distributed in the form of loans and grants to member countries. The aforementioned method created the possibility of cheap borrowing for less solvent countries, which would borrow independently at significantly higher interest rates.

The Economic and Monetary Union (EMU) represents a unique model in the world in which, in the conduct of economic policy, a single monetary and decentralized other macroeconomic and structural policies are combined, of which fiscal policy stands out in particular. With the entry into force of the Pact on Stability and Growth, as a continuation of the Maastricht Convergence Criteria, a model of decentralized fiscal policy of the European Union was defined.

By supervising the implementation of the rules defined by the Stability and Growth Pact, countries are obliged to bring their medium-term budget balances to balance or even surplus, so that in the event of cyclical pressures, they could deal with them without exceeding the reference limit of 3% of GDP. The supervision mechanism is carried out through the so-called double anchor, that is, through two Convergence Criteria, namely, the level of the General Government Deficit and the National Debt.

The shortcomings of the Pact on Stability and Growth were first manifested in 2002, when there was a slowdown in growth in the majority of Eurozone member countries, and in that situation most countries were obliged to bear the stipulated penalties. In the mentioned situation, decisions were made on reformulating the rules of the Pact in terms of greater flexibility towards countries and considering each case separately, taking into account the business cycles of individual countries.

The institutional crisis in the functioning of the Pact arose in 2003 when the Council for Economic and Financial Affairs (ECOFIN) did not apply punitive provisions to France and Germany when they violated the budget deficit limits. On that occasion, the Council made a decision to give these countries until 2005 to return the deficit level to the permitted limits. The aforementioned decision showed the inconsistency of institu-

tions when it comes to deciding on the interests of “big countries”. They justified their decision with the reason of the slowdown in the general level of growth at the beginning of the new millennium.

However, when in the case of Portugal in 2001 the budget deficit line of 3% of GDP was crossed, under strong pressure from the European Commission, Portugal had to cut public spending. This is why the Portuguese economy went into recession the very next year, while already in 2005, the budget deficit rose to the level of 5% of GDP.

The above example showed that a rigid approach to the rules of the Pact, without respecting the individual circumstances in which the country is located, cannot achieve a quality long-term effect.

The rules of the Pact have been repeatedly challenged by member states due to the annual cycle of implementation. Proposals for changes went in the direction of applying the Pact in economic cycles, because limiting public spending during recessionary periods can slow economic growth. The alleged problems resulted in changes to the rules of the Pact, i.e. loosening and introducing greater flexibility in the application of sanctions for countries that exceed the Pact’s limits. Countries where the budget deficit exceeds 3%, and in the event that they can justify the above with extraordinary circumstances, penal provisions would not be applied. Under them, it can be taken into account if the drop in GDP is above 2%, in the case of a constant decline in the economy or if structural reforms are involved, such as the reform of the pension system, etc. Also, the time of adaptation to the rules of the Pact has been extended.

Implementation of common stabilization fiscal policy through coordination of individual fiscal policies of member countries is primarily subordinated to the objectives of the Economic and Monetary Union. If such differential shocks occur within the Economic and Monetary Union that affect a certain country, and if the Union has a restrictive monetary policy aimed at preserving prices, the only instrument for mitigating economic shocks remains fiscal policy. The effects of fiscal policy are significant and strong to the extent of the size of the budget. The above applies both to the budget of the European Union and to national budgets. In the past 12 years, the EU budget has grown by about 20% from 141 to 169.5 billion euros, which with the accompanying inflation rate does not represent a significant increase. However, it has changed significantly in terms

of expenditure structures. In the 1970s, almost 80% of the budget went to expenditures in the field of agriculture and fisheries, but now this form of financing is represented by twice the amount of about 40%.

### 3. NEW FINANCIAL INSTRUMENTS OF THE DUAL REFORM

Most of the funds from the NextGenerationEU instrument amounting to EUR 723.8 billion in current prices will be spent under the Recovery and Resilience Mechanism. The recovery and resilience mechanism includes extensive financial support for public investments and areas such as green and digital projects. The aforementioned will be distributed in the form of grants of 338 billion euros and loans of 385.8 billion euros.<sup>2</sup> The Brexit adjustment reserve of five billion euros will serve as support for the countries and economic sectors most affected by Great Britain's exit from the European Union. The European Union is facing a slowdown in real GDP growth due to supply disruptions and reduced demand. Increasing wages above productivity can keep inflation high for a long time. The current ratio of total public debt has reached its maximum and in 2021 it amounted to 92% of GDP. Differences in the level of public debt between member states are significant. It is expected that the debt ratio above 100% of GDP will be maintained in six countries, while half of the member states will remain below 60%. It is estimated that a too sudden consolidation of public debt would undermine the solvency of the six states mentioned, and in this context it was decided to temporarily freeze the mechanism used in case of excessive debt within the Stability and Growth Pact (SGP). The challenges of the double transition are facing all member states. Climate and digital goals require additional investments through which growth is expected to be stimulated. It is planned that in the period from 2021 to 2030, about 520 billion euros will be spent for the aforementioned purposes on an annual basis. The investment gap for achieving digital transformation is estimated at 125 billion euros. However, the determination of European actors to make a new step towards a higher degree of digitization with the aim of increasing efficiency in all sectors, and an accelerated transition to green energy additionally condi-

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2 <https://ec.europa.eu/info/strategy/eu-budget/long-term-eu-budget/2021-2027/>

tioned by the war in Ukraine, is visible. Through the NextGeneration EU instrument, it is planned to provide 338 billion euros in grants and up to 386 billion euros in loans until 2026. The European Commission evaluates the programs submitted by the member states for their Recovery Plans. So far, they have been approved by twenty-two countries. The priorities of European economic policy and employment policy are structured around the following priorities:

- Environmental,
- Life expectancy,
- Productivity,
- Fairness and
- Macroeconomic stability (European Commission, 2021).

In the near future, the green agenda will represent not only investment potential for the development of the European Union, but also an important political mechanism at the internal, and especially at the foreign trade level. “Green measures” will certainly be one of the main obstacles for the import of “unsuitable” products to the European Union market. It is also planned to make decisions on a new fiscal consensus on the basis of ensuring debt sustainability, which implies a gradual reduction of the coefficients of highly indebted countries and the promotion of sustainable growth through investments and reforms.

It is planned to make decisions on a new fiscal consensus on the basis of ensuring debt sustainability, which implies a gradual reduction of the coefficients of highly indebted countries and the promotion of sustainable growth through investments and reforms. In this context, the statement of the Commission’s Executive Vice President and Commissioner for Trade, Valdis Dombrovskis, can be interpreted: “We promised to make trade sustainable, and we are fulfilling that promise today. Our trade agreements have enabled us to influence the world stage and encourage economic growth and sustainable development, however, in the future, we want them to have an even stronger impact on positive changes. In order to achieve this, we will cooperate with our partners and provide them with support. We will strengthen the implementation of the agreement, but also resort to sanctions if key obligations in the field of labor and climate are not met.”

#### 4. EU INSOLVENCY RISKS

The level of the budget deficit of 3% of GDP does not represent the same parameter for a country with a low level of public debt, compared to a country whose public debt exceeds the amount of over 100% of GDP. From the point of view of conducting an active countercyclical fiscal policy, the level of restrictions prescribed by the EU Stability and Growth Pact (GSP) does not leave the country with sufficient opportunity for automatic fiscal stabilizers to operate. In growing economies, a balanced budget does not play a significant role. A limited deficit prevents state investments, through which it is possible to contribute to higher growth rates in the future, and therefore easier debt repayment, by reducing the ratio of deficit to GDP. If the growth rate is higher than the deficit level, the public debt is considered to be solvent.

The greater part of the budget expenditures of European over-indebted countries is allocated to cover interest on the national debt, while less than half of the budget is directed to “state expenditures”. This tells us in favor of the fact that the state is “cheap”, but that the burden of over-indebtedness is too great and left to the next generations.

If interest rates on public debt exceed the growth rate of the economy, the debt is set dynamically, so the ratio of public debt to GDP worsens. By itself, the same is unsustainable in the long term and requires corrective action.

If one wants to continue with the implementation of the Pact, that is, limiting the borrowing of the budgets of the member states, it is necessary to increase the role Budget of the European Union. Strengthening financing from the central level by adding the new financial instrument NewGeneration to the budget of the European Union will certainly strengthen macroeconomic stability in the medium term. What should not be overlooked is the fact that the new financial instrument is financed for the most part from bonds issued by the European Commission. In this way, the debt burden is transferred from the already medium and heavily indebted countries of the European Union to the European Commission as a supranational body, and it assumes the risk of repaying this debt.

In national states with fiscal federalism, the powers of local communities, that is, regional authorities, are regulated in relation to the central

national authorities (Škreb, 2009). Part of the authority in the collection of fiscal revenues depends on the level of centralization in an individual state, that is, how much central authorities are ready to hand over fiscal authority for tax collection to lower authorities (Oates, 1972).

From the point of view of the fiscal position of the European Union, it would be more favorable if a new, more significant source of financing was introduced in the form of a certain type of tax at the level of the European Union, through which the automatic redistribution of wealth would be carried out, i.e. mitigated economic imbalances between the economically and industrially highly developed countries of the center and less developed ones, the so-called peripheral countries.

The principle of budget balance (The Principle of Equilibrium) means that the revenue and expenditure side must be in balance, that is, that financing the budget by borrowing is not allowed.

However, the European Union introduced a system of debt financing from the level of the European Union through various funds that are financed on the basis of issuing bonds since 2012. Through the latest multi-year financial framework 2021-2027, a new financial instrument with the futuristic name NextGenerationEU is also promoted, which also indirectly represents a debt form of financing budgetary needs, which is guaranteed by the European Commission.

Two years ago, the Decision adopted by the European Commission on “Freezing procedures in case of excessive deficit” was in force. In addition, the decision was made due to extraordinary pressures on the budget caused by the pandemic, however, it was extended due to newly emerging crisis circumstances resulting from the war in Ukraine.

Based on the above, it is obvious that the European Union is going through an economic crisis conditioned by the factors of over-indebtedness and inflation. The creators of monetary and fiscal policy decided to resort to monetary debt financing through the policy of cheap money and financial funds. It is to be expected that a high inflation rate could “eat up” a significant amount of debt, thus relieving over-indebted countries. However, inflation will eat up savings in the same way, which could affect a significant drop in the standard of living of the population of the European Union, as well as the countries that are in its sphere of influence.

The main priority of the fiscal system of the European Union is the goal of preserving fiscal stability and stabilization policy, with the special task of maintaining prices as the main goal of a unified anti-inflationary monetary policy. The fiscal position of the member states is regulated primarily by the Maastricht convergence criteria, which were later supplemented through the Stability and Growth Pact, and later with the Euro-Plus Pact, which additionally defined the so-called procedure for excessive deficits.

Although the bodies of the Union, and primarily the Commission, approve and supervise the stabilization programs of the member states, most of the responsibility lies with the authorities at the national level, because ultimately they are responsible to their citizens.

Since the introduction of the single currency in 2002, based on the examined financial and fiscal indicators of the ratio of GDP to public debt, GDP and budget deficit, and the level of long-term interest rates on government debt instruments, we have determined that there has been a significant deterioration of the fiscal position of the majority of Eurozone member countries.

One of the reasons for the current crisis is the unevenness of the economies that have joined the monetary union, that is, that have exchanged their currencies for the euro, which has led to less developed countries moving in the direction of budgetary financing of consumption. The initial convergence of interest rates, which lasted until the beginning of 2009, due to the global crisis and the inconsistent implementation of fiscal stabilization rules, along with inadequate structural reforms, primarily of the labor market and the pension and social insurance system, led to the “periphery” countries reaching on the verge of bankruptcy.

The model of fiscal federalism applied in the European Union, with an insufficient budget framework that does not recognize the possibility of stopping anticyclical processes through built-in automatic fiscal stabilizers, contributes insufficiently to the convergence of member states in recessionary periods.

By applying the new financial-fiscal architecture, which is reflected in the European Fund for Financial Stability, and the European Stabilization Mechanism in the spirit of the Europe 2020 Strategy, and the new

financial instrument NextGenerationEU, the financial position of European countries has been strengthened in the medium term.

The main goal of the mentioned mechanisms is to prevent the financial collapse of the Eurozone, through the threatening insolvency of banks, due to the potential insolvency of “peripheral countries”, which could spread through the Eurozone with a domino effect.

The largest creditors of potentially insolvent countries are banks from the central countries of the Eurozone, that is, from the strongest European economies, Germany and France. The aforementioned banks were primarily interested in strengthening the capacity of the Financial Stability Fund and the European Stabilization Mechanism, as well as their issuance of debt instruments, which are even issued at a negative interest rate.

Through bond issues of the European Fund for Financial Stability, the liquidity of crisis countries is financed to repay debts to large European banks.

The processes taking place in the European Union and the Eurozone in recent years indicated that dissolution could occur due to the abandonment of the fundamental principles of solidarity and convergence.

Based on the above, it can be concluded that the instruments of the fiscal system of the European Union did not sufficiently satisfy the set goals with their functioning, and that they had a bad effect on the efficiency of the fiscal system of the European Union.

## **5. FISCAL POSITION OF BOSNIA AND HERZEGOVINA**

According to the analysis of macroeconomic parameters, which concern the ratio of GDP to public debt, that is, the ratio of GDP to the budget deficit, Bosnia and Herzegovina meets the Maastricht convergence criteria. Given that in Bosnia and Herzegovina the exchange rate of the convertible mark is fixed to the euro, from the above-mentioned aspect, the conditions for entering the Eurozone are potentially met, considering that the stability of the exchange rate is required when entering the monetary union. According to all economic and formal parameters, the fiscal system of Bosnia and Herzegovina fully converges with the fiscal system of the European Union.

Due to the lack of consensus regarding the future direction of monetary policy, the existing system of the “Currency Board” increasingly represents a limiting factor in the economic development of Bosnia and Herzegovina. If we take into account that as a condition in the pre-accession negotiations, Bosnia and Herzegovina had to completely liberalize its customs policy towards the European Union, therefore in the past years domestic businessmen were in a disadvantageous position compared to businessmen from neighboring countries due to the overvalued exchange rate of the convertible mark.

Given that the “Currency Board” system does not allow the use of instruments of active monetary policy, i.e. monetary regulation (except for the mandatory reserve instrument), Bosnia and Herzegovina in a certain way shares the fate of the peripheral countries of the Eurozone (Muratović, 2022). The current state of the world, and the changes that will rapidly follow, will determine the way of life for this and future generations. In this light, Bosnia and Herzegovina should join the processes led by the European Union in the field of digitization and green energy. The strategic importance of the European Union largely determines our policies in all spheres. Adaptation to European standards is a technical-legal issue and the legislation of Bosnia and Herzegovina converges to the greatest extent to the European legal heritage. A bigger problem is the lack of internal political consensus around important strategic goals and methods of economic policy.

With about three and a half million inhabitants, Bosnia and Herzegovina is one of the smallest European countries. Its economic and political importance in the geopolitical framework is therefore minimal. The positive economic trends of recent years provide a chance for economic progress, enabling a decent life for its residents in the future. We can conclude that it is necessary to make all the necessary reforms, which, in addition to meeting the standards, also include the adjustment of policies, in order to catch up in time with the new processes that are happening rapidly.

The world as we know it today will already be different in ten years, if the reform goals of the European Union are met. The Green Agenda, which is not a political marketing pamphlet as it sometimes seems from

our position, is additionally conditioned by the existing firm geopolitical positions, will significantly open up space for the use of new technologies.

Achieving an internal consensus in Bosnia and Herzegovina is of key importance in the time to come, primarily for the reason that there would be no delay in making important decisions regarding adaptation to the double agenda of the European Union, which refers to digitization and green policy. Our comparative advantages in the energy sector provide us with an additional development opportunity for a new investment cycle that would ensure macroeconomic stability and continuous growth in the medium term. The transition to green energy, with the inevitable creation of disincentive taxes and duties on CO<sub>2</sub>, should be recognized as a reality as soon as possible, and they should direct their capacities in the direction of monitoring the decisions of European institutions and seeking more favorable sources of financing for improving energy efficiency and gradual transition to green energy.

Also, the area of digitization represents no less a development opportunity. Given that we have unfavorable demographic trends, it is evident that we need to develop our capacities by improving excellence. Additional digitization in the field of education will certainly contribute to this, which would open up the possibility for young people to develop competences for a commercial, and not just consumer, approach to cyber space in an institutional and planned manner. The world we live in is changing rapidly, so we should change accordingly.

Bosnia and Herzegovina implemented the provisions of the Sixth European VAT directive on tax harmonization in its legislation and harmonized the rates of indirect taxes and the rate of corporate profit tax, as a direct tax, but not contributions and other fiscal and parafiscalities. Bosnia and Herzegovina has a single VAT rate of 17%. Although in some countries of the European Union there are both preferential and zero rates, Bosnia and Herzegovina decided for a single rate, mostly for reasons of preventing tax evasion. Standard VAT rates in the Union range from 17% to 25%.

It can be seen that Bosnia and Herzegovina shares the lowest standard VAT rate with Luxembourg. Within the European Union, only Denmark applies a single VAT rate of 25%, which is also the maximum pos-

sible rate according to European Union regulations. However, the fact is that the single rate of VAT stands as an aspiration of the European fiscal legislation, so that the single-rate system of VAT, present in Bosnia and Herzegovina, fully meets the framework of the prescribed rates of VAT in the European Union. Types of financial and monetary services that are exempt from VAT in Bosnia and Herzegovina are<sup>3</sup>:

- insurance and reinsurance services,
- sale of immovable property, except for the first transfer of ownership rights or the right to dispose of newly constructed immovable property,
- leasing and sub-leasing of residential buildings for a period longer than 60 days,
- financial services (approval and management of loans; services related to the management of deposits, savings and bank accounts, management of payment transactions; trading of stocks/shares or other types of participation in companies; management of investment funds)
- valid postage stamps, tax stamps, administrative and court fees, and
- lottery games.

Council Directive No. 2006/112/EC of November 28, 2006 on the Common Value Added Tax System as amended, in Chapter 3, Article 135, Paragraph 1, prescribes which financial and monetary services are exempt from taxation, which is fully taken over in our legislation.<sup>4</sup>

The debate that is being conducted in Bosnia and Herzegovina on the subject of the introduction of a differentiated VAT rate finds its foothold in the domain of social policy because it is considered that the same tax rates should not be applied to basic foodstuffs, humanitarian services, medicines, etc. with luxury products and services. However, taking into account the danger of tax evasion, which would be increased by the application of a differentiated VAT rate, we believe that any possible risk to macroeconomic stability, which has been extremely favor-

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<sup>3</sup> <http://www.new.uino.gov.ba>

<sup>4</sup> <https://eur-lex.europa.eu/legal-content>

able trends in VAT collection since its introduction until today, would become questionable. Social reasons, which are strongly argued through the reduction of the standard of living due to the increase in the prices of all products, cannot be solved only through discretionary fiscal policy measures.

In the aforementioned context, it is important to consider the role of monetary policy in Bosnia and Herzegovina. The monetary policy of Bosnia and Herzegovina, as the second pillar of the economic policy, did not evolve in time. Due to the mentioned fact, due to the drop in the value of the Euro as the currency anchor of the convertible mark, Bosnia and Herzegovina loses millions of monetary assets linked to the euro every day. With a more active monetary policy that certainly requires expert involvement, Bosnia and Herzegovina would improve its macroeconomic position and open the possibility of leaving the group of underdeveloped countries, which in itself would contribute to an increase in living standards and an improvement in the position of socially sensitive categories of the population.

Excise duties in Bosnia and Herzegovina were introduced on oil and oil derivatives, tobacco and tobacco products, beverages and coffee. Therefore, the structure of products subject to excise taxes is reduced to four groups of products and it is within the structure of excise products that exist in the European Union. Although the rates of excise taxes are within the limits that exist in the Union, the problem lies in the fact that the population of Bosnia and Herzegovina has incomparably lower incomes than the population of the Union, so it is unreasonable to compare them from a social aspect.

By joining the monetary union, the member countries renounced the exchange rate as an important instrument of monetary policy. The exchange rate represents the price at which the currency of one country is exchanged for the currency of another country. With the help of the exchange rate, countries can develop their economic doctrine, encouraging the competitiveness of their products abroad. The exchange rate is a way of defining prices in international exchange in the absence of a single monetary instrument (Jotanović, 1999:199).

## 6. CONCLUSION

The European Union is faced with a decreasing in GDP growth due to various reasons (interruptions in the supply of certain inputs or high increases in their prices, as is now the case with energy products). An increase in wages above productivity can keep inflation high for a longer period. In addition to them, cost inflation was also generated by the enormous increase in energy prices, which occurred as a result of the introduction of sanctions against Russia. The ratio of the total public debt of the EU reached 92% of GDP, which is the maximum. The differences in the level of debt are significant because six member states have a public debt between 60-100% (Germany, Croatia, Hungary, Slovenia, Slovakia, Finland), seven member states have a public debt above 100% (Belgium, Greece, Italy, Spain, France, Cyprus, Portugal), while the other member states are below the 60% level (Bulgaria, Czech Republic, Denmark, Estonia, Ireland, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Romania, Sweden). The European Union is faced with the challenges of double transitions (climatic and digital), the financing of which is expected to spend 520 billion euros annually in the period from 2021 to 2030. Through the NexGeneration EU instrument, it is planned to provide 338 billion euros in the form of grants and 386 billion euros in the form of loans until 2026.

What are the implications for Bosnia and Herzegovina? Given that most of the foreign currency assets of the Central Bank of Bosnia and Herzegovina are in securities denominated in the Euro currency, due to externalities in the form of rising prices of imported products and high inflation rates, Bosnia and Herzegovina is on the way to losing significant capital. The monetary policy of Bosnia and Herzegovina is not proactive. Certain monetary stability is provided by the Currency Board system, however, it finds its center of gravity in the currency anchor, i.e. the Euro. Taking into account the fact that the European Union has decided on monetary debt financing, which consciously leads to a fall in the value of the Euro, in the future, through this constant rate of inflation, a devaluation of the euro can certainly be expected. It is obvious that in such a scenario, Bosnia and Herzegovina would lose a significant part of its national wealth due to its monetary policy. Maintaining the gold exchange

standard at any cost (which essentially represents the fixed exchange rate of KM for the euro, but not according to the market value, but according to a predetermined value), which all developed countries abandoned in the 1970s and avoiding monetary-credit multiplication, is completely disincentive for the economy of Bosnia and Herzegovina. Borrowing on foreign markets is always less favorable than it is the case with the active monetary policy of the domestic central bank, which places money to financial institutions and economic entities through operations on the open market.

Looking at our financial sector, we can notice that most of the capital is in the hands of foreign banks. The above has the consequence that most loans are bound by a “currency clause” for the currency of the home country. With that, the host country is deprived of a significant part of its monetary sovereignty, for the reason that in case the country decides to devalue the domestic currency, the same measure would not be able to help reduce the level of debt.

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# Review of the publication “DEFINING TERRORISM” by Prof. Emeritus Alex P. Schmid, PhD

REVIEW

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The publication - report entitled “Defining Terrorism”, authored by Professor Emeritus Alex P. Schmid (1943), was published in March 2023 by the International Centre for Counter-Terrorism. In addition to the abstract, the report is divided into five parts: Introduction; Psychology of Terror – The Fear and Threat Factor; Definitions; Conclusion and Appendix: A Selection of Definitions/Descriptions of Terrorism. At the end, a bibliography and information about the author are listed.

Professor Emeritus Alex P. Schmid, PhD, is a leading world expert on security science and counter-terrorism and an associate of the International Center for Counter-Terrorism. Between 1978 and 2018, Alex Schmid was a professor at Leiden University, Erasmus University (Rotterdam) and St. Andrews University, as well as visiting professor at other universities, including Harvard and Nanyang. Emeritus Schmid is a corresponding member of the Royal Netherlands Academy of Arts and Sciences. Also, between 1999 and 2005, Dr. Schmid was Officer in Charge of the UNODC’s Terrorism Prevention Branch in Vienna. Since 2009, he has been one of the three directors of the Terrorism Research Initiative, a consortium of institutes and scholars working together to study terrorism.

The report entitled “Defining terrorism” summarizes and builds on some of the author’s previous conceptual papers. The term „terrorism“ is constantly being defined and redefined<sup>2</sup>, and this work offers a good con-

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<sup>2</sup> When this author googled ‘definition of terrorism’ back in 2014, he got 48 million hits; in 2019 there were 136 million and, by mid-2022, there were 238 million hits.

ceptual framework that can be used to overcome numerous doubts faced by states and international organizations. The work is all the more significant because it was written by a leading world expert who, in a way, systematized and summarized his previous scientific achievements in terms of defining terrorism. The author writes in an easy, simple and understandable style, in English. Since the Report consists of only 45 pages, the reader can read it very quickly. The routine and experience of Professor Schmid is easy to notice.

Professor Emeritus Schmid approaches the definition of terrorism from five different angles:

- focusing on the history of terrorism;
- by focusing on the psychology of “terror” (the fear and threat factor);
- by focusing on forms of political violence other than terrorist violence;
- by focusing on the terrorist act and
- focusing on terrorists.

Each of the mentioned approaches is explained in detail by the author. At the beginning, he talks about the etymology, historical roots and development of the term “terrorism”. Next, Professor Schmid defines terrorism in relation to the fear and threat factor. According to Schmid’s concept, a terrorist uses violence or a threat aimed at a direct victim (the target of the attack) but, through the mass and social media, he also hits his ultimate target, that is, a larger group of people who feel intense fear on a collective level - terror. The author calls this cycle “psychology of terror”. In the continuation of his work, the professor emeritus makes a distinction between terrorism and other forms of political violence - interstate war, civil war, state repression, genocide, ethnic cleansing, military coup, etc. After that, the author gives definitions of terrorism in relation to the terrorist act, and then also in relation to the perpetrator of the terrorist act - the terrorist. Therefore, the author defines the terms “terrorist act” and “terrorist” in a very concise way.

In the second part of the paper, professor emeritus Alex P. Schmid reminds us of the important fact that the definitions of all terms, including the term terrorism, reflect the interests of those who define those

terms. Starting from this assumption, the author turns to a crucial question: Who should have “definition power” that is, the authority to frame and steer the public discourse by labelling some manifestation of politically motivated violence ‘terrorist’ and implicitly, excluding other forms of political militancy from being assigned with such a pejorative term? In this context, Professor Schmid talks about five actors:

- terrorists;
- mass and social media;
- national governments;
- United Nations
- academics.

In the continuation of the work, the author presents and briefly explains certain definitions of terrorism given by the aforementioned actors. The diversity of those definitions mainly a political one, linked to the divergent interests of those holding state power, defending their own interests in their domestic and foreign rivalries and conflicts - not one linked to the limitations of the social sciences.

Finally, after the conclusion, the author leaves an Appendix: Selection of Definitions/Descriptions of Terrorism. In this appendix, the author lists a number of definitions of terrorism, whether they are the result of the work of international organizations, national governments or different authors from the scientific and professional world.

Professor Emeritus Alex P. Schmid, PhD, left a deep mark in the history of the development of security science. The first world authority in the field of the counter-terrorism, although in his late years, tries to sublimate his impressive scientific work and offer practical solutions to security services, governments of national states and international organizations. This report of his is a significant paper, bearing in mind all the complexity of terrorism as a phenomenon.



## ***Evropski pokret u Bosni i Hercegovini***

"Orden naroda, građanki i građana Bosne i Hercegovine"  
kraća verzija-"Orden Evropskog pokreta u BiH",  
koji je ustanovljen 15.12.2010. godine, povodom  
ukidanja Viznog režima za građane BiH,  
uručuje za posebne zasluge

**Prof.dr  
Duško Vejnović**

Redovnom profesoru Univerziteta u Banjoj Luci za predmete Sociologija, Sociologija sporta, Sociologija slobodnog vremena, Bezbjednosne nauke; Predsjedniku Evropskog defendologija centra u Banjoj Luci, Predsjednik Udruženja nastavnika i saradnika Univerziteta u Banjoj Luci, Predsjednik naučnog udruženja Sociološki diskurs u Banjoj Luci, Glavni i odgovorni urednik naučnih časopisa Defendologija i Sociološki diskurs, Osnivač i utemeljitelj Defendologije kao nauke o zaštiti, odbrani i bezbjednosti na naučnom diskursa zaštita+odbrana= bezbjednost, značajan doprinos razvoju nauke i visokog obrazovanja u BiH sa jasnom porukom da "Obrazovanju treba vratiti obraz".

Dobitnik je Povelje Kapetan Miša Anastasijević 2019 godine iz Srbije za izuzetan doprinos razvoju nauke i obrazovanja, te dobitnik je Plakete Grada Banja Luka 2022.godine za izuzetan doprinos razvoja nauke i obrazovanja, od 1995. godine do danas daje veliki doprinos razvoju tzv.trećeg sektora-tj razvoja nevladinih organizacija u BiH i regionu.

Evropski pokret u BiH apsolutno podržava zalaganje i angažman uvaženog prof.dr Duška Vejnovića, kao jednog od najvećih intelektualaca i posebno zaslužnih pojedinaca Bosne i Hercegovine.

***U Sarajevu, Bosna i Hercegovina  
Parlamentarna Skupština BiH  
27.03.2023.godine***

***Predrag Praštalo  
Predsjednik  
Evropski pokret u BiH***



Great recognition to the editor-in-chief,  
Duško Vejnović, PhD,  
full professor at the University of Banja Luka