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COOPERATION OF SCIENCE AND BUSINESS ON THE EXAMPLE OF WAREHOUSE AREA

Mateusz Bogolebski

Faculty of Management, University of Lodz, Poland, mbogolebski@uni.lodz.pl

Abstract. Warehouse management companies in Poland invest in the development of solutions based on technology implementation. The choice of technology is based on the knowledge and skills that are the resources of the enterprise. Support for this process can be realized in collaboration with research teams that have the necessary expertise and experience. The main goal of the study is to check whether companies are cooperating with universities and to define the types of collaboration between science and business. Establishing relationships between businesses and academic environment can bring many benefits to both sides. The article analyzes the forms of cooperation of storage companies with higher education institutions. The types of universities that cooperate with companies have also been verified, and the reasons for the absence of such cooperation have been diagnosed. In addition, the article specifies the scope of the cooperation. Based on the analysis of the results of the study, a number of conclusions were drawn up and recommendations were presented to enterprises and universities. Potential directions for developing cooperation in the future were also indicated. The research method used was a questionnaire interview addressed to companies. Companies could thus express their views on cooperation with universities. The results of these studies have identified some important forms of cooperation between science and practice and indicated barriers to bilateral relations. Analysis of respondents' responses highlighted some problems in communication between academic environment and enterprises. Research has been carried out in the area of warehouse management, where technology plays an important role. Hence, cooperation with universities is important for the development of enterprises, especially in the realities of the modern knowledge-based economy.

Keywords: cooperation, technologies, competitiveness, warehouse, logistics

JEL: O3

Introduction

At present, science and business cooperation is the foundation of a knowledge-based economy. Accelerated development of the economy is possible provided that the conditions for co-operation between the sphere of science and business are created. Universities operating in the business environment have enormous potential. It can be used on the basis of specific rules of cooperation. Mutual relationships lead to new contacts and, consequently, to the acquisition of business partners and technology buyers. Modern solutions and innovations are an important factor in the companies' competitiveness. In this situation, universities regarded as an important source of knowledge should be a natural partner for the developing economic entities.

The aim of the article is to identify areas for cooperation between enterprises and universities and to identify barriers to establishing relations between academic community and business.

Literature Review

Collaboration between universities and business is an important area of analysis for researchers. Establishing a relationship between the sphere of science and practice can bring a number of benefits to: (PARP,2013)

- academic institutions,
- students,
- graduates,
- businesses.

According to (Bryła *et al.* 2013) universities can increase their recognition among employers and candidates, improve the quality of education and research and achieve financial benefits. Students and graduates can pursue work placements in companies, increasing their employability. An important element is to build a network of contacts in the business environment, career development, personal satisfaction or material benefits. Collaboration is particularly important for businesses, because universities are often a source of ideas. Students, graduates and university staff can positively influence aspects such as improving the quality of human capital, developing products and services, promoting the company's image, reducing costs and operating risks. The involvement of human resources of the university also contributes to solving problems of businesses. It is important that cooperation between the sphere of science and business develops well. It depends not only on macroeconomic factors (Gajewska, Kurowska-Pysz, 2012) but also on the approach and appropriate attitude of the academic and economic environment. Utilizing the intellectual potential of the university should be based on the demand for knowledge both from students and companies. Companies should enrich their intellectual capital using external resources. This action is necessary to build competitiveness in the realities of modern market economy. In bilateral relations it is important to limit the emerging difficulties which include the following barriers (Nalewajek, 2015):

- systemic,
- market,
- mental
- scientific.

Cooperation between science and business is particularly important in the context of application of advanced technological solutions in the warehouses. Research conducted by (Dzierżanowski *et al.* 2007) showed that companies that do not cooperate with the scientific community invest less in modern technologies than other companies. The absence of such investments is caused by the lack of qualified staff, lack of skills or lack of knowledge. These elements impede the application of modern technologies in enterprises and consequently reduce the efficiency of introduced implementations. This problem mainly concerns small companies where the lack of cooperation with the sphere of science does not allow these entities to acquire sufficient competences to invest. In general, universities and business cooperation is based on relationships management between industry, academia and technological initiative (Chen, 2008).

Methodology

The aim of the study was to verify areas of cooperation between the sphere of science and business, with particular emphasis on support for the implementation of modern storage technologies. The research was carried out in the academic year 2015/2016 among the enterprises of the Lodz region running the warehouse economy. These were business entities that were involved in the storage of material goods so to safeguard their functioning.

The survey was conducted by means of the questionnaire method using an interview questionnaire as a research tool. Respondents were decision makers with key functions in their companies. The task of the respondents was to identify the scientific units they cooperate with and to define the extent to which joint activities are being carried out. In the absence of at least one university, the respondents were required to state the reasons for their failure to establish a relationship with the scientific units. The study was conducted in 53 companies.

Results

As a result of the study, the collected information was analyzed on the basis of the analysis of completed questionnaires. In order to compile the collected data, they were divided into the following four parts:

1. Determining whether there is close cooperation between the surveyed companies and universities.
2. Defining the types of universities that collaborate with the companies studied.
3. Indication of the forms of cooperation between the academic community and economic entities running the warehouse management in the Lodz region.
4. Gathering the reasons for lack of cooperation between companies and universities.

The first stage of the analysis of the collected information consisted in the division of the studied companies in terms of their cooperation with the higher education institution. Results of respondents' responses are presented in the graph below:

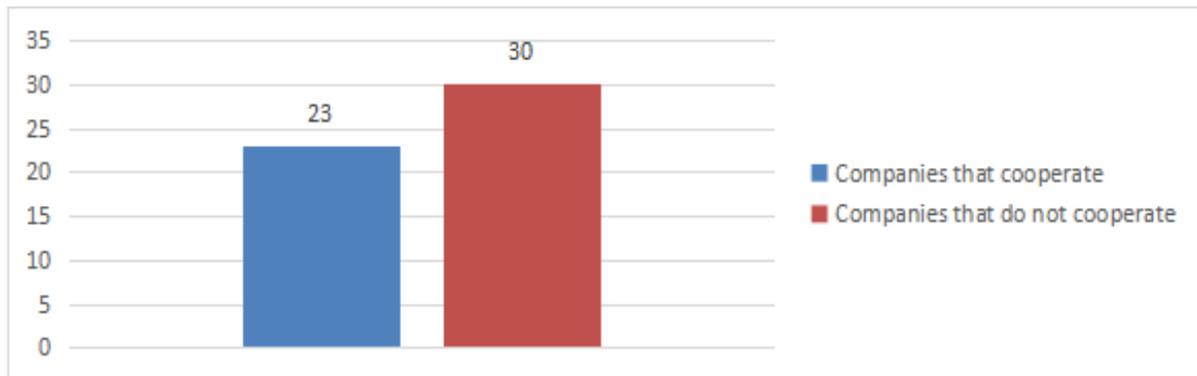


Fig. 1. Cooperation of the surveyed companies with universities (Source: developed on the basis of own research)

The results of the study presented in Figure 1. show that more than half of the examined units do not cooperate in any area with universities. This information was provided by 30 out of 53 companies surveyed. This result indicates that 57% of companies do not benefit from the possibilities and potential of the academic community. The remaining 23 out of 53 companies have declared that they cooperate with technical universities, universities, research institutes and other higher education institutions. The result of the survey indicates that most companies do not cooperate in any area with the academic community.

Data obtained from interviews conducted in 53 companies indicated the types of universities. Among these were: technical universities, universities, other colleges and research institutes. The surveyed companies declared cooperation with the institutions listed above (second stage of analysis). The results regarding the types of cooperating universities are shown in Figure 2.

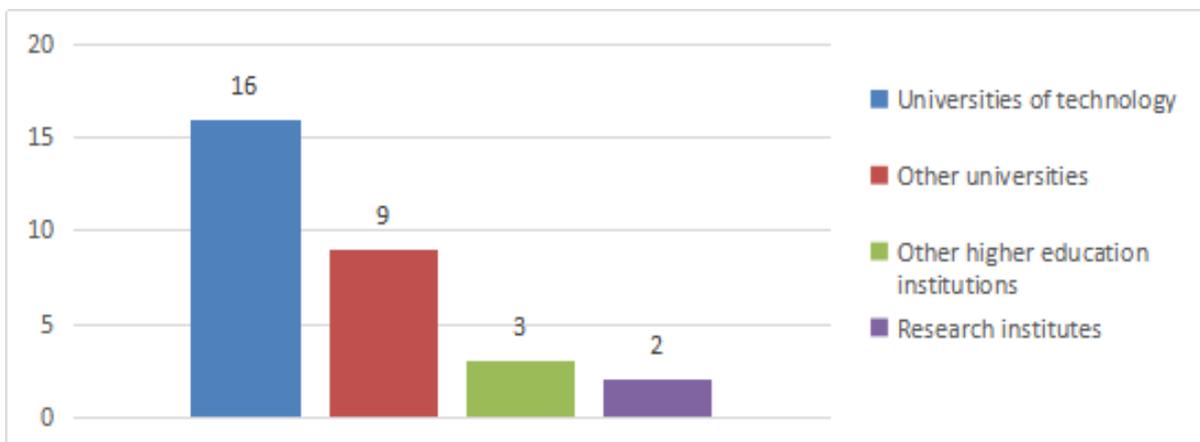


Fig. 2. Types of universities cooperating with surveyed companies (Source: developed on the basis of own research)

In the graph above, the total number of companies cooperating with universities is higher than that shown in the chart available in Fig. 1. This difference is due to the fact that companies could indicate more than one higher education institution with which they have established relationships. Among the surveyed entities five confirmed cooperation with two higher education institutions, while one company declared cooperation with three different academic communities. Data collected on the Fig 1. show that more than half of the analyzed companies (16 out of 30) cooperate with technical universities. The result obtained by this type of university is 53%. Such a result may be influenced by the need to apply modern technologies in the warehouses of the surveyed enterprises, as well as the need to acquire some specialized knowledge offered by technical universities. The remaining universities achieved a score of 30%. From this it can be said that every third of the examined enterprises which were also declaring cooperation with the university confirmed the cooperation with this academic community. Respondents also indicated other higher education institutions and research institutes. However, the results achieved by these units were significantly lower than those of universities and technical universities. According to (Dan, 2013), universities can cooperate with business in the following areas:

- research,
- learning / training,
- consulting.

Therefore the third stage of the analysis of the collected information was related to defining the forms in which companies cooperated with universities. They are listed in Table 1. below, together with the number of the respondents' indications:

Table 1. Forms of cooperation of the surveyed companies with universities (Source: developed on the basis of own research)

Form of cooperation	Number of cooperating companies
Research and analysis	12
Internships and work placements	8
Providing technology	5
Courses and trainings	2
Realization of scientific works	1
Participation in Business Council	1
Organization of competitions	1

The cooperation between academic community and enterprises in the light of research was based primarily on the university's implementation of diversified research and analysis for business. This result may indicate that the new technologies present in the processes conducted in the storage economy require the theoretical and practical support offered by universities. An important form of developing a relationship turned out to be internships and work placements organized in collaboration with the academic community. This kind of activity allows students to practically apply knowledge acquired during the course of study to the benefit of entrepreneurs. Quite a common form of cooperation turned out to be the support of technology provision. In this way the teams create practical solutions dedicated to the companies involved in the project. Respondents also indicated courses and trainings, scientific works and participation in the Business Council. This institution brings together business leaders from a given area. It functions at some faculties and is a place for exchanging experiences between theoreticians and practitioners in a given field of study. The Business Council supports and participates in student initiatives. For the best students, they offer assistance in organizing their work placements, while graduates with specific skills get an opportunity to work for a given company. An important task for this institution is to create consultancy and training offers dedicated to members of a given council. It can be said that the business council is an intermediary between the sphere of science and practice. It also generates great development opportunities for

students. The chance to establish contact between students representing universities and companies is the competitions they organize for the implementation of specific projects in accordance with specific requirements. This type of cooperation benefits students representing the university as it provides an opportunity to showcase their skills and abilities. Firms within the framework of the competition are given ready projects and choose the one that suits them best.

The fourth stage of the analyses of the collected data consisted in determining the reasons for the lack of cooperation between the examined enterprises and the universities. Referring to the information in Fig. 1, more than half of the surveyed companies indicated that they did not cooperate with a higher education institution. Lack of need was an argument used by enterprises to justify the existing situation. They also stressed the lack of interest from the university. Consequently, the cooperation was not considered by the companies. At the same time, some companies emphasized that they were open to establish such cooperation. Sample responses of respondents and their arguments were summarized in Table 2.

Table 2. Reasons for lack of interest of companies in cooperation with universities (Source: developed on the basis of own research)

ID	Statement
1.	“The university made no contact”
2.	“No inquiries from the university”
3.	“No university sought to contact us”
4.	“ The university does not have any offer”
5.	“The weakness of the company”
6.	“Area for improvement”

Based on the answers given, some companies have no knowledge of the potential of technical universities, universities, higher education institutions and other research units. Companies in the statements indicate that the area of cooperation with universities is not well-recognized by companies. They emphasize that this is their weak point and that they are interested in making contact in order to establish a relationship. Based on the experience gained during the study, it turned out that some companies, by lack of commitment, give up the possibility to gain reciprocal benefits. Statements of some respondents prove that there are some barriers, especially in the mental sphere. Businesses expect more activity from universities in this area.

Conclusions

On the basis of own research carried out in enterprises conducting the warehouse management in the Lodz Region, it can be said that most companies do not cooperate in any field with a university. The lack of business cooperation with the scientific community is a serious constraint for investment in modern technology. Deficiencies in this area are especially evident in R & D, data availability, or licensing. Business-university barriers appear quite often and involve a number of systemic, market, mental and scientific constraints. Breaking down these barriers may require a two-way engagement from both science and business.

In companies storing material goods, in order to secure their functioning, there is a continuous need for acquiring skilled workers. It is therefore important for companies to actively engage in bilateral relations with the academic community in order to achieve mutually beneficial outcomes. The role of universities in this field could consist in preparing offers for companies and defining possible areas of cooperation. The stimulating measures of the government, such as support for organizing student internships, may be of significant importance in the development of science and business relationships. Stimulation could also consist in awarding grants to companies that would be dedicated to: consultancy, expert opinions, research carried out in collaboration with research and scientific units.

In conclusion, relatively small co-operation in the science and business sphere may result from: lack of standards of cooperation, legal constraints, lack of databases of potential partners and their directions of action. Relationships between businesses and universities can be adversely affected by the attitude of academics that may reject the offers from the business environment and at the same time limit the commercialization of knowledge. In general, the development of bilateral relations requires greater openness and commitment both of the sphere of science and practice.

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THE ROLE OF UNIVERSITIES IN SHAPING CULTURE - CONTEMPORARY CHALLENGES

Anna Kwiecień

University of Economics in Katowice, Poland, anna.kwiecien@ue.katowice.pl

Abstract. The dominant role of knowledge for the rising and development of the New Economy is discussed in the basic documents indicating the path of development of modern states. The special role of universities as places of production and transmission of knowledge is visible there. However, today the role of universities is seen more broadly. On one hand we have the idea of the traditional functions of a university - research and teaching activities. On the other hand, modern context - treating universities as an active participant in the market - entrepreneurial university - entering in interactions with the environment. However, over the centuries, universities played a key role in shaping culture, were "brain of Latin civilization." Over time the concept of the university subject has changed but they have always been an expression of the condition of human culture.

In light of the above considerations this study took reflections on the role of universities in the modern economy, and the purpose of this article is to identify the role of universities in shaping the culture of the modern world. The method used to achieve the defined objective is a critical analysis of literature and other specialized publications. A special aims of this study is also to combine classic and modern approaches in defining the role of universities. It is necessary to realize the differences between them, to not allow doing the destruction of the cultural role of universities, which disappears against the background of turbulent changes, blurring the uniqueness of the university.

Keywords: Culture, the university, the role of the university

JEL: Z1

Introduction

The Magna Charta Universitatum signed in Bologna by European university rectors claims that a university is an autonomic institution which plays a crucial role in development of a society, because it has two inseparable natures- a scientific and a didactic one which require creating, researching and introducing culture. The Magna Charta Universitatum states as well that future of humanity depends mainly on cultural, scientific and technical development and that this development is a result of culture, knowledge, information and scientific researches centres like universities (The Magna Charta Universitatum). The deep changes which influence modern societies and economics, the growing importance of knowledge and its creative usage have led to a question- what modern universities should look like in order to meet expectations of modern world; a world where in the first place globalization processes require a new scale and a pace of economic changes. They also generate a constant search for innovative solutions which makes education a factor which determinates economic and social development. However, it is a world of high social, demographic and cultural changes which is a challenge for universities on many levels. Through centuries universities have played unquestionable role in the process of creating culture, they consisted of „the brain of Latin civilization” (Kiereś, 1998). As time flew the concept of universities has been changed, however, it has always been a picture showing what the condition of human culture is (Wielgus, 2009). In the 21st century, when material goods and power are more strongly related to knowledge, the importance and position they have are getting higher. The role academic centres have is not limited to teaching and conducting researches, it also functions as an active actor who takes part in creating regional economic environment and in a broader sense social trends. In the light of the above presented relations, the aim of the paper is to identify the role of universities in contemporary culture shaping.

The article has been based on the critical analysis of literature and other papers related to the topic. The analysis shows how role of universities has contemporary been perceived and what new challenges they are to face. The main emphasis has been put on comparing the traditional role of universities with new challenges they have to meet.

Literature Review

Culture meaning

The role of culture in our lives is a very important one. Although we may not be aware of the fact, it is culture that builds our perception and thinking of the world which surrounds us. Culture consists of the collection of concepts of truth, good, beauty and effectively which are established and accepted by society and transferred to others in processes of socialization and education which are a result of one's life model and style (Szweder, 2003). Culture is also a human feature- because only human species can create culture. What is worth mentioning is the fact that despite various opinions, culture is a result of nature, it is nature's complementation not its contradiction. Culture is a sort of a consequence of some experiences and learning and it shows itself by fixed values which lead people to certain behaviours. Culture is then a determiner of human behaviours. Nevertheless, culture is mainly an important factor of social development. Thanks to cultural competence and taking part in culture we can on one hand build our identity, respect towards tradition, the sense of belonging to community and its history; on the other hand we are more creative, innovative, open and tradition oriented. These are the features which guarantee development of every society. In this way culture is a very crucial factor building social capital.

Nowadays, the values respected by past generations are not always appreciated and constantly introduced to others. Culture is now often treated as a product which should be sold. The dominant culture is a mass culture, easily to understand, where higher intellectual engagement or any other form of higher engagement is not needed. Then, we should notice more and appreciate more institutions

whose task is to create and spread the kind of culture which is widely understood as a collection of whole material and spiritual gains of humanity. The culture which is also consisted of all the values and norms of co-existence established by a society; it is everything which is created thanks to human work, which is a result of his thoughts and activity (Smolski *et al.* 1999). Everything which in behaviour and gains of society members is a result of a mass activity is learnt- contrary to everything which is biologically inherited (Benedict 1999). In order to create culture there has to be a collectivism as no one can create it on his own. Humans want to transfer their experience to next generations what is possible thanks to maintaining and developing culture, because culture is everything which one can learn living in a society.

Among many modern theories concerning human culture we can point at one very crucial reflection concerning universities. Mainly, what is the role of universities (university education) in the modern culture? In the national strategy of developing culture created by Ministry of Culture and National Heritage, a mission has been defined, according to this a balanced development of culture is highest value transferred through generations which consists of a whole of historical and civilizational gains of Poland. It is a value which national identity depends on and which makes development of particular regions of Poland continue (Narodowa Strategia Rozwoju Kultury na lata 2004-2013- *National Strategy for Developing Culture 2004 - 2013*). As far as strategy of high education development, till year 2020- another alternative(*Strategia Rozwoju Szkolnictwa Wyższego w Polsce do 2020 roku- Strategy of Higher Education development in Poland till year 2020*), is concerned, one can find a thesis that universities are characterized by high autonomy and that educational programs and researches they create should consider the needs for economy, social and cultural growth of a country. At the same time it has been noticed that quality of high education is related to the care about traditional academic values such as: aiming for perfection and truth searching. The given documents show the importance to analyse the role that universities play in culture shaping.

The role and functions of universities

The basis for the assumptions about the role of universities in modern world is a claim from the Magna Charta Universitatum. According to this a university is an autonomic institution which works like a centre for social life, no matter what way- depending on geographical position and historical tradition- a society is organized. When a university conducts researches and educates it creates, supports and spreads culture. This shows that universities play a key role in every meaningful social change (The Magna Charta Universitatum 1988).

As history shows, a modern university has developed thanks to two traditions: one which relates to medieval times and the other which relates to the Enlightenment époque. They are responsible for creating one model of a university which characteristic features are education and researches. In times of information society development and knowledge based economy this model comes through changes. Modern changes lead to new model of a university which is called a third generation university. The characteristic feature of this university model is the third goal of university – practical use of know-how by academic society. This goal deals with cooperation of two spheres: education and business. Moreover, the natural environment of this university is a knowledge society characterized by such level of education and technology which represent high social „culture based education” (Goćkowski, Machowska, 2003). Searching for ways to create such culture becomes then one of the important challenges of a European university of future.

The word university comes from a Latin word (universus- whole, common; universias- the whole of everything, the Universe) and means a community of people who want to know and understand everything which can be a subject of experience. Furthermore, it means the subject of experience- cosmo- the Universe. To put it in a right way, a university can be described as a group of teaching members and being taught who take part in studies in a given area. It means as well a multidirectional, methodical dealing with science and transferring knowledge on the highest possible level in the given cultural époque. Therefore, the character and scientific level of a university represents and says much about cultural level of a society related to this university (Bauman, 2005). This explanation of a word university shows its role in the field of culture shaping. The role and functions of a university come from its culture. This culture has at least a dual character. First, it is an accumulation of the effect of

many centuries of articulating and establishing of a university tradition- an idea of a university. Secondly, it is shaped by a contemporary, broader context of the way universities act: a law making, political and economic one and laws and administrative regulations which shape organization of a university life (Sztompka, 2014) and introduce a corporation culture into university. We come across both of these issues when discussing the role which universities play.

According to M. Krąpiec a university is a main environment in the European culture for treating, caring and transferring knowledge in order to find the truth; which serves a human being as a person who achieves the highest of his capabilities only when dealing with truth which can be found through cognitive effort and a free social dialog (Krąpiec, 1982). This approach represents a personalized philosophy of a university. It stresses the fact that university has its roots in a personalized structure and dynamic character of a human being. It puts an emphasis on the personalized level of culture and university education and personalized shape of values in a university life. It is based on the Greek ideal model of education according to which dealing with education and developing education has been combined with one's own development.

Looking at the history of a university one can describe it as, perhaps not timeless, but still as one of those “long lasting” institutions (Braudel, 1971) a man has ever created. This long lasting feature of a university is a result of its norms and rules created through centuries of its tradition. As an institution of knowledge transfer and tolerance, it is still an important intellectual and cultural centre of a society development. There are three elements of a university mission which cannot be eliminated: researches, education and public mission. It is obvious but still worth mentioning. These elements all together make a university a very unique institution which is a school, educational workshop and a place where ideas, social values and the most qualified employees are created. The heart of this complicated system called university is an integrated combination of scientific and didactic activities (Sowa 2008).

A necessary condition to acquire a knowledge gained in a university is an existence of a university environment. We need it as well in order to use values, attitudes related to an academic ethos and patterns of behaviours related to this knowledge, these values and attitudes. To put it in one word, a solid university environment is needed to create future social elites who will provide reliable patterns of behaviour:

- In order to fulfil its mission a university takes care of three areas:
- A market production of educational services,
- Creating public goods (moral) and knowledge production (Sulejewicz, 2003).

The way a university works depends on these three institutional logics (Zaidi, Sulejewicz, 2008). Moreover, universities should be “a mirror of culture” as a role of universities is not only creating immediate, direct economic gains but their role and social mission are definitely much more future oriented and are not generally directly used and do not provide immediate gains.

The main goal of universities is mainly creating knowledge and its usage and application cannot in some cases, in a given moment be predicted. Nevertheless, this knowledge will surely be needed further. As, on one hand a kind of knowledge that will help us to solve a future problem, which has not emerged yet, is extremely important. On the other hand however, an ability to create and use this knowledge as well as creativity and imagination are much more important than this knowledge itself (Banyś, 2009). The way a university will deal with challenges of future- becoming more modern, depends not only on its capabilities to apply changes in the way it acts but it is dependable as well on its determination to succeed and to make diagnoses of chances to develop.

The main challenges universities of 21st century should deal with concern many issues. Among them we can see: drive towards continuation to make high educational system a mass idea; lowering the scale of financial aid from the State budget- this, together with the first mentioned issue, forces universities to look for external sources of funds. Trying to face these challenges can as well provide new problems. For instance, Polish universities educate much more students than in previous decades. Already over 80% of high schools graduated continue education which place Polish education as one of the world leading educations (Education at a Glance 2012). One can, however, meet a claim that the

main reason of the crisis of an elite creating and culture creating role of high schools (universities) is exactly, in first place, mass education on a high level. Then, market globalization is at the same time a chance and a high risk for universities. Being treated as a product, commercialization and distorted competition generate pressure to encourage purely “business” behaviours where among them not ethical practices are common. Then, a paradox of a social business responsibility occurs, it is related to the fact that in order to find the mechanisms to mend a university environment one searches in an institutional field which is a place of growth of institutions and organizations which are a threat to a present high education system (Sulejewicz, 2008) and which destroy the basic ideas according to which it functions.

It is not enough to understand that existence of universities is necessary for a stabilized economic development and a cultural stability of societies and economies based on knowledge. We need to understand why such institutions should be changed in a context of a country transformation and promarket, competitive environment (Kwiek, 2010) and how they can do it without losing their own character.

Analysing what should we expect from universities first we should answer some basic questions. What the role of universities in constantly changing Polish and European society should be and should these changes influence the quality of intellectual, economic and cultural life? (Zuziak, 2015). The answer to the first question seems to be obvious, in the context of the role of universities, which have always been seen as a place where knowledge is gained and transferred to students. The issue of their tasks and social functions needs deeper analysis. It seems that there is a reason to point the way of a university evolution (expectations- regulations- adaptation abilities), in a direction towards environment serving organizations. In order to make it possible there should be a friendship of a business and education world, governmental institutions and non-governmental organizations in order to build cultural and ethical infrastructure in economics (Gasparski *et al.* 2002).

One of the characteristic features of universities is autonomy which enables wide spread statutory privileges of a self-governed character (Antonowicz, 2005); it should help to identify goals which are in accordance with a culture creating role of universities. Another feature of universities is also an academic freedom which means the freedom of learning and teaching (Stachowiak - Kudła 2012). Therefore, universities should use their rights and guard their traditional, ideological patterns, trying as well to face the rest of a contemporary market challenges.

Methodology

The article has been based on a critical analysis of the literature concerning the role and the university culture. Materials of different topics have also been used. Among them, worth noticing, are the documents ordered from the Ministry of Culture: The National Strategy for Culture Development for years 2004-2013 and the Strategy of Higher Education System Development in Poland till 2020, as well as international documents such as the Magna Charta Universitatum.

The evaluation of the present condition of higher education system and expectations which it has to meet, needs an analysis of the strategic documents which can highly determinate the situation of universities in Poland as well as in other countries.

Results

Literature overview helped to come to a conclusion that the modern, global market introduces new challenges for universities. Together with a basic university idea (education and researches) a new idea has emerged- corporation idea which means a university has a drive to self-finance and act on the behalf of its environment. This new mission additionally places university in a society; creating a direct relationship between its activities and social and economic needs of a country and region. This means these institutions have to be changed in the context of a country transformation and promarket, competitive environment. Nevertheless, this has to be done in such a way that will not be a threat to their characteristic features. The way universities act should fulfil all these expectations. However, it

should not destroy the traditional idea of a university and in this way do not let the corporation culture to be a dominant one, which appears in universities activities more and more often.

Conclusions

In the 21st century when wealth and power are more strictly related to knowledge meaning of universities, as well as their importance, arise. The role what academic centres have to play is not limited only to educating and conducting researches but it has to deal also with being like an active actor who creates economic environment of a region and in a further perspective creating social trends (Kwiecień 2015). Therefore, universities should face new challenges which require, apart from educational, researching and didactic actions, cooperation with economics and industry. These actions should however be performed in a way which would not destroy culture creating role of universities. This role seems to vanish during turbulent changes which make universities less unique units. What appears to be very dangerous is the process of “corporation becoming” of universities which means it starts to be less like a culture centre and more like an ideal of a great educational corporation which is financially independent.

Culture is a highly important element of every society. It is a link which joins human beings together in one community. In times of a constant change one has to feel support which will in moments of too much information provide a sense of safety. This is possible thanks to the presence of a symbolic sphere where values are always the same. It is the place where universities act. Therefore, investments in what is called culture in a broad sense are necessary, as well as in development of universities without destroying their own, timeless character. It is worth remembering that, in our times, there is a need to educate a new class of intellectuals which will be able to understand social and cultural changes and suggest not theoretical but a practical and realistic solutions. The goal of universities is to play the role no other institution can play (Benedict XVI, 2010). A very specific role of universities appears then; it becomes a community of available educational sciences and not a collection of many different, special sciences. In the present situation, the requirement is that they would not only educate and transfer technical and vocational knowledge, which is very important but not sufficient. Universities should try to make their best to fulfil their educational mission, serving new generations while taking advantage of the heritage of values which were accepted in previous centuries (Benedict XVI, 2006).

New challenges universities have to face need further discussion, as it seems that ideological foundations of universities can be threatened, as its role and place in culture has completely been changed and it becomes more and more visible that the things which are also changing are the cultural surrounding of this institution, the way society perceives it, its public role and economical resources.

As far as the importance of the role of universities in modern world is concerned, the constant evaluation and analysis of the condition of higher education system is necessary. Analysis of the most important State, strategic documents for universities, as well as internal factors-demographic, economical and law related, which will determinate the situation of higher education system in Poland, will also be required.

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POSITIONING OF LATVIAN TOWNS AND ITS MEANING FOR TRAVEL DESTINATION MARKETING

Jekaterina Vozņuka

Baltic International academy, Latvia, katja.bki@inbox.lv

Abstract. This paper seeks to demonstrate the critical importance of the destination positioning attracting tourists to Latvian towns. The existence of tourism resources and a new concept for its developing is a key factor and a competitive advantage for many towns of Latvia. The shift to a more sustainable tourism development underlined the need to create a new tourism products. Many of Latvian destinations in recent times have shown quite good progress when applied new ideas and existing resources to develop new tourist products. The aim of this paper is to explore the positioning of Latvian most popular towns based on the study of key communication methods of forming and promoting the desired position. The paper under consideration uses the results of an empirical study conducted in spring and summer of 2016. The research was implemented with employment of Internet sources monitoring and content analysis of the information about Latvia travel destinations. Positioning of destinations was explored through an investigation of visual communications, symbols and published messages about travel opportunities and advantages promoted by diverse media. Main findings: a position of many Latvian towns could not be able to create a unique identity of the town and to differentiate it from other destinations. As shown by study there isn't a clear positioning strategy in many Latvian destinations. If some separate aspects of positioning are found they are not consolidated to a complete concept for tourism development and visitors attraction.

Keywords: destination marketing, identity, Latvia destinations, positioning

JEL: M31, L83, O18

Introduction

Development of destination marketing is one of significant challenges in the tourism industry. Tourism product creating and promotion, segmentation, communications, positioning, branding and other marketing strategies are the need for an effective travel destination development.

Competition has become significantly stronger in tourism sector, thus determining the necessity for differentiating tourism products and services and efficient positioning of travel destinations in tourism market. A destination cannot hope to get tourists attention only through the creation of a new tourism product or using a new concept of tourism development considering conditions of a global competition. It is necessary to convey a message about the benefits that could get a tourist choosing to visit a particular destination. Positioning is a method to represent and communicate with the target market; it could bring the key effect to raising destination attractiveness for visitors.

The object of the study is the most popular tourism destinations in Latvia. The subjects of the study are destinations symbols and brand attributes, as well as the messages and taglines of Latvia destinations about their tourism advantages published in the various most popular Websites for travelers and tourism development.

The hypotheses tested in this study were as follows. H1: There is no clear strategy for using positioning for the majority of the Latvia towns as travel destinations. H2: The positioning of Latvia travel destinations is based on the defined features that are not peculiar and cannot form the identity of destination.

The purpose of this study is to explore the positioning of the most visited towns of Latvia based on the study of key communication methods of forming and promoting the desired position. In order to achieve this objective, the following tasks have been set:

1. To refer the main positioning points as a major strategy of destination marketing;
2. To determine the famous and most popularized destinations in Latvia;
3. To investigate the communication content of Latvia most popularized destinations;
4. To make conclusions about positioned features of the Latvian travel destinations and possibility to form a stabilized position for visitors and differentiate them from other destinations.

Limitations of the research. Destination marketing and the strategies related with it, covers exceptionally wide scope of issues which cannot be described within one study. This paper puts an accent mostly on the analysis of the visual and other promoted attributes of destination identity as one of the tools of positioning strategy.

Conventional theoretical and empirical qualitative methods have been used in this study, including informative analysis and generalization of monographs and other sources; comparative analysis and synthesis method; monitoring and content analysis.

Literature Review

The most important part of tourism development and of attracting the attention to the tourist product is the creation of a hospitable informative environment capable of characterizing the different possibilities offered to visitors by destination. Previous studies published in respectful academic journals showed that this component is one of the basic provisions of the concept of tourist destinations marketing. In order to be successfully promoted in the targeted markets, a destination must be favorably differentiated from its competition and positively positioned in the target audience.

Destination Positioning Concept

Positioning is one of the most important phases of destination marketing. A significant number of studies have been focusing on the concept of positioning. The concept of positioning in practice is closely related to such concepts as branding, image formation, communications and identity enhancement; it can be concluded from the identification of the positioning aim.

Positioning concept appeared and became one of the basic in modern marketing by virtue of Rice, E. and Trout, J. According to Ries and Trout (Ries, Trout, 2001) “Positioning is not what you do to the product: it is what you do to the mind of the prospect”. Positioning focuses on the perceptions of the prospect not on the reality of the brand.

Effective positioning offers the customer benefits tailored to solve a problem related to their needs, in a way that is different to competitors (Chacko, 1997). Aims of positioning to establish the image and create a competitive edge to the brand, product or destination (Hooley *at al.* 2004).

With regard to a destination, positioning can be described as a ability to develop and communicate meaningful differences between the offerings of the particular destination and its tourism (Tourism Management in Southern Africa 2003).

Positioning analysis requires understanding of a product perception in the mind of the consumer. This perception is formed under an impact of a number of factors, among which the marketing communications occupy a leading position. It is determines by the way how the destination is presented, what is a base of the messages semantic core, how there placed the accents to attract the

attention of potential visitors and to differentiate it from the competitors, what benefits are emphasized and whether they relate to the interests of the target audience. In this way the author indicates the range of research questions for the analysis of positioning in terms of informational messages and communications coming from a destination (generally, a number of national tourist organizations termed as destination marketing organisations, DMOs, act as a subject of marketing communications).

Basis of positioning and destinations differentiation

Applying the approach to positioning considered by the authors in the framework of place marketing concept (Praude, Voznuka, 2013), the position for the target audience presents a composition of relationships, experiences and feelings which arise when they perceive the territory offer.

The peculiarities of the areas are the factors of attraction for target segments, and the positioning process bases on them. Therefore, the territory positioning could rely on the competitive advantages: on significant historical, cultural and nature attractions, on developed infrastructure, on local traditions and peculiarities of residents, on social, political, economic and ecologically favourable environment, on spectacular cultural, sport and other events.

As destinations consist of diverse mix of features and not all can be included in the positioning, decisions should be made about which attributes are important (Pike 2012). Accordingly, stage of positioning means the search of place identity, the development of new (or lost) destination implications, its competitive advantages and expectations from potential visitors (tourists).

Place identity is a subject largely investigated by tourism researchers, and is broadly used by marketers for promoting a destination. Destinations differentiate themselves according to this through its identity; they position themselves and are positioned according to the images that communicate and how these are perceived by the potential consumers (Martins, 2015).

The real question about identity is: what comprises place, and how do we define its identity and project it accordingly, using narratives and visuals? (Govers, Gos, 2009)

Economic, political, social and psychological parameters may contribute to the presentation of the identity of a place since places need to differentiate themselves from each other to assert their unique and distinctive characteristics (Kavoura, 2013) in an attempt to satisfy tourists and visitors and project the distinct characteristics of a place whether these are museums, heritage sites etc. In particular, Zenker and Braun (consider place identity as „the visual, verbal and behavioral expressions of a place, which are embodied in the aims, communication, values and general culture of the place’s stakeholders and the overall place design” (Zenker, Braun, 2010).

Therefore, it is possible to determine the concept of destination differentiation through identity as a full set of unique characteristics or set of signs which exist in a particular place and also the culture of the destination which forms the foundation for creating the brand propositions for the place.

Places can be branded by creating a place identity for them so the chosen factors of attraction increase the place’s image value and attractiveness. Place branding is a useful tool for starting a systematic marketing of a place. When a place has chosen its most essential identity factors it can start to develop its substance to correspond with its marketing statements (Middleton *et all.* 2009). Messages, visual and other symbols used in marketing communications are the vital instrument to convey the required meaning of destination identity and to form the perception of its attractiveness and advantages.

Methodology

This study research procedure consisted of the following steps:

1. Scientific papers and monographs informative analysis and generalization, comparative analysis and synthesis method employment;
2. Internet sources monitoring (Latvia.travel – Official Latvian Tourism Portal, meeting.lv – Guide to Latvia, lonelyplanet.com – Official Portal of famous guidebooks publisher, tripadvisor.com – the largest website for travelers and tourist community, and creating the Latvian destinations ranking;

3. Qualitative content analysis of the information on the mentioned Internet sources as well as analyzing the official home page of selected destinations about offered benefits for their visitors.

Destinations positioning was examined using a qualitative content analysis based on a semiotic interpretation of the texts. Qualitative content analysis is a widespread method in the field of destination marketing and is often used for achieving various goals. The data for the qualitative content analysis were collected from a variety of sources used by travelers. To explore the positioning of Latvia most popular travel destinations is realized through an assess investigation and assessment of visual communication, symbols and published messages about travel opportunities and advantages promoted in many sources as well official sites of destinations, travel portals and other worldwide sites for tourists. Also the author focuses on the analysis of Latvia destinations strengths or features, which are positioned through communications and branding attributes: logo, slogans, etc. These features are usually assumed to express the destination identity and particularity, as well as to differentiate destination and its advantages for tourists and travelers from other destinations.

The author has selected cities recommended for visiting by analyzing the information posted on the Internet tourist resources; there was composed a rating of these cities on the basis of the presence of references on the destination and its position in the list of each of the analyzed resource. Originally Riga, the capital of Latvia, was not taken into consideration in the rating arrangement for two reasons: firstly, Riga sightseeing attractions undoubtedly occupy a leading position in these resources rankings; secondly, the author believes that in this study a comparison of positioning of such well-known on an international level destination as Riga is inappropriate, since the other listed towns are mostly focused on the neighbouring countries and on the domestic, inter-regional tourism. The author also does not take into account the specific reference on such tourist facilities as nature parks, castles and palaces, which are often positioned separately.

Results

Conducting this study the author expects to discover how destinations strengths are emphasized in communication and branding attributes, whether they serve for achievement of the purpose of destination marketing and travel destination positioning, and what could be improved.

Destinations of Latvia, which are the most popular and recommended for visiting

The content analysis revealed 40 references to tourist destinations. The results of this analysis are presented in the table below (see Table 1). The rating had been prepared according to the position which was held by the city on each resource: references in the upper rows increased the value of the final result by a factor respectively.

Table 1. Latvian destinations ranking (Source: author's compilation)

Group	Relative rate	Number of points	Destination
I. «Leaders»	> 70%	10-12	Jurmala, Liepaja, Ventspils,
II. «Successful applicants»	50-70%	7-9	Kuldiga, Cesis, Sigulda, Daugavpils
III. «Sustainable followers»	30-50%	4-6	Bauska, Tukums, Jelgava, Talsi, Saulkrasti, Valmiera
IV. «Unstable condition»	<30%	1-3	Ogre, Lielvarde, Jekabpils, Saldus, Salacgriva, Ainazi, Limbazi, Valka, Smiltene, Madona, Rezekne, Ludza, Balvi, Kraslava, Kolka, Roja, Sabile, Aglona, Pavidosta, Ligatne, Dobeles, Preiļi, Kandava, Salaspils, Alsunga, Aluksne, Gulbene

Basing on the assessment conducted and on the aggregation of the results of the frequency of references found on specified Internet resources, destinations were segregated into 4 groups according to the number of points accumulated. The names of groups were formulated on the basis of a widely

used methodology for assessing the competitiveness of enterprises and the results interpretation on the basis of comparing the final result as a percentage out of the maximum amount of points accumulated.

On the basis of the worked out segregation of cities according to the frequency and the location of references on the most popular travel portals, it can be assumed that destinations ascribed to the groups with the relative index of more than 50% are more interesting and attractive for tourists. These destinations that are exactly the most popular and recommended for visiting; they have been selected for the next stage of the analysis: considering the messages from the point of the specified identifying features and transferring the desired position by means of symbols and tools of marketing communication.

Positioned features of Latvia destinations

The second stage of the study is devoted to the determination of peculiarities, unique characteristics and advantages, which the mostly recommended for visiting and popular destinations of Latvia use for positioning through various Internet media and brand attributes. All destinations subjected to analysis in terms of selected identity positioning, according to the official tourist site Latvia.travel are included in Top10 places of Latvia, with the exception of Daugavpils (Sigulda mentioned together with Turaida).

The results of the this phase of the study are based on the analysis of the content of information published and promoted through communications on the Internet in order to focus the attention of potential visitors to certain attractions, peculiarities and other characteristics having special value from point of view of tourism. There were analysed the reports about cities which the author has classified as the “Leaders” and “Successful applicants” basing on the assessment of the popularity of destination of Latvia.

The semantic core of the message has been determined by the following tools and channels of communication: logo, tag line / motto, main keywords through the search results as well as image's search, official tourism web sites of each destination, Official Latvian Tourism Portal (Latvia.travel) and Portal of Regional development indicators module – State Regional Development Agency (raim.gov.lv). This information can be considered as a definition of the main distinguishing features of a certain city that is the primary basis for the formation of the desired position of the town.

The table below (see Table 2) demonstrates the identity features of analyzed destinations found in the process of analysis.

Table 2: Destinations identity: analysis results of positioning (Source: author’s compilation)

Destination	Positioned features	
	Key feature	Other features
Jurmala	Resort city	Sandy beach, sea
Liepaja	Wind	Sea, architecture, the port; some objects, attracting visitors
Ventspils	Cows	Livonian order castle, sea, events
Kuldiga	Old bridge, waterfall	Medieval town
Cesis	Medieval castle	One of the oldest towns in Latvia
Sigulda	The Switzerland of Vidzeme	Landmarks, outdoor recreation
Daugavpils	Mark Rothko Art Center	Daugavpils fortress, Church hill, the Daugava River

Basing on the analysis of the survey results, it can be concluded that the most clearly defined position is formed for the towns Cesis and Kuldiga, since all the analyzed reports regardless of the source of communication can be traced to a similar message, based on the certain characteristics (Cesis is a medieval castle, Kuldiga is the widest waterfall and the old bridge).

As for the other towns, their positioning comprises a number of highly controversial or neutral points; from the point of view of the marketing concept, it will affect for sure the results of attraction of the

visitors. Moreover, one identity feature is often emphasized through the slogan, while logo emphasizes different feature.

For example, the famous destination Jurmala, that has been positioning itself as a Baltic resort and the “city on the wave” for many decades, in May 2015 took a decision on the new concept of visual identity and new strategy of the city brand development: changes affected the visual identity, while the remaining positioning tools left the same, and the results of this study demonstrate it.

Conclusions

The analysis of the presented data has revealed that positioning of Latvia travel destinations does not achieve its purposes to represent the destination strengths and to create stable and recognizable image, because the meaningful accents in communication messages are often placed on different traits. Effective positioning requires a laconic, focused and consistent message.

The following conclusion can be made: as the results of the study show, only two out of seven analyzed popular tourism destinations in Latvia form the identity of the town, using positioning through the promotion of a specific identification feature in the communication messages.

In such a way the first hypothesis of the study has been confirmed. Moreover, it is hardly possible to name the positioned strengths identified in this study as unique ones. The data in Table 2 show that destinations in Latvia use very similar benefits for their positioning (nature, medieval architecture, etc.), which cannot provide the achievement of the goals of positioning: creation of a competitive edge for destination that is different from its competitors, which supports the second hypothesis of this study.

The attractiveness of destination is associated with the specific advantages that are in demand for tourists and which the destination is ready to give to them. If a destination has some unique feature, that feature may be used to position the destination objectively, to create an image, and to differentiate it from the competitors. Consequently the positioning is less successful if the feature is not exceptional, thus one of the first rules of effective positioning is uniqueness.

On the most of tourist markets, especially the domestic ones, the towns of the same small country are indistinguishable and therefore they are interchangeable: the natural sites, historical and cultural attractions and traditions are combined. The successful positioning of the destination in the minds of consumers is a competitive advantage over the most of competitors' destinations, due to the current conditions and the extent of competition in the tourism sector.

Positioning strategy suggestions for Latvia destinations are as followed:

1. It is necessary to create clear positions for Latvia destinations: to choose the unique feature which can identify a destination and meet the needs of the target audience.
2. For the successful positioning the selected position should be followed in the planning process of communication, regardless of the used forms of communication and information channels.
3. The delivery and monitoring of benefits offered by the position to target audience and staying in touch with target audience needs.
4. Position is intended to differentiate the destination among many other proposals, that are struggling in the tourist market for the attention of visitors; hence, there is necessary to monitor the position of direct competitors aimed at determining the strategy of positioning and at departing from the competitors;

Positioning should be the platform for such processes as branding, image formation and communications, and other activities. The promoted position must be delivered to the target audience; after that, the audience perception can be investigated. It can become the logical future continuation of the research of Latvia destinations positioning, promoting and branding.

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A NEW DICTIONARY OF BOTANICAL TERMS: AN INSIGHT INTO THE COMPILATION PROJECT OF THE DICTIONARY

Silga Sviķe

Ventspils University College, Latvia, silga.svike@gmail.com

Abstract. A dynamic activity in dictionary research has been observed over the last decade, and the research activity of dictionaries has been variously labelled, e.g., theory of lexicography, dictionary research (German: *Wörterbuchforschung*), metalexicography etc. (Baldunčiks 2012, 9). Approximately 30% of Latvian lexicography work consists of dictionaries of a terminological nature (Helviga, Peina 2016, 127); however, more than a half of a century has passed since the first issue of Galeniēks's "Botanical Dictionary" (Latvian: „Botaniskā vārdnīca”) in 1950, thus it is necessary to compile a new dictionary of botanical terms where Latvian would be one of the contrasted languages. The dynamics of language development manifests itself both in generally used lexis, as well as in specialised lexis, therefore it is necessary to do research on terminology dictionaries where it would be possible to observe, record and describe the changes. The aim of the paper is to deal with the main issues for compiling a new terminology dictionary, where the descriptive and content analysis methods are used. Some questions regarding the development of the concept of a modern botany terminology dictionary have been outlined in the paper (the potential addressee of the dictionary, its title, contrasted languages). The material discussed in the paper provides an insight into a metalexicographic theme that has not been enough researched yet and supplements the studies conducted in Latvian lexicography.

Keywords: lexicography, terminology; terminography, botanical terms

Introduction

The plan of compiling a new dictionary of botanical terms arose when considering the option to participate in the contest for postdoctoral research support. As the subject-matter of the research done so far by the author of the paper is associated with specialised lexis (names of plants) in general bilingual dictionaries, the planned research ensures succession of the research topic by directing the research questions towards compiling a dictionary of terms.

Since the stages of the project of compiling a dictionary is not a topic widely discussed among Latvian lexicographers, the aim of the paper is to deal with the main issues for developing a new terminology dictionary, where the descriptive and content analysis methods are used. Some questions regarding the development of the concept of a modern botany terminology dictionary have been outlined in the paper (the potential addressee of the dictionary, its title, contrasted languages) by having an insight into the latest lexicography practices in the field of botanical terms in Latvia, as well as by examining various dictionaries of botany terms published abroad.

Literature Review

Questions of dictionary planning and developing, as well as other questions associated with dictionaries have been studied by various authors, e.g. Baldunčiks 2012, 2016, Hartmann 2001, Schlaefler 2002, Sviķe 2016a, 2016b, Vachkova 2011, Veisbergs 2016, Цыренов 2013; whereas Bergenholtz, Tarp 1995, Helviga, Peina, 2016, Kostera 2001, Nielsen 1994, 2009, Popp 2001, Rasmussen 2014, Schaefer 1994, Tarp 2010 and others have focused on the issues of specialized dictionaries. Views of many of the abovementioned authors are reviewed in the subsequent sections of the research.

Methodology

As the mentioned research has been represented in a theoretical paper, the author has mainly applied the descriptive method and content analysis in the literature review and when solving the issues, of the research; also examples from multiple dictionaries of botanical terms have been provided when solving certain issues.

The Necessity of a New Dictionary of Terms

As indicated by the results of the survey carried out by I. Balode (Balode, 2012), some dictionaries of terms are used quite often, but the demand for them is even greater. Furthermore, terminology dictionaries published until now, which are divided into separate branches, have not satisfied the demand, thus justifying the necessity of developing a new dictionary of botanical terms. The 21st century is characterised by a wide range of electronic online resources, including dictionaries (e.g., academic terminology database created by the Terminology Commission of the Latvian Academy of Sciences (Akadterm) www.termini.lza.lv, terminology database “Letonika” www.letonika.lv, online dictionary website www.tezaurs.lv), because when “working as a translator, it is rather impossible to live without some sort of a lexicographical tool” (Rasmussen, 2014). Yet how to explain the fact that printed books and printed dictionaries are by no means forgotten? B. A. Kipfer names nine reasons why printed dictionaries are better if compared with the electronic ones, e.g., words in a printed dictionary are showed in a comprehensive way, not in a separate box as it often is with electronic dictionaries; one may train their brain function when searching for a particular word in a printed dictionary where words are listed alphabetically; printed dictionaries are characterised by clearness and they are less disorganized, as there are no so called pop-up advertisements (Kipfer, 2013). I. Balode (2017) emphasises that a book as a traditional medium still has a stable and strong position in every cultural environment. However, electronic dictionaries also have many advantages, e.g., the necessary information can be found quickly during the work process, their volume is unlimited and they may be quickly supplemented and corrected.

The need for a new dictionary of botanical terms is defined by the ever-increasing thematic range of texts which have to be translated, and there are many specialised lexical units (including terms) in the texts that are offered for translation, as it is in European Union documents where vast amounts of field terminology are used (TTC, 2007). In the translation industry there are more and more texts (such as descriptions of cosmetic products, lists of animal food ingredients, culinary recipes) that contain botanical terms – names of plants. General bilingual dictionaries of average volume do not always provide the necessary support for the translator in the translation of such texts (Sviķe, 2016a), as the usefulness of dictionaries may often be assessed by using them, e.g., by ascertaining what words are not included in the particular dictionary (Kostera, 2001). Also some of the currently available electronic dictionaries, such as Akadterm, do not offer translations of several important plant genus and species names in German and English, for example, henomele, ārstniecības izops, zilā vizbulīte (Akadterm, n.d.). Also in the electronic encyclopaedia of species of Latvian Nature (Latvian: Latvijas daba) (Latvijas daba, n.d.), one could not find translations of the names of various cultivated and economically important plants (e.g., aronija, sezams, puķzirnītis) in English, Russian and German, as they mainly contain the names of local species of flora. A new concept dictionary of botanical terms would be a useful tool not only for professional translators, but also nature lovers who read press, thematic magazines, and travel descriptions in various languages, as well as for the teachers and pupils of natural science subjects when using the CLIL (Content and language Integrated Learning) method in learning particular topics.

Terminology dictionaries have a substantial role when drafting specialised texts, in the translation of such texts, in ensuring mutual communication between field experts, in acquiring knowledge of the field and transferring it, in learning foreign languages, as well as in the communication between the experts of the field and interested parties who are not experts of the specified field (Bergenholtz, Schaefer, 1994). Bilingual and multilingual terminology dictionaries are crucial also in the development and standardization of terminology (LPE9, 1987). The description of the material included in terminology dictionaries is important if the dictionaries will be further used not only by the addressees of the dictionary, but also by compilers of other dictionaries (Baldunčiks, 1982). All of the abovementioned aspects should be considered when thinking about the addressee or user of the planned dictionary of botany terms. However, in order to clarify the wishes of the potential users of the dictionary, more comprehensive surveys should be carried out to determine the exact users.

Comprehension of Generic Terms

The development of a field terminology dictionary is a laborious process as is the development of a general dictionary, therefore it is particularly significant to assess the questions of the concept of the future dictionary prior to its compilation. However, before considering those questions, one should specify the main terms of lexicographical metalanguage. Lexicography studies and deals both with general lexis and specialised lexis, whereas the research subject of terminology is specialised lexis. Interpretations of generic terms of lexicography and terminography (e.g., dictionary, specialised dictionary, dictionary of terms, term) in studies of linguists are not always unambiguous and are viewed from various aspects (Baltiņš, 2013, Bergenholtz, Tarp, 1995, Hartmann, 2001, Helviga, Peina, 2016, Schaefer, 1994, Skujiņa, 2002). The term lexicography is defined in the following way: “a sub-sector of linguistics where the theory and practice of the creation of dictionaries is developed by designing the principles and methods of the compilation, systematisation, analysis and description of words and practically compiling dictionaries” (VPSV, 2007). Also A. Bankavs (2000) emphasises two meanings of the term lexicography: it is the designation for the process of creating new dictionaries practically, and this term also denotes the scope of theoretical research (such as theoretical principles of dictionary compilation, dictionary classifications).

H. E. Wiegand (Wiegand, 1983) indicates that the practical development of dictionaries is understood as a set of organised actions with the application of various scientific methods and scientific conclusions, and the result thereof. He distinguishes actions which form the subject of the general theory of lexicography:

1. drafting a plan for dictionary compilation;
2. gathering the base material of the dictionary;

3. developing the text materials of the dictionary that results in the compilation of the dictionary.

Further on the comprehension of generic terms: terminography may be interpreted as „an interdisciplinary of terminology and lexicography the basis of which are the principles of general lexicography and which engages in the gathering and systematising of field terms and the compilation of field term dictionaries, glossaries and other collections of terms, and develops the theory and practice of the compilation of dictionaries of terms” (VPSV, 2007).

On the International Network for Terminology www.termnet.org, A. Drame (Drame, 2006) has summarised the common and different characteristics of lexicography and terminography by pointing to the uncertain borders between the two. The author emphasises that the differences are quite theoretical, and various hybrid forms prevail in practice. Conversely, H. Bergenholtz and S. Tarp (1995) contrast terminology and terminography with the designation specialised or LSP lexicography the traditions of which originated several thousands of years ago when the Middle Eastern religions were explained in such dictionaries. Both authors (Bergenholtz, Tarp, 1995) consider that LSP lexicography has much in common with terminology/terminography; the interested parties of both sides must learn from each other and should gain mutual benefits. The author of the paper agrees with the view of H. Bergenholtz and S. Tarp that specialised lexicography gains benefit from terminology, therefore terminology or at least some areas of terminology may be considered an integral part of specialised lexicography.

The questions in a new study carried out in Latvia on the theoretical issues of dictionaries of terms and on the dictionaries of terms published in Latvia are similar, e.g., the dictionaries have a mixed and synthetic character, the criteria for characterising the dictionaries of terms are uncertain (Helviga, Peina, 2016). When characterising the planned dictionary in this paper, the author uses the designation dictionary of terms, which is traditionally understood as “a dictionary where separate words, collocations (with the term function), and generic terms are shown together with synonyms. [...]” (VPSV 2007,401). As opposed to general dictionaries which are “collections of words, collocations, set expressions or other combinations of words or, less frequently, parts of words in a specific way (in entries) and order (usually alphabetically listed) with definite information; a book where such combinations of words are included” (VPSV, 2007), special dictionaries (of terms) are characterised by the entries comprised there, which are words or collocations having the function of term. Throughout this study, term is understood as a word or collocation having a “special function” (Skujiņa, 2002) and it denotes a specific concept which is characterised by its use in a specific field. The scope of questions regarding the development of a dictionary of terms has been viewed in this paper by examining mainly the terms of the field of botany. A great part of botanical terms consists of plant names which are characterised by their dual nature: the general aspect (since they are considered as words that are generally known and of generally used language) and the special aspect (as in the field of botany they have the function of a term) (Sviķe, 2016b). When developing the dictionary of terms, names of plants have been viewed from the terminological aspect since a great part of botanical terms consists of plant names (Sviķe, 2014).

Dictionary Title

The title of a dictionary should reflect the contents of the work as precisely as possible; however, the titles of publications of a terminological nature, including dictionaries, often do not provide the necessary information about the lexicographical work. A. Helviga and E. Peina have examined 143 Latvian dictionaries of terms which were published from 1991 until 2015 (Helviga, Peina, 2016). Both authors conclude in the abovementioned study that the titles of publications of a terminological nature do not contain the word “dictionary” (Helviga, Peina, 2016). Two issues of multilanguage dictionaries of terms published in Latvia should be highlighted regarding the field of botany: P. Galeniķs’s “Botanical Dictionary” („Botaniska vārdnīca”) (Galenieks, 1950) and P. Dindonis’s “Botanical Pocket Dictionary in Latin, Latvian and German Languages” (Dindonis, 1938). The title of P. Dindonis’s dictionary contains the word “pocket” (indicating that this is a small-sized dictionary). For comparison: there are 112 author sheets in P. Dindonis’s dictionary, but P. Galeniķs’s dictionary contains 218 author sheets. Names of wild plant species and most important cultivated plant species of the world and their equivalents in Latin and Russian have been compiled in P. Galeniķs’s “Botanical

Dictionary” published in 1950, which is still used nowadays by the field experts, students and other interested parties. Names of plant genus in Latvian have been compiled in a separate section with an explanation of their names in Latin, also providing a list of plant species’ names (epithets) in Latin. P. Dindonis’s dictionary is mainly intended for gardeners and botanists, as well as students who are mastering the mentioned professions. In this dictionary, the explanation of the pronunciation of the species’ names in Latin has been paid much attention (Dindonis, 1938). After the foreword and the description of the pronunciation of species’ names in Latin, one will find the main part of the dictionary only with the names of plant species (epithets) in Latin, Latvian and German. In botany publications of a terminological nature, such as various identifiers of plants and encyclopaedias, plant species’ names are usually compiled in at least 2 languages (one of them being Latin), as field experts around the world understand the names of plant species and genus in Latin, and it is possible to identify the described plant according to those. Both of the abovementioned dictionaries of botanical terms contrast three languages (Latvian, Latin, Russian/German). In relation to the information incorporated in the title, one could characterise A. I. Kisilevsky’s botanical dictionary “Латинорусско-белорусский ботанический словарь” of Latin-Russian-Belarusian in the same way, as it contains names of plant species in three languages (Кисилевский, 1967). It is important to consider that term equivalents in the largest contact languages of the Latvian language – English, Russian and German – are included in the new dictionary of botanical terms, as there are not enough botanical terms – plant names – in general bilingual dictionaries (Sviķe, 2016a).

The author agrees with B. Schaefer’s opinion who, based on his and H. E. Wiegand’s study, emphasises that the analysis of the names of dictionaries of field terms is rarely applicable to the typological classification of dictionaries (Schaefer, 1994). However, from the point of view of the user, the title of a dictionary should describe the dictionary as precisely as possible: it should indicate the contrasted languages, what field the compiled terms belong to, the size of the dictionary (e.g., *Botanical Dictionary for Gardeners and Florists with 2000 Names* – „Botanisches Wörterbuch für Gärtner und Floristen: mit über 2000 Namen“ (Jessen, Schulze, 2008), and most probably the intended user of the dictionary. It must be highlighter that the title can be a good advertisement for the dictionary, as well as a marketing trick to ensure sales success (e.g., by including the word “new”). The author of the paper suggests that the title of the planned dictionary should contain the name of the field of the compiled terms, the contrasted languages, and the word “dictionary”, such as “The New Dictionary of Botanical Terms in Latvian, Latin, English, Russian and German languages”.

Planning Stages of the Development Project of the Dictionary

R. R. K. Hartmann (Hartmann, 2001) analyses the methodological experience of several lexicographers (such as S. Johnson, C. McGregor, G. Wahrig, L. Zgusta) in the compilation of dictionaries, where the conclusions are summarised in a development plan of the dictionary that contains 3 stages:

1. fieldwork or gathering and recording of data (text body, consultants, databases);
2. description or text editing (lists of words, instructions, information categories), and
3. presentation or publication of the final product (formatting, printing, editing).

For a detailed description of the abovementioned stages it is necessary to obtain the practical experience of compiling a dictionary which will be described in the following studies while planning the development project. The scope of the questions of the initial plan in this paper has been viewed according to M. Schlaefel’s structure (Schlaefel 2002, 78–80); in his view, the development of a knowledge repository – dictionary – is formed by 4 components:

1. knowledge base (German: *Wissensbasis*);
2. knowledge assessment/knowledge discovery (research) (German: *Wissensprüfung/Wissensermittlung*);
3. knowledge organisation (German: *Wissensorganisation*) and
4. knowledge transfer (German: *Wissensvermittlung*).

Knowledge base incorporates the set of linguistic and philological knowledge that is needed in solving the questions of dictionary planning and processing (Schlaefer, 2002). However, in order to expand the component of a knowledge base not only in relation to the development of linguistic dictionaries, but also the development of dictionaries of terms of other fields, it is necessary to mention the collaboration between the experts of the respective field, term researchers of the respective field, lexicographers and metalexicographers (Bergenholtz, Schaefer, 1994). It is recommendable to involve field experts not only when developing a dictionary of terms but also in the development of general dictionaries and the selection of the special vocabulary thereof (Hessky, 1996, Vachkova, 2011). As emphasised previously, it is important to involve field experts in the development of a dictionary besides a linguist and a lexicographer: botanists, teachers of botany, and probably IT specialists (if thinking about a future electronic version of a printed dictionary).

Often a previously published issue of a dictionary is taken as the base of a new dictionary, e.g., when developing a new general bilingual dictionary (Bergenholtz, 1992, Landau, 2001; Цыренов, 2013), yet M. Schlaefer appeals to assess critically the so called tradition of copying when developing new dictionaries the base of which is a previously published dictionary; he refers to a quotation from a legal dictionary in German, “Deutsches Rechtswörterbuch”, where a thought is expressed that all dictionaries form one large family since they are interrelated and dependent on each other more than any other works (Schlaefer, 2002). Each previous issue of a dictionary should be accurately and critically assessed prior to its application. It applies to the megastructure parts of a dictionary or parts of a dictionary that are placed before and after the main part of a dictionary – instructions for users, annexes and alike (see also Hartmann, 2001), the microstructure of a dictionary or the structure of an entry, as well the macrostructure of a dictionary or the layout of the set of entries, which can be increased and formed according to the wishes of the potential addressee of the dictionary where necessary. It is impossible to review all of the abovementioned aspects in one paper; therefore the author will discuss them in further studies.

Knowledge in the specific field (in this study – botany) has an important role in the component of knowledge base; it especially refers to the development of a dictionary of terms. As mentioned previously, it is important to consult field experts and do a research on the literature of the field in all languages that will be contrasted in the dictionary. The need to involve field experts in the development of a dictionary is linked to the next component named by M. Schlaefer – knowledge assessment. Here one should mention the assessment of the body of knowledge necessary for the dictionary as based on the traditions of lexicography and the development of the corpus from which the language material to be included in the dictionary will be selected; one should assess the methods of dictionary compilation and other aspects, depending on the needs of the users of the planned dictionary (Schlaefer, 2002) which may be assessed after gathering the survey results of potential users.

The component knowledge organisation includes the practical activities of the development process of the dictionary: selection of entry words and information to be included in the entry, microstructure questions of the dictionary and other (Schlaefer, 2002). All of the abovementioned aspects should be handled separately not only in relation to the user of the planned dictionary and situations in which they will be used, but also in relation to the form of the dictionary: a printed or electronic dictionary. Mainly the aspects describing a printed dictionary of terms are viewed in this paper.

S. Nielsen (Nielsen, 2009) emphasises that both printed and electronic dictionaries have three significant features: lexicographical functions, lexicographical information or data that is selected in such a manner that they correspond to the functions of the dictionary as much as possible, and the lexicographical structure. As mentioned previously, electronic online dictionaries can certainly offer more possibilities: it is possible to compile more entries there, the compiled entries can be more easily supplemented and corrected, as well as it is possible to add images, hyperlinks etc. In its turn, a printed dictionary also has its advantages, for example, it may be used in a place where there is no Internet, as well as it can be used whenever one needs to translate or check only specific terms instead large text fragments.

Selection of entry words is a crucial question in the development of printed dictionaries, since they are characterised by a limited number of entry words to be included as opposed to electronic dictionaries. Lexicographic selection is a complex concept which is usually understood in its narrow sense as the description of such selection of lexemes and selection process which will be included in the dictionary as entry words (Nielsen, 1994). When analysing specialised bilingual dictionaries, S. Nielsen divides the set of lexicographic selection actions into four stages: choosing the method, choosing the field, selecting the data or information material in both languages of the dictionary, selecting entry words from the source-language data material as well as selecting entry words from the target-language data material (Nielsen, 1994). Since the plan is to develop a printable dictionary of terms with a limited number of terms, a separate part for solving the questions of term selection will be developed in the broader study.

The component knowledge transfer is closely linked to the addressee of the planned dictionary and the potential situations where the dictionary will be used. The knowledge transfer component also includes the metalanguage aspect, and this aspect is closely linked to the addressee of the dictionary to be developed (Schlaefler, 2002). The potential group of users of the new dictionary of botanical terms has been outlined in the introduction part of this paper: students of natural sciences and other specialties, teachers of botany and foreign languages, translators, nature lovers, culinary specialists and others, and their wishes may be clarified by carrying out surveys.

A significant aspect – financial support for the project of the dictionary – must be added to the previously reviewed opinions of metalexigraphy discussions. As the development of a dictionary is not only a laborious and time-consuming process, raising funds for a planned project would have an important role, and it ensures that the project result will be of a certain level. The work of one author is definitely not comparable to the work carried out by a group of authors (e.g., see *Lithuanian Botanical Dictionary* – “Lietuviškas botanikos žodynas” with 595 author sheets (Dagys, 1938); German Botanical Dictionary – “Botanisches Wörterbuch“ (Schubert, Wagner 2000), where lexicographers, terminologists, linguists, translators, botanists and computer specialists have been involved.

Results and Conclusions

The possible planning stages of a new dictionary have been reviewed in the paper according to several lexicographers, as well the scope of questions the lexicographer should solve prior to compiling a new dictionary of terms. A small insight into two botanical dictionaries published in Latvia so far, as well some botanical dictionaries published abroad has been provided as well. Such questions as the potential title, group of addressees and the contrasted languages have been discussed. The author agrees with R. R. K. Hartmann’s (2001) opinion that no suitable theoretical approaches to the development of dictionaries have been worked out which could be applied to any dictionary; therefore personal experience that is acquired in the development process of a specific dictionary is crucial. When developing dictionaries of terms, the aspect of field terminology of the dictionary in development has an important role, as it is linked with the three structural levels (mega, macro and micro) of the dictionary in development. The research of these aspects should be further expanded within the development of the planned dictionary. The research topic should be further expanded also as regards the study of methods and approaches of dictionaries of terms by closely reviewing the newest possibilities offered by the IT (such as *SDL Multiterm*, *WebBootCat* softwares and tools). The description of experience and sharing the ascertained problems in the process of dictionary compilation and the possible solutions thereof contribute to the development of future dictionaries, therefore the topic of further research of the author of this paper will be a detailed study of each question that was reviewed and outlined. Similarly, one of the further topics of the research shall be developing a survey and analysing the data acquired on the most widely used dictionaries of terms from the users of such dictionaries, the advantages and disadvantages thereof, as well as the information about their wishes regarding a new dictionary of botanical terms: the environment of its realization, the languages, its volume and other aspects.

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PIEPRASĪJUMS PĒC JURISTIEM LATVIJAS DARBA TIRGŪ: DARBA DEVĒJU VIEDOKLIS

Natalja Verina¹, Jelena Titko²

¹ Ekonomikas un kultūras augstskola, Rīga, Latvija, natalja.verina@eka.edu.lv

² Ekonomikas un kultūras augstskola, Rīga, Latvija, jelena.titko@eka.edu.lv

Anotācija. Pieprasījuma prognozes pēc juristu profesijas, kā arī ekspertu viedokļi par tās dzīvotspēju, atšķiras. Neapšaubams ir fakts, ka informācijas tehnoloģiju attīstība ietekmēs jurista darbu un sekmēs tā transformāciju. Raksta mērķis ir izanalizēt, kādas nodarbinātības perspektīvas darba tirgū būs topošiem studentiem-juristiem, kā arī kādas tieši kompetences juristiem ir pieprasītas. Lai sasniegtu izvirzītu mērķi, tika aptaujāti uzņēmumu pārstāvji no dažādām Latvijas ekonomikas nozarēm, izmantojot autoru izstrādāto pētījuma instrumentu. Respondentiem tika piedāvāts novērtēt kompetences, kuras ir nepieciešamas juristam – speciālistam starptautiskajās komercdarbības tiesībās, pēc to nozīmīguma. Turklāt, darba devējiem bija iespēja novērtēt tagadnes un nākotnes pieprasījumu pēc juristiem. Pētījuma rezultātā tika noskaidrotas svarīgākās darba kompetences, kas ir nepieciešamas juristiem – specialistiem starptautiskajās komerciesībās. Pētījuma hipotēze par tirgus pieprasījumu pēc juristiem tika apstiprināta. Gan respondentu aptaujas dati, gan statistikas dati, gan ekspertu viedokļi liecina, ka pieprasījums pēc speciālistiem- juristiem Latvijas darba tirgū ir un būs.

Atslēgas vārdi: tirgus pieprasījums pēc juristiem, kompetences, darba devēju aptauja, Latvija

JEL: E24; J21; J23

Ievads

Literatūrā var atrast dažādus viedokļus par prognozējamu juristu pieprasījumu un nodarbinātību. Daži speciālisti uzskata, ka pieprasījums samazināsies, mīnot dažādus iemeslus, līdz pat variantam, ka juristus aizvietos mākslīgais prāts. Piemēram, Deloitte eksperti uzskata, ka tuvākajos 20 gados virs 100000 darba vietām tiks aizvietotas ar automatizētām sistēmām. (Deloitte, 2016) Citi uzskata, ka satraukumam nav pamatā, ka juristi ir zemā riska grupā. Jo pilnībā automatizēt jurista darbu pagaidām vēl nav iespējams tehnisko sarežģītumu dēļ. Kaut gan neapšaubami, ka tehnoloģiskās inovācijas, klientu pieprasījums un globalizācija kopumā ietekmēs un transformēs jurista darbu. (Frey, Osborne, 2013)

Kriss Faulers ar koleģiem uzskata, ka tehnoloģijas tikai pozitīvi ietekmēs jurista darbu. Aizvietot tos datori nevarēs, jo tiem trūkst nepieciešamas spējas, tai skaitā komunikatīvās spējas, projektu vadīšanas spējas, kā arī sociālās inteļģences. (Fawler *et al.*, 2016)

Dotajā rakstā tiks analizēts, vai tiešām juristi ir un būs pieprasīti darba tirgū Latvijā, kā arī tiks noskaidrots, kādas kompetences, pēc Latvijas darba devēju viedokļa, ir nepieciešamas ikvienam juristam.

Pētījuma hipotēze:

H1: Šobrīd pastāv un turpāk arī tiek prognozēts pieprasījums pēc juristiem Latvijas darba tirgū.

Lai sasniegtu pētījuma mērķi un pārbaudītu pētījuma hipotēzi, darba autori veica Latvijas darba devēju aptauju, kurā piedalījās 38 respondenti. Juristiem nepieciešamas kompetences tika sarakstītas, balstoties uz to vidējo nozīmīgumu respondentu uztverē. Visnozīmīgākās juristu kompetences darba devēju skatījumā ir 1) spēja patstāvīgi izmantot tiesību avotus; 2) spēja argumentēt juridiskos slēdzienus; 3) spēja sistematizēt iegūto juridisko informāciju, izmantot iegūto informāciju lēmumu sagatavošanā, pieņemšanā un izpildē; 4) spēja sekot tiesu praksei un juridiskai literatūrai; 5) spēja izstrādāt, analizēt un apliecināt tiesisku darījumu dokumentus un tiesību piemērošanas aktus.

Literatūras apskats

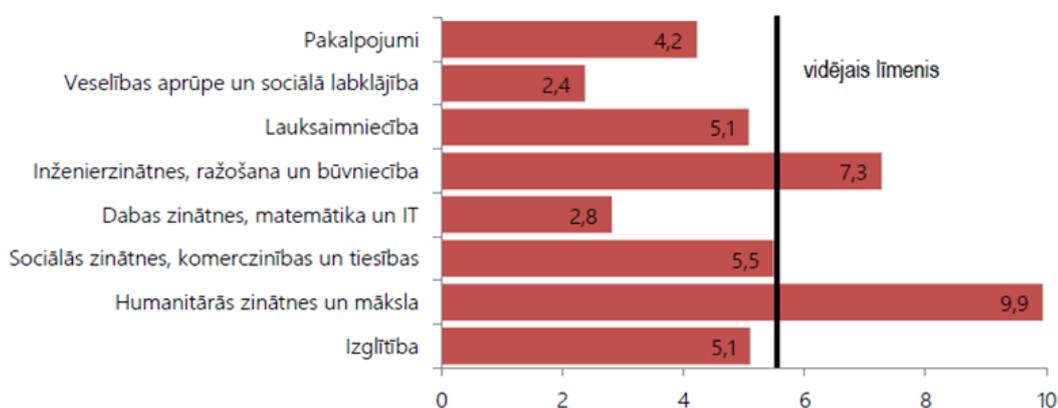
Balstoties uz ASV Darba departamenta prognozēm, juristu nodarbinātība no 2014 līdz 2024. gadam pieaugs par 6%. Tiek plānots, ka pieprasījums pēc juristiem būs gan individuālo pakalpojumu sniedzējiem, gan uzņēmumu juristiem, gan arī valsts pārvaldes visos līmeņos tiks pieprasīti juridisko pakalpojumu sniedzēji dažādās jomās. (US Department of Labor)

Pēc Darba departamenta vērtējuma, no 2014. līdz 2024. gadam ASV juristu darba vietu skaits pieaugs no 777,700 līdz 822,500, palielinoties par 43,800 darba vietām. (Black, 2016)

Tāpat arī Eiropas personāla atlasē biroja (European Personnel Selection Office - EPSO) mājas lapā norādīts, ka ES institūcijās pieprasījums pēc kvalificētiem juristiem, tai skaitā arī pēc juristiem-lingvistiem ir augsts. (EPSO, 2017)

LR Ekonomikas ministrijas Informatīvais ziņojumā par darba tirgus vidēja un ilgtermiņa prognozēm 2016. gadā ir minēts, ka „vislielākais darbaspēka piedāvājums ar augstāko izglītību ir sociālo zinātņu, komerczinātņu un tiesību izglītības tematiskajā grupā. To nosaka iepriekšējo gadu studentu izvēle iegūt augstāko izglītību šajā tematiskajā grupā. Jāatzīmē, ka kopš 2008. gada ekonomiski aktīvo iedzīvotāju izteiktākais skaita pieaugums ir tieši šajā grupā” (Ekonomikas ministrija, 2015).

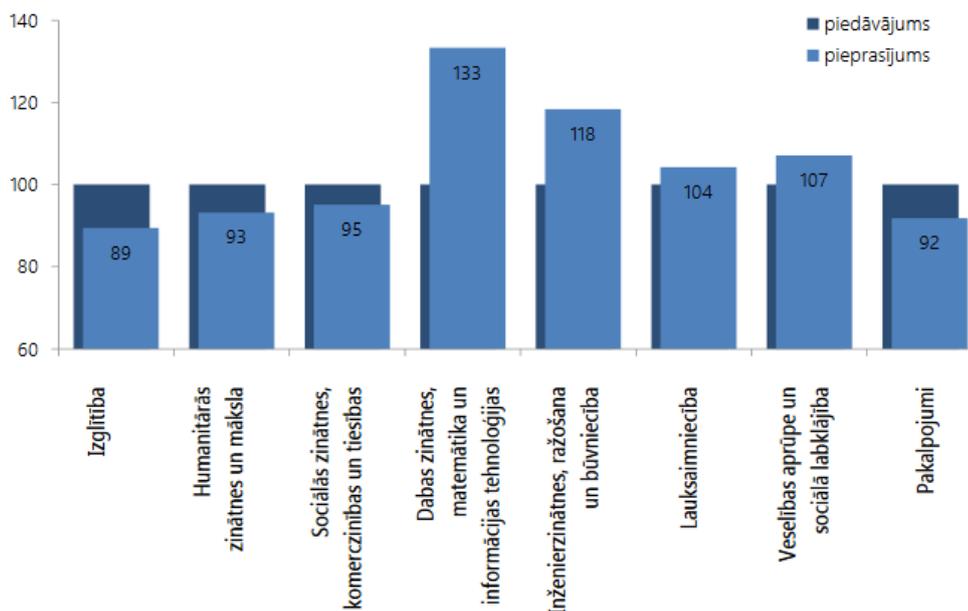
Bezdarba līmenis iedzīvotājiem ar augstāko izglītību sadalījumā pa izglītības tematiskajām grupām
2014.gads, % pret ekonomiski aktīvajiem iedzīvotājiem



1.att. Bezdarba līmenis iedzīvotājiem ar augstāko izglītību 2014. gadā (Avots: Ekonomikas ministrija, 2015)

Taču pēc statistikas datiem bezdarba līmenis juristiem ar augstāko izglītību nav augstāks par vidējo līmeni valstī. Tas ir ļoti tuvs pilnīgas nodarbinātības līmenim Latvijā (4%) un dabiskam bezdarba līmenim (līdz 5%), kas ir normāla un vajadzīga parādība, lai veicinātu nozares dalībnieku konkurenci un attīstību.

LR Ekonomikas ministrijas darbaspēka piedāvājuma un pieprasījuma prognozes ar augstāko izglītību sadalījumā pa tematiskajām grupām (procentos, pieprasījums pret piedāvājumu 2022.gadā) tiek atspoguļotas 2. attēlā.



2.att. Darbaspēka piedāvājuma un pieprasījuma prognozes (Avots: Ekonomikas ministrija, 2016)

Analizējot 2016. gada darbaspēka pieprasījuma prognozes, var secināt, ka pieprasījums pēc speciālistiem ar sociālo zinātņu izglītību, tostarp ar juridisko izglītību, pieaugs (1. tabula).

Savukārt, prognozēts nodarbināto skaits (tūkstošos) pa profesiju grupām (augstākās kvalifikācijas profesijas), ir atspoguļots 1. tabulā.

1.tabula. Darbaspēka pieprasījuma prognozes (Avots: Ekonomikas ministrija, 2016)

	Fakts		Prognoze	
	2015	2016	2022	2030
Zinātnes un inženierzinātņu speciālisti	21,8	22,8	28,8	37,2
Veselības aprūpes jomas speciālisti	12,7	13,2	16,3	20,6
Komercdarbības un pārvaldes (administrācijas) speciālisti	74,1	74,6	75,6	73,8
Juridisko, sociālo un kultūras lietu un tām radniecīgu lietu speciālisti	11,5	11,7	12,7	13,3
Informācijas tehnoloģiju speciālisti	6,3	6,8	9,9	14,3

Taču, speciālisti atzīst, ka valstī nenotiek kvalitatīva darba tirgus plānošana un prognožu izteikšana par iespējamo profesiju pieprasījumu nākotnes darba tirgū. "Neviens nav informējis, ka tuvākajos desmit gados vajadzēs tik darbiniekus iekšlietu sistēmai, tik – prokuratūrai, tik – advokatūrai, notariātam. Šāda plāna nav, turklāt juristi ir nepieciešami arī privātajā jomā. Nav pētījumu, kas izglītības iestādēm varētu pateikt priekšā kādas tendences” - norāda Dr.iur. K. Strada-Rozenberga (Ločmele, 2009)

Lai noskaidrotu darba tirgus pieprasījumu pēc juristiem, Ekonomikas un kultūras augstskola ikgadējās konferences “21st century challenges for economics and culture” ietvaros 2016. gada 08. aprīlī sarīkoja paneldiskusiju ar ekspertiem “Vai Latvijas tirgum joprojām ir vajadzīgi juristi un ekonomisti?”. Diskusijā piedalījās eksperti, kas pārstāvēja Ekonomikas ministrijas Ekonomiskās attīstības un darba tirgus prognozēšanas nodaļu, Valsts pārvaldes cilvēkresursu nodaļu, Latvijas Bankas Monetārās politikas pārvaldes Makroekonomikas analīzes daļu, Latvijas Darba devēju konfederāciju, Valsts ieņēmumu dienesta Personālvadības pārvaldi, kā arī SEB banku.

Diskusijas rezultātā tika secināts, ka juristi ir un būs vajadzīgi. Eksperti atzina, ka konkurence darba tirgū ir liela, taču pieprasījums pēc zinošiem un spējīgiem speciālistiem ir un saglabāsies tuvāko 6 gadu laikā.

„Pieprasījums pēc speciālām zināšanām pieaugs ar katru gadu, jo klienti meklē juridiskās konsultācijas, profesionālu juridisko atbalstu un pakalpojumu sniedzēju, kas ir īsts eksperts praktiskajā jomā” skaidro Čarlzs Volkerts, Robert Half Legal biroja izpilddirektors (Future Law Office 2020: Redefining the Practice of Law, 2015)

Sava darbā „Lawyers as Professional and as Citizens: Key Roles and Responsibilities in the 21st Century” eksperti no Hārvardas universitātes (Heineman, Lee & Wilkins, 2014) diskutē par juristu vietu un pienākumiem mūsdienu sabiedrībā un biznesa vidē, izšķirot trīs pamata lomas, kuras ir jāspēlē juristiem: 1) tehnisko ekspertu loma (expert technicians), 2) konsultantu loma (wise counselors), un 3) vadītāju loma (effective leaders). Tas, savukārt, nosaka viņu pienākumus attiecībā pret klientiem, tiesību sistēmu, pašu pārstāvēto organizāciju un sabiedrību kopumā. Lai pildītu šos pienākumus pienācīgi, juristiem ir nepieciešamas ne tikai pamata, bet arī specifiskas juridiskās kompetences.

Pamata juridiskās kompetences ietver (Hildner, 2014):

- Rakstiskās komunikācijas prasmes (written communication)
- Mutiskas komunikācijas prasmes (oral communication)
- Analītiskā domāšana (analytical abilities)
- Pētnieciskās kompetences (research skills)
- Juridiskās zināšanas (domain knowledge)

Polden (2012) savā darbā “Leadership Matters: Lawyers' Leadership Skills and Competencies” arī minēja tādas kompetences, kā rakstiskās un mutiskas komunikācijas prasmes. Turklāt, kā prioritāras kompetences tika nosauktas arī līderība, prasme strādāt komandā un orientēšanās uz klientu.

Penland (2008) analizē kompetences, kuras ir nepieciešamas “darījumu juristiem” (transactional/ deal lawyers). Tās ietver:

- Spēju saprast biznesa asociācijas, sniegt padomus par biznesa struktūrām, un sagatavot dokumentus, kas ir saistoši (vajadzīgi) biznesa asociācijām.
- Spēju pētīt faktus un veikt juridiskus pētījumus (ar akcentu uz padziļināto pārbaudi (due diligence)).
- Spēju sagatavot un slēgt darījuma dokumentus.
- Spēju identificēt un atrisināt ētiskas sekas starpnacionālajā praksē.

Lai veiksmīgi iekļautos darba tirgū, Hamilton (2013) uzskatā, ka gan juridiskām augstskolām, gan studentiem juristiem, jāsaprot, kādas kompetences ir nepieciešamas, lai studiju laikā attīstīt studējošos šīs kompetences.

Pētījuma metodoloģija

Lai sasniegtu pētījuma mērķi un pārbaudītu pētījuma hipotēzi, autori veica Latvijas uzņēmēju izlases aptauju. Aptaujā piedalījās 38 respondenti – darba devēji no dažādiem Latvijas ekonomikas sektoriem, kas atbildēja uz autoru jautājumiem.

Autori izmantoja pašu izstrādāto pētījuma instrumentu – anketu, kas sastāv no divām daļām: A) jautājumi par respondentu (uzņēmuma apraksts), un B) pētījuma jautājumi. Anketas struktūra aprakstīta 2. tabulā.

2.tabula. Anketas struktūra (Avots: autoru veidots)

Jautājuma kods	Jautājums	Jautājuma tips. Atbilžu varianti
A_Q1	Sektors	Slēgtais: ekonomikas sektori (8 atbilžu varianti)
A_Q2	Darbības ilgums	Slēgtais: darbības gadi tirgū (3 atbilžu varianti)
A_Q3	Darbinieku skaits	Slēgtais: 4 atbilžu varianti
A_Q4	Iesaiste starptautiskajā komercdarbībā	Slēgtais: 6 atbilžu varianti
A_Q5	Juridiskā apkalpošana	Slēgtais: 3 atbilžu varianti
B_Q1	Juristam, strādājošam starptautiskajā tirgū, nepieciešamas kompetences	Slēgtais: 14 kompetences ar vērtējumu Vērtējums pēc 3-balļu sistēmas
B_Q2 B_Q3	Pieprasījums pēc juristiem-speciālistiem starptautiskajās tiesībās	Slēgtais: 2 jautājumi ar vērtējumu (esošais pieprasījums, prognozējamais pieprasījums) Vērtējums: 5-balļu sistēma
B_Q4	Prakse	Slēgtais: 9 prasmes, nepieciešamas studentiem prakses vietā Vērtējums pēc 3-balļu sistēmas

Viens no sarežģītākajiem un nozīmīgākajiem anketas jautājumiem ir B_Q1 jautājums „Kādas kompetences ir nepieciešamas juristam – speciālistam starptautiskajās komercdarbības tiesībās?” Saraksts ar 14 kompetencēm, kas ir nepieciešamas juriskonsultam, strādājošam starptautiskajā tirgū, tika izveidots, par bāzi izmantojot juriskonsulta profesijas standartu (Profesijas standarts, 2010)

Respondentiem tika piedāvāts novērtēt katras kompetences nozīmīgumu, izmantojot 5 ballu skalu, kur “1” nozīmēja “mazsvarīga kompetence”, bet “3” - “ārkārtīgi svarīga”. Kompetenču saraksts ar tām piešķirtajiem nosaukumiem ir prezentēts 3. tabulā.

3.tabula. Juristam nepieciešamas kompetences (Avots: Profesijas standarts, 2010)

Jautājums	Kompetence	Jautājuma nosaukums
B_Q1.1	Spēja orientēties Latvijas, starptautisko un Eiropas Savienības tiesību sistēmās	Tiesību sistēmu pārzināšana
B_Q1.2	Spēja patstāvīgi izmantot tiesību avotus	Informācija
B_Q1.3	Spēja sekot tiesu praksei un juridiskai literatūrai	Zināšanu aktualizācija
B_Q1.4	Spēja izstrādāt, analizēt un apliecināt tiesisku darījumu dokumentus un tiesību piemērošanas aktus	Darbs ar darījumu dokumentiem
B_Q1.5	Spēja izstrādāt juridiskos dokumentus, t.sk. svešvalodās	Dokumentu izstrāde
B_Q1.6	Spēja konsultēt personas juridiskajos jautājumos, tai skaitā ES un starptautiskajā līmenī	Klientu konsultēšana
B_Q1.7	Spēja pārstāvēt valsts un pašvaldību institūcijas, kā arī personas juridisku jautājumu risināšanā	Klientu pārstāvība
B_Q1.8	Spēja argumentēt juridiskos slēdzienus	Argumentācija
B_Q1.9	Spēja sistematizēt iegūto juridisko informāciju, izmantot iegūto informāciju lēmumu sagatavošanā, pieņemšanā un izpildē	Sistematizācija
B_Q1.10	Spēja veikt profesionālu un/vai zinātnisku pētniecību atbilstoši profesionālajai un ieņemamā amata specifikai	Pētniecība
B_Q1.11	Spēja sazināties valsts valodā un divās svešvalodās	Svešvalodas
B_Q1.12	Spēja pārrunāt un argumentēti apspriest praktiskus jautājumus un risinājumu ceļus ar kolēģiem, klientiem un vadību; spēja strādāt ar citiem cilvēkiem	Komunikācija
B_Q1.13	Spēja plānot un organizēt darbu, lai veiktu konkrētus uzdevumus	Darba plānošana
B_Q1.14	Spēja izvērtēt un pilnveidot savu un citu cilvēku darbību	Rezultātu novērtēšana

Ne mazāk svarīgs bija arī B_Q2 jautājums par tagadējo un prognozējamo pieprasījumu pēc juriskonsultiem darba tirgū. Atbildes uz šo jautājumu ļāva iegūt vērtīgu informāciju par darba devēju noskaņojumu pret augstskolas piedāvāto darba resursu un novērtēt studiju procesu pēc tā atbilstības darba tirgus prasībām. Turklāt šis jautājums ir svarīgs, jo pēc Latvijas Republikas likumdošanas attiecībā uz augstskolu akreditāciju, absolventu nodarbinātības līmeņa novērtēšana ir obligāta – vērtējot gan esošo situāciju, gan veicot prognozes tuvāko 6 gadu laikā. Respondentiem tika piedāvāts novērtēt tagadnes un turpmāko darba tirgus pieprasījumu pēc juriskonsultiem, izmantojot 3 baļļu skalu, kur „1” nozīmēja „ļoti zems pieprasījums”, bet „3” – „ļoti augsts pieprasījums”.

Kopumā pētījumā piedalījās 38 darba devēji no dažādiem Latvijas ekonomikas sektoriem. Apkopojot respondentu datus, tika secināts, ka no tautsaimniecības nozarēm visvairāk bija pārstāvēta transporta un uzglabāšanas nozare – 26%, otrajā vietā – citi komercpakalpojumi (21%), trešajā vietā apstrādes rūpniecība – 13%. Bez tām, aptaujā piedalījās būvniecībā (8 %), tirdzniecībā un izmitināšanā (3%), kā arī citās nozarēs (29%) strādājošie darba devēji. Lielākā daļā aptaujāto uzņēmumu (55%) darbojas Latvijas tirgū ilgāk par 10 gadiem. No 5 līdz 10 gadiem strādā 24% aptaujāto darba devēju. 21% respondentu darbojas mazāk par 5 gadiem.

Lielākā daļā (66%) no aptaujātajiem uzņēmumiem ir mikro- (12 vai 32%) un mazie (13 vai 34%) uzņēmumi. Aptauja piedalījās 6 vidējie uzņēmumi (16% no aptaujāto skaita), kur darbinieku skaits ir līdz 250, un 7 lieli uzņēmumi (18%), kur darbinieku skaits pārsniedz 250.

Uz jautājumu, kādā veidā uzņēmums ir iesaistīts starptautiskajā komercdarbībā, 6 aptaujātie vai 16% atbildēja “Uzņēmumam ir filiāle/pārstāvniecība ārvalstīs”, “uzņēmumam ir ārvalstu partneris (klienti, piegādātājs)” atbildēja 8 vai 21%, “darbaspēks ir no ārvalstīm” atbildēja 5 uzņēmumu pārstāvju vai 13%, “uzņēmums ir reģistrēts ārvalstīs” atbildēja 1 uzņēmums vai 2% no kopējā aptaujāto skaita, “uzņēmums kādā citā veidā ir iesaistīts starptautiskajā komercdarbībā” atbildēja arī 1 uzņēmuma pārstāvis (3%). “Uzņēmums nav iesaistīts” atbildēja 45% no aptaujātajiem vai 17 uzņēmumu pārstāvji. Var secināt, ka lielākā daļa no aptaujātajiem uzņēmumiem (55%) ir iesaistīta starptautiskajā komercdarbībā.

Atbildes uz nākamo jautājumu “Kas nodrošina Jūsu uzņēmuma juridisko apkalpošanu?” liecina, ka 87% uzņēmumos jurista pienākumus pilda profesionālie juristi, neatkarīgi no apkalpošanas vietas – vai tie ir savi darbinieki (50% vai 19 uzņēmumi), vai tiek izmantoti ārējo juristu pakalpojumi (37% vai 14 uzņēmumi). Tikai 13% vai 5 uzņēmumi jurista pienākumus uzticas citam speciālistam. Tas liecina par to, ka profesionāli juristi ir pieprasīti un to pienākumu pildīšana nevar tikt nodota citiem speciālistiem.

Pētījuma rezultāti

Kompetenču saraksts, kas veido anketas B_Q1 jautājumu (kompetenču novērtēšanas skala) tika testēta, lai noteiktu iekšējo saskaņotību starp skalas elementiem. Kā mērvienība tika izmantota Kronbaha koeficients (Cronbach's alpha, α). Tas ir vērtēšanas skalas iekšējās saskaņotības mērs. Kronbaha koeficients (α) kompetenču vērtēšanas skalai kopumā ir vienāds ar 0,854. Tas liecina par skalas iekšējās saskaņotības augstu līmeni.

4.tabula. Uzticamības analīzes rezultāti (Avots: autoru veidots)

Kompetence	Mainīgā un mainīgo summas korelācija (Item-Total Correlation)	α , ja elements tika dzēsts (alpha if item deleted)
Tiesību sistēmu pārzināšana	0,402	0,849
Informācija	0,362	0,853
Zināšanu aktualizācija	0,455	0,847
Darbs ar darījumu dokumentiem	0,665	0,836
Dokumentu izstrāde	0,571	0,840
Klientu konsultēšana	0,716	0,832
Klientu pārstāvībā	0,469	0,846
Argumentācija	0,450	0,847

Sistematizācija	0,693	0,832
Pētniecība	0,669	0,833
Svešvalodas	0,363	0,853
Komunikācija	0,484	0,845
Darba plānošana	0,424	0,849
Rezultātu novērtēšana	0,397	0,852

Analizējot statistikas informāciju, kas ir apkopota 4. tabulā, tika noteikts, ka visiem elementiem ir jāpaliek skalā, jo, dzēšot jebkuru no tiem, kopējais skalas Kronbaha koeficients samazināsies.

Juristiem nepieciešamas kompetences tika saraņžētas, balstoties uz to vidējo nozīmīgumu respondentu uztverē (5. tabula).

5.tabula. Juristiem nepieciešamas kompetences – nozīmīgums respondentu uztverē (Avots: autoru apkopojums)

Kompetence	Vidējais vērtējums	Kompetence	Respondentu skaits, kas novērtēja kompetenci ar maksimālo vērtējumu (3)
Tiesību sistēmu pārzināšana	2,74	Informācija	92,11%
Informācija	2,92	Argumentācija	84,21%
Zināšanu aktualizācija	2,79	Sistematizācija	81,58%
Darbs ar darījumu dokumentiem	2,74	Zināšanu aktualizācija	81,58%
Dokumentu izstrāde	2,58	Darbs ar darījumu dokumentiem	73,68%
Klientu konsultēšana	2,63	Tiesību sistēmu pārzināšana	73,68%
Klientu pārstāvībā	2,82	Klientu pārstāvībā	73,68%
Argumentācija	2,84	Darba plānošana	71,05%
Sistematizācija	2,71	Klientu konsultēšana	65,79%
Pētniecība	2,53	Svešvalodas	65,79%
Svešvalodas	2,63	Dokumentu izstrāde	63,16%
Komunikācija	2,61	Komunikācija	63,16%
Darba plānošana	2,68	Pētniecība	63,16%
Rezultātu novērtēšana	2,55	Rezultātu novērtēšana	60,52%

Lai novērtētu rezultātu uzticamības pakāpi, ranžēšana tika veikta arī balstoties uz respondentu skaitu (% no kopējā respondentu skaita), kas attiecīgo kompetenci novērtēja ar visaugstāko vērtējumu.

Vērtējot juristiem nepieciešamo kompetenču nozīmīgumu, aptaujas respondentu viedokļi par svarīgākām kompetencēm vienbalsīgi sakrita. Gan pēc vidēja vērtējuma, gan pēc respondentu skaita, kas novērtēja konkurentu kompetenci ar maksimālo vērtējumu “3”, visnepieciešamākā kompetence ir Informācija, jeb spēja patstāvīgi izmantot tiesību avotus.

Otrajā vietā pēc vidēja vērtējuma ir Argumentācija vai Spēja argumentēt juridiskos slēdzienus. Dotā kompetence ir otrajā vietā arī pēc respondentu skaita, kas novērtēja konkurentu kompetenci ar maksimālo vērtējumu “3”.

Trešā svarīgākā spēja pēc vidēja vērtējuma ir Klientu pārstāvībā vai Spēja pārstāvēt valsts un pašvaldību institūcijas, kā arī personas juridisku jautājumu risināšanā. Taču, pēc respondentu skaita, kas novērtēja konkurentu kompetenci ar maksimālo vērtējumu “3”, dotā kompetence ir ceturtajā vietā kopā ar vēl divām kompetencēm.

Savukārt, tik svarīgas jurista kompetences, pēc autoru viedokļa, ka darbs ar darījumu dokumentiem ir sestajā vietā pēc vidēja novērtējuma un viena no trim kompetencēm ceturtajā vietā pēc respondentu skaita, kas novērtēja konkurentu kompetenci ar maksimālo vērtējumu “3”.

Respondentu viedokļi sakrīta arī pie kompetences Klientu konsultēšana, kas ieņem svarīgu vietu jurista profesijā. Šī kompetence atrodas tikai devītajā pozīcijā pēc vidēja vērtējuma. Tā arī ir devītajā vietā skalā pēc respondentu skaita, kas novērtēja konkurentu kompetenci ar maksimālo vērtējumu “3”.

Respondentu viedokļi ir tuvu vērtējot kompetences Pētniecība un Rezultātu novērtēšana, jo gan pēc vienas skalas, gan pēc otras, abas kompetences ir izvietotas pēdējās vietās.

Vērtējot pieprasījumu pēc juristiem, respondenti vienbalsīgi atzina, ka svarīgākas kompetences juristam ir spēja patstāvīgi izmantot tiesību avotus un spēja argumentēt juridiskos slēdzienus. Autores piekrīt respondentu viedokļiem, taču tādas kompetences kā Darbs ar darījumu dokumentiem, Dokumentu izstrāde un Klientu konsultēšana ir vitāli nepieciešamas juristam, kas strādās starptautisko darījumu nodrošināšanas jomā.

Kā arī autores nepiekrīt respondentu zemu novērtētām svešvalodu zināšanām un komunikācijas prasmēm. Strādājot starptautiskajā tirgū, ir nepieciešams gan lasīt normatīvo bāzi svešvalodā, gan sagatavot dokumentus svešvalodā, gan komunicēt ar klientiem un partneriem no dažādām valstīm. Līdz ar to svešvalodu pārzināšanai jābūt ļoti augstā līmenī. Līdzīgi arī ar komunikāciju. Darbs starptautisko darījumu nodrošināšanā paredz daudzpusīgu komunikāciju un attiecīgas prasmes no jurista.

Uz jautājumu „vai Jūsu uzņēmumam ir nepieciešams tāds speciālists - jurists ar specializāciju starptautiskajos komercdarījumos” 26 respondenti atbildēja apstiprinoši, savukārt 10 respondenti apgalvoja, ka šada profila speciālists viņiem nav vajadzīgs.

Nākošais jautājums, kas bija uzdots respondentiem – „vai, pēc Jūsu domām, pašlaik darba tirgū ir pieprasījums pēc speciālistiem, kas ir ieguvuši augstāko izglītību tiesību zinātnēs ar specializāciju starptautiskās komercdarbības tiesībās?” Lielākā respondentu daļa – 25 cilvēki atbildēja apstiprinoši (14 – jā un 11 drīzāk jā). 8 respondenti uzskata, ka pieprasījums pēc juristiem ir daļējs. 5 respondenti uzskata, ka visdrīzāk pieprasījums nebūs. Noraidoši neatbildēja neviens.

Savukārt, uz jautājumu - vai, pēc Jūsu domām, šādi speciālisti būs nepieciešami darba tirgum tuvāko 6 gadu laikā - apstiprinoši atbildēja 29 respondenti (18 – jā un 11 - drīzāk jā). 3 respondenti uzskata, ka pieprasījums pēc juristiem ir daļējs. 6 respondenti uzskata, ka visdrīzāk pieprasījums nebūs. Noraidoši neatbildēja neviens. Respondentu atbildes apstiprina Ekonomikas ministrijas prognozes, ka 6 gadu laikā pieprasījums pēc juristiem pieaugs.

Precizējot respondentu viedokļus, tika uzdots jautājums, vai juristam uzņēmumā, kuram ir starptautiskie partneri vai tas kādā citā veidā iesaistīts starptautiskajā biznesā, ir nepieciešama speciālā izglītība starptautiskajās komerciesībās. Apstiprinoši atbildēja 27 respondenti, savukārt, 10 uzskatīja, ka nav nepieciešama. Vēl viens respondents nespēja atbildēt. Tas liecina, ka lielākai daļai respondentu ir svarīga jurista izglītība, ir svarīgas arī tā specifiskās prasmes un kompetences. Respondentu viedoklis pilnībā sakrīt ar paneldiskusijas “Vai Latvijas tirgum joprojām ir vajadzīgi juristi un ekonomisti?” ekspertu viedokļiem, ka zinoši speciālisti savā jomā ir un būs pieprasīti.

Secinājumi

Dotais raksts pētā pieprasījumu pēc juristiem Latvijas darba tirgū tuvākos 6 gadus, kā arī analizē, kādas spējas un kompetences aptaujātas personas uzskata par vajadzīgām.

No Latvijas darba devēju viedokļa, vispieprasītākās spējas juristam-speciālistam starptautiskajās komercdarbības tiesībās ir 1) spēja patstāvīgi izmantot tiesību avotus; 2) spēja argumentēt juridiskos slēdzienus; 3) spēja sistematizēt iegūto juridisko informāciju, izmantot iegūto informāciju lēmumu sagatavošanā, pieņemšanā un izpildē; 4) spēja sekot tiesu praksei un juridiskai literatūrai; 5) spēja izstrādāt, analizēt un apliecināt tiesisku darījumu dokumentus un tiesību piemērošanas aktus. Vienlīdzīgi ar pedējo norādīto spēju, darba devēji uzskata par vajadzīgo arī spēju orientēties Latvijas, starptautisko un Eiropas Savienības tiesību sistēmās, un spēju pārstāvēt valsts un pašvaldību institūcijas, kā arī personas juridisku jautājumu risināšanā.

Izvirzītā pētījuma hipotēze tika apstiprināta (*HI: Šobrīd pastāv un turpāk arī tiek prognozēts pieprasījums pēc juristiem Latvijas darba tirgū*). Gan respondentu aptaujas dati, gan statistikas dati, gan ekspertu viedokļi liecina, ka pieprasījums pēc speciālistiem- juristiem Latvijas darba tirgū ir un būs.

Kā atzīmē Latvijas Juristu biedrībā: "Ja cilvēkam ir zināšanas un reputācija, darbs ir un būs." (Ločmele, 2009)

Dotais raksts un pētījuma rezultāti nodrošina teorētisko un empirisko bāzi turpmākiem pētījumiem par juristu nepieciešamību darba tirgum Latvijā. Autoru izveidotais pētījuma instrumentu var izmantot citi pētnieki, pētot pieprasījumu arī par citām profesijām, izdarot attiecīgas izmaiņas kompetenču sarakstā.

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CIVIL LIABILITY AND RELATED CATEGORIES: RELATIONSHIP AND RATIO

Alexander Baikov

Baltic International Academy, LV-1003, Riga, Latvia

Abstract: This paper investigates the continuing relevance and despite the sustained interest in the doctrine, law enforcement, still remains controversial and always new, the issue of civil liability, serving as a central "through" Institute invariably reveals itself in the mechanism legal regulation of social relations that are the subject of civil rights. The article analyzes the problems of the nature and scope of civil liability, the place and role in the process of its implementation obligations, duties duty, sanctions, subjective measures of protection of civil rights. Relevance, novelty and practical significance of science-based solution to the problem of civil liability are defined as occurring frequently in the scientific literature attempts, both theoretical grounds for denial of the institution of civil liability, and with the conditions dictated by the modern civil circulation need critical reflection conditions for attracting accountable and create new conceptual approaches to their rationale, as well as to prevent them from mixing with other means of protection of subjective civil rights. The article reveals the concept of civil liability in the context of the concepts are closely associated with it. Diversity of viewpoints on the nature of civil liability, characterizing its constitutive features largely due to the difference of tasks that of the researcher. In this regard, the article on the basis of existing legislation, the scientific literature on the subject of the present study is given not only to analyze the nature, characteristics, conditions of the onset of civil liability, but also revealed the inherent characteristics associated with her category (duties, obligations, sanctions, coercion, subjective measures of protection of civil rights), constitutive features collectively characterize not only their nature and purpose but in the normal and stable operation of civil circulation), as well as recognition by the creatures of the issues. It must be noted that government coercion, forced character - the quality of any sanctions legal norm, but not every sanction is a measure of legal liability in the article justifies a broad understanding of civil liability. In this case, it is not about sides or aspects of civil liability, and the various forms of its realization: negative and positive. Fundamental importance is the difference between the concepts of duty, duties, responsibilities and obligations. Since the basis of occurrence based on different legal facts, insofar identification identification debt obligations, on the one hand and responsibility - the other is unacceptable. It should be emphasized that all the commitments, without exception, are proprietary in nature. It seems that in recent years, gaining recognition theory causing receiving enough distinct expression, especially in the international legal acts, acts of private law codification. position is that responsibility - it forced recovery of an existing debt, including for claims and forfeit. In this debt collection does not require proof of fault and establishing debtor. For this is enough neposledovavshego the debtor of his duties for any reason. The concept of „sanction” and „responsibility” are as subordinates and not coordinating nature. In this first wider than the second. Measures of civil liability are defined in article as a special kind of sanctions, in practice characterized by the possibility of occurrence of mainly negative consequences for the offender (but not excluding, and positive form of realization of civil liability and therefore the consequences of a positive nature) that apply for the breach of duty. It is proposed to distinguish between static and dynamic (under application) civil liability.

Keywords: *civil responsibility, commitment, obligation, sanction, static responsible, dynamic responsibility, protection of civil rights, the protection of civil rights.*

Introduction

In its main part of jurisprudence (analytical jurisprudence) is a concept of lawful behavior in civil circulation. However, this does not exclude, but requires increased attention to ensure lawful behavior, safety and protection of subjective rights and interests protected by law in cases of violations and abuse. In this context it is not surprising that the issue of civil liability, which is a central, cross-cutting, which manifests itself in all stages of the operation mechanism of legal regulation of property relations institute, and related concepts and categories, not only does not lose its relevance, novelty and practical significance, but invariably, in the development of „enriched” new, needs to be addressed problems. One of them was the subject of the present investigation.

Despite the apparent close relationship of civil responsibility and obligations, duties, duty, subjective measures of protection of civil rights, it is imperative to take into account the inherent qualities and

characteristics of the role that each of these categories plays in ensuring the engagement and, in a broader sense - normalization civil circulation. It should be noted a variety of opinions about the nature, types, forms, conditions onset of civil liability, different, sometimes radically differing interpretations of the above categories, their place and role in the mechanism of civil regulation of property relations. Meanwhile, adequate implementation of social and instrumental value institute civil liability, conceivable only if the condition is true, sound and efficient regulatory theoretically designed, virtually confirmed the relations and relationships discussed in this article concepts.

Urgent need to establish the relationship between the civil liability and obligation, as well as other related civil liability categories emerged long ago, but still not solved. This article is devoted to the study of nature and the features that characterize as civil liability and obligations, duties, protective measures of subjective civil rights.

Literature Review

The problem of civil liability, as one of the cross-cutting, the central issues of civil rights, has long attracted the attention of scientists and jurist. Widely known classical studies B. Antimonova, M. Agarkova, S. Bratus, V. Gribanova, O. Ioffe, A. Komarova, N. Malein, V. Popondopulo, V. Tarkhova, P. Varul, A. Bitans. But today, interest in investigating the concepts of nature, types, forms, and other more or less connected with the civil liability issues does not abate. In this connection one can mention the work A. Baikov, E. Barinov, K. We, K. Torgans, E. Osipov, B. Pokutny, M. Sinyavskaya, V. Khokhlova, H. Weber, A. Baikov, I. Zarins, Y. Andreev and many other authors. Problem of civil liability the subject of numerous doctoral research D. Karhalev, A. Egoshin, V. Novikov, A. Andreev, E. Vavilin.

Increased interest in the issue of civil liability associated with both occurring in the literature attempts theoretical grounds for denial of the institute of civil liability, as well as with the terms dictated by the modern economic circulation need critical reflection conditions to attract civil liability and prevent them from mixing with other means of protection of subjective civil rights.

Concept of civil liability

Civil liability in civil law as a general rule involves obligations and is therefore considered in connection with them. In contrast to other, non-binding relationship, including rem, inheritance, family, relationships that are emerging in the field of intellectual property, the category of civil liability has a special meaning and purpose of securing or otherwise - is expressed in the focus on the proper performance of obligations in kind. Despite the very significant role of civil liability in the mechanism of legal regulation of property relations, even in the French legal science, traditionally „... a lot of attention paid to the specifics of civil liability and ranks first in the world to systematically develop this problem” (Varkallo, 1978). The term „civil liability” appeared only in the XVII century, and its concept and scope are still the subject of heated debate.

Not linked relationship provides a special, specific remedies. For example, the forms of protection of property rights, ownership of property claims are (st. 1044 - 1066 Civil Law (30) - in the future), ie by bringing vindication claim. In this case the loss of possession owner may choose to use or claim of ownership or possession of remedies (st. 920 - 926). In the case of death of previously lost things corporeal relations is by the legal nature absolute, relative transforms into a legal relationship (commitment). And since the new owners expressed interest in circumstances in reimbursement of lost things, it becomes possible and valid only under obligation using a form of protection as civil liability. Thus, ownership acts as a natural prerequisite for the emergence of obligations, including to compensate for damage (Krasavchikov, 2005). The situation is similar with respect to the exclusive rights, such as rights of authorship (intellectual property rights) and other absolute relationships. In civil law doctrine no consensus on the question of understanding the spirit and determination of civil liability. Multiplicity of iew is largely due to the difference in tasks that of the researcher. Thu, the analysis of civil liability as a kind of social responsibility inevitably leads researchers to look for signs that allow to allocate legal and including civil liability system in other types of social responsibility

and characteristics of civil liability as a form of state coercion. So, as a form of state coercion associated with sanctions property to restore the violated rights and promotion of normal economic relations legally equal participants in civil commerce, considered civil liability V.P. Gribanov (Civil law. In 2 vols. Textbook. Vol.1., 1993). B.I. Puginskiy noted that, "although the liability may be implemented in an uncontested (neiskovom) order and even voluntarily assigned by the debtor by paying sums of penalties or damages to the injured party, it does not change its state enforcement " (Puginskiy, 1984). In the same vein, as a sanction, civil liability determines N. Egorov, in terms of which - it is a sanction applied to the offender as entrusting it more civil charges or deprived of their civil rights (Civil law. Part I. Textbook, 1996).

In this regard, it should be emphasized that government coercion, forced character - the quality of any sanctions legal norm. However, not every sanction is a measure of legal liability. Responsibility - is just such a sanction, and it is impossible not to agree with O.S. Ioffe, which involve certain deprivation of property or personal nature (Ioffe, 2003).

Not to mention approaches scientists jurist who share a broad approach to the concept of legal liability, ie releasing along with a retrospective (negative) and prospective (positive) legal responsibility, understanding which, however, is also not unique. So one of them, namely, V. Tarhov characterizes legal responsibility as regulated by law duty to give account of their actions (Tarhov, 1973).

Noteworthy assessment of civil liability in the practical application aspect, caused by the need to study the application of legal rules governing the liability for breach of a contractual obligation, as it does, for example, M. Braginsky considering civil liability as statutory measures impact on the property defaulting debtor, which exists in two forms: (1) compensation for damages and (2) payment of the penalty (Russian civil law. Course of lectures. Part One, 1996). Pravda quoted author proposed approach is acceptable, if we mean only a static civil liability.

Obligation, duty, and civil liability

Enforceable in the event of breach of duty, are an integral part of an obligation is a feature that expresses the close relationship commitment and responsibility. Sanction - a necessary element of liability. In the broadest sense, is not enforceable duties are not legal (Novicky, Luntz, 1950). As evidence of this we can refer to the contract of bank credit (bank loans), which seems to be not one-sided and real as his characterize some authors (Fleyshits, 1956), and bilateral and consensual (Baikov, 2005), despite the fact that it represents a kind of a loan agreement, which is really one-sided and real (Baikov, 2005; Torgans, 2008).

One can hardly agree with the expressed in the scientific literature point of view, which was expressed supporters questioned the property of all obligations. (Novicky, Luntz, 1950). The fact that only a relative civil matter, which is present, at least one property, enforceable, the moment can be considered an obligation. Content of such obligations is the right requirements (certain behaviors, transmission things the payment of money, etc.) and offsetting his duty, including and duty payment subject to sanctions violation. Along the way, it should be noted that the reduction of liabilities relative to civil relations and therefore their identification more than concerning. It seems that the content of the obligation is much „richer” content relative civil legal.

Simultaneously with the appearance of the concept of „right” appeared and the concept of „commitment” and „responsibility”. Explore the ancient right of A. Gusakov noted that responsibility, „as a surrogate for the original and primitive satisfaction”, in the form of remuneration claimed by the victim „is the first step towards the establishment of the first and oldest commitments” (Ganders, 1896). It is obvious that since the formation of the concepts of „commitment” and „responsibility” has appeared in the task of establishing relations between them. It is known that since the days of ancient Greek and Roman law, and then drevnegermanskogo rights differed concept of „duty” and „responsibility”. As noted by M. Agarkov, legal facts, by virtue of which the liability arises (Haftung), did not coincide with the legal facts of which arose debt. Duty and belonging to the creditor the right

to claim considered as constituting a commitment and responsibility - as the legal guarantees of performance of the latter (Agarkov, 2002).

This widely known issue was important in the formation and historical development of ideas about commitment in all, without exception, legal systems retsepiirovavshih Roman private law. Speaking of the earlier emergence and development of the concept of responsibility, which was due to the possibility of coercion, I. Pokrovsky said that emerged from the sphere of civil legal liability relations as an embryo, „... the idea of” duty „(Schuld) disappeared in the idea of responsibility (Haftung); possible in certain types of ”debt” represents only occasions (causae) ...” (Pokrovsky, 1998), interpreted only as the basis of the latter. As a result, S. Brother came to a definite conclusion is not, which obviously limited civil law and can not be extended to the Anglo- American law that „... in the modern bourgeois law duty and responsibility in the undertaking merged” (Bratus, 1976).

The problem of the debt and responsibility has attracted the attention of many German scientists jurist. For example, A. Brienz wrote that „the concept of liability and its strength lies in the responsibility” (Dernburg, 1904). In turn, the famous German scientist and novelist H. Dernburg, opposing A. Brienz seems quite rightly pointed out that the last (A. Brienz) mixes cause and effect, because „the right of enforcement is set for commitments and followed him, but it does not have the obligation itself” (Popondopulo, 1980).

Subsequent researchers have repeatedly appealed to the problem of the debt and liability, estimated it is not unique. So M. Agarkov, believing that ”the duty and responsibility of the undertaking as a whole is not more than the obligation of the debtor in a binding relationship” (Agarkov, 2002), essentially equated them. In the same vein he wrote and S. Bratus, who believed that the Soviet law, the question of duty and responsibility distinction does not matter, because the responsibility is a „state coercion indirect discharge of duty” (Bratus, 1976). But the base of the obligation and, accordingly, different debt and therefore to talk about their identity after the cited author is hardly correct. Essentially M. Agarkov recognizes this, stressing that „... sanctions either directly aimed at getting the lender in kind what is owed on the obligation (here content sanctions, but not responsibilities and obligations are identical, but their bases are different), or act directly and aim to redress the lender against default losses incurred or the amount fixed by law (legal penalty, penalty), or to recover damages, and payment of the fine” (Agarkov, 2002). Here the identity commitments and consequences of default excluded as damages and payment of a fine - this course other than the enforcement of obligations. Says the same author quoted: „If sanctions are not aimed at specific performance, the changing content of the obligation. Instead obligation to transfer the thing to do the job, etc. comes into effect obligation to compensate for losses caused either (i) to pay a fine” (Agarkov, 2002). Thus, the content and grounds of liability, on the one hand, and the obligation on the other - are different. Despite the obvious links the concepts of „sanction” and „responsibility”, they are also different and represent different consequences of the breach and relate to each other as genus and species. This conclusion (the term „sanction”, regarded as state coercion, wider concept of „responsibility”) favored by most authors.

It is also important that, although M. Agarkov and S. Brother were consistent defenders of the principle of guilt, their views are essentially directed to the establishment of the principle of causing. The main idea and the main message of this theory is the proposition that liability - is forced recovery of an existing debt, including for claims and forfeit. In this debt collection does not require proof of fault and establishing debtor. For this is enough not followed the debtor of his duties for any reason (Agarkov, 2002; Bratus, 1976).

Can not agree with B. Antimonovym, denied the identity of duty and responsibility. „Proper execution obligations - he said, - eliminates civil liability ... Under such conditions it is impossible to say that there is an element of responsibility obligations. Under normal execution responsibility is only possible in terms of ... Responsibility - a tool of motivation, and, if necessary - and enforcement debtor to execution. If so, it is evident that the aim and means are very closely related, however, can not be merged into a single phenomenon” (Antimonov, 1962). As can be seen, the author analyzes and uses only the notion of responsibility and commitment. Sanction, which is broader than the notion of responsibility in case of conscientious performance anyway - consistent, voluntary contractual

program implementation remains unrealized as unclaimed opportunities, and implementation of sanctions, including responsibility - it is a reality that appears in connection with the breach of the obligation.

Obligation and duty

At the same time we can not ignore sometimes encountered identifying the concepts of „commitment” and „duty”. For example, in the insurance contract, the policyholder shall notify the insurer of any circumstances that are essential for determining the probability of occurrence of the insured event and the insurance risk (the size of potential losses from its onset), as these circumstances were known to him, or should be known at the time of conclusion of the insurance contract (Article 5 of the law of the Republic of Lithuania of 10 June 1998 „On the insurance contract” (10.06.1998. "Law on Insurance Contract"). Here we are talking about the relationship between the insured and the insurer and the insured provides an obligation to commit to specific action against the insurer: to provide the necessary information for procuring insurance and false information. But in this case there is no active element obligations and, in fact, so the obligations in terms of st. Demand from the insured of the duty and in case of default of its obligation to apply the sanctions set for the insurer is not entitled to, unable to force the insurer to post this information, as well as to recover damages or penalty. By virtue of Article 8 of this law a contract of insurance may be invalidated since it was committed, and paid the premium in this case is not refundable. In other words, the message of this information - is just one of the conditions of validity of the insurance contract. And as the message above information is not the responsibility of the undertaking (as its passive element) are not applicable rules governing action obligations, the consequences of their default and termination.

Problem of dependence liability and civil liability

Considerable theoretical and practical interest is the solution the fate of its obligations after the occurrence of the violation and responsibility, which is based on a common problem according to the obligations and responsibilities. Terminated if the former obligation and in its place, a new, or changes only the content of this commitment and what changes in this regard in the obligation occur? In the latter case, obviously, the content commitments expressed in the duties performed in kind, payable sanctions acquires new content or changing its original content, which is expressed exclusively in charge of monetary compensation value of the obligations and the payment of the penalties (Braginsky, 1967; Krasnov, 1959).

In case of impossibility of performance of the obligations of an innocent, as well as in the case termination of the contract commitment is definitely terminated. Parties are not exempt only on the duties of his performance, but also from liability for non-performance. Naturally, the breach of the obligation, which occurred prior to the termination of the obligation by the same legal facts, not eliminated. Expiry of the period of limitation is not only the right to demand termination (st. 1893 GBs), but the loss of sanctions that essentially equivalent to termination obligations. In case of delay performance of the obligation and the loss of the lender interest at its actual performance and the performance of the proposed refusal to accept requests for specific performance requirement is replaced damages incurred due to the failure of one party to the other party and the related failure of the first side of the execution or receipt of duly executed (Zamenhof, 1967).

The problem of correlation of the obligation breached and a recourse liability

No less important question of the relationship of the obligation breached and a recourse liability. Subrogation responsibility - it is essentially self, derived from the cessation of the main obligations whose content is the transfer performed by the debtor innocent guilty subdolzhnika, recourse obligation (Novitsky, 1952; Smirnov, 1960).

Responsibility is always accompanied by an obligation. According to Art. 1594 GBs it exists even in those cases where this in the contract does not say anything. With the proper performance of the obligation issue of liability as a form of sanction does not arise at all and there is only conceivable as a

possibility. In the event of a change in liabilities: its content is becoming a requirement for specific performance and for payment of penalties, or only requirement to pay penalties.

Given the above, but not discounting the positive forms of implementing the responsibility to agree with those who consider the civil liability of the property as negative consequences for the offender or coming in the form of deprivation of subjective civil rights under the main obligation, either in the form of laying new or additional civil responsibilities in addition to basic obligation (Problems of the general theory of law and the state: Textbook for Universities, 2002; Fleyshits, 1956; Baikov, 2005). After a breach in which responsibility is implemented - is transformed primary obligation.

Obviously, we can not agree with B. Antimonova that contractual liability - is „... a secondary obligation generated by the primary due to its violation of” (Antimonov, 1962), accented thus a direct link between the occurrence of primary responsibility and obligation. Following the logic of the author can be said that the secondary obligation, in his opinion, is characterized by the following features: (1) subjects - are unchanged, the same as in the primary obligation; (2) the content - and the right to claim specific performance obligation and payment of penalties or sanctions only payment, expressed in monetary compensation value of the liability and the amount of fines; (3) the object - the subject of a primary obligation, or in certain cases - the cost and the amount of sanctions. Base as a secondary obligation is the actual composition of the complex, which includes the primary obligation and offense. As is well known as a legal facts can serve themselves civil rights and legal (Joffe, 2003; Krasavchikov, 2005; Gurevich, 1976; Ennektserus, Kipp, Wolf, 1949).

Strictly speaking, in the same complex is a collection of the actual composition of the underlying obligation arises from harm (Articles 2347 - 2368 GB) or illegal (unjust) enrichment (Articles 2369 - 2392 PP), facts, if they constitute an offense. It is about objectively existing proprietary relationship and the fact of its violation (harm, unjust acquisition or saving). More than obvious that this premise is valid with respect to the absolute legal and other facts of the infringement, together forming a complex legal structure. In the present context the commitment of harm or misuse of (unjust) enrichment (purchase, savings) and liability arising from the breach of the primary obligation similar because arise from similar bases (complex legal structure), allowing, at the same time, monetary compensation for damages. And the fact that liabilities arising from a breach of the primary obligation, together with the liability is a requirement specific performance and only in some cases, it is only one monetary compensation for the damage caused, to a minor extent, affects the similar characteristics of these relations, as the goal Disclaimer - full damages and punishment of offenders - and that is achieved in both cases.

Consequences of the breach

One can hardly agree and support the view V. Tolstoy, asserting that the legal consequences of the breach - it's not new for claiming (Tolstoy, 1973). Indeed, the responsibility is inextricably linked with the obligation. But its existence, at least prior to the offense lies in the realm of possibility, but not the actual, as opposed to obligations constituting the content rights and responsibilities. Offense (failure, enforceable duty or improper fulfillment of obligations) takes this possibility into reality, so that the lender are new, previously did not have for claiming. This kind of transformation is conceivable sanctions provided the sanctions, ranging from the possibility of the undertaking and to the fact, in case of breach.

Terms of secondary liability, which is a result of transformation of the primary obligation, which occurred as a result of the offense is: (1) the presence of a primary obligation; (2) The provision of this obligation enforceable in the event of violations; (3) the offense. It must be noted that the secondary obligation is broader than the primary obligation. Secondary obligation includes the stage of the primary obligation, which is not all legal scholars, but often in the theory of law, referred to as guarding (Vengerov, 2004; Theory of State and Law: Textbook, 1999), and in which responsibility is implemented, which makes it inextricably linked with the primary obligation. It is in the form of secondary liability is realized as a violation of the contents remaining after the primary obligation (specific performance, in some cases - only monetary compensation), and the content of the

consequences of its violation (sanction, including responsibility for its occurrence if there are sufficient grounds).

Comparative analysis of these obligations has shown significant differences between them. Except for subjects this difference can be seen in all the elements. In this secondary obligation is not something new. It is generated and all the characteristics inextricably linked with the primary obligation, not to mention the coincidence of subjects. Thus, emerged after the breach of the obligation - is not new, not identical to the primary obligation and converted complicated by the primary obligation. Responsibility, and in a broader sense - sanction - not identical liability. As an essential element of liability responsibility exists as long as there is the obligation itself, and loses its meaning and purpose and cease only with the termination of the obligation. Obvious how this approach is different from the understanding of secondary liability (liability) as a new, independent from the primary obligation as a condition in which responsibility (penalty) at the same time was an element of a primary obligation, and after its termination - secondary liability.

Of course, responsibility - a peculiar consequence of the offense, however, even sharing the concept of positive legal responsibility, hardly justified and consider it as an independent obligation on the offense, subject to self- fulfillment.

Sanction and responsibility in civil law

At least challenge doctrine dogma and practice, the distinction between the concepts than the obligation and responsibility, obligation and duty is the problem of differentiation of the concepts of responsibility and sanctions. Clearly visible over their relationship with such categories as measures and remedies, enforcement (Shevchenko, 1977; Kichatova, 1981), civil matter. We agree with V.F. Popondopulo that these concepts (authorization and liability) are as subordinates and not coordinating nature and, therefore, their approach to the study of how different, unconnected concepts unacceptable. Their relationship is subordinate (volume) and in law enforcement (dynamic) terms (Popondopulo, 1981).

Implementation and sanctions and liability occurs in relationship dynamics, including express, although it is certainly not the only case in changing the relationship as a result of the offense. It follows that the sanction and responsibility somehow relate to each other as to the offense and after . Consequently, it is necessary to distinguish between: (1) the sanction as the possibility of adverse consequences, including sanctions, providing duty since their establishment; (2) the right to demand (in connection with the offense) and simultaneously apply duties suffer sanctions, including accountability measures; (3) the implementation of sanctions and responsibility if the sanction is expressed in the form of sanctions. (Tarhov, 1977).

Relative relationship between the concepts of responsibility and sanctions in the subordinate aspect, expressed as at least three different points of view.

One group of authors essentially identifies sanctions and responsibility, recognizing their equivalent concepts and assuming that the implementation of any sanctions for breach of duty - this is the responsibility of (Bratus, 1976). In their understanding, forcing the debtor to fulfill the duties lying on it means responsibility. With this approach, the problem of delimitation sanctions and liability simply does not exist, as there is no difference between, on the one hand, and the actual execution of the obligations on the other. Specific performance obligations under coercion, took him assume responsibility for its content absolutely no different from the real execution of the voluntary commitments of the same, and therefore no additional educational and stimulating effect on the debtor does not produce.

Another group of authors believes that responsibility in scope - a broader concept than the sanction and without liability sanction in principle can not exist (Orlovsky, 1976). It seems that the author quoted wrongly identifies concepts sanctions, prosecution, and the notion of sanctions and the implementation of sanctions. Certainly, no prosecution, no sanction accountability measures, as well as other sanctions can not be realized and responsibility come. However, this approach does not take

into account that the concept of „sanction” and „responsibility” can be correlated, both before and after the offense.

Still others believe that civil penalties include civil liability and responsibility as regards the implementation of sanctions is not any, but only its special variety, characterized by the onset of adverse effects on the debtor. According to them, the implementation of sanctions or special responsibility is characterized by specific, additional powers lender and the debtor additional responsibilities along with the actual execution of the obligation breached, unlike other non- liability measures, sanctions (Antimonov, 1962; Fleyshits, 1956). It is this point of view it is the most consistent and logically justified, because the sanction - a kind of a form containing a sufficiently large number of different, in principle, possible measures, including liability measures. This approach is shared by the advocates of protection measures for their distinction from liability. Apparently, there is no need to prove that sanctions as a unity of form and content in the form of damages, payment of a penalty of loss of deposit, as well as some others, are liable measures do not conform with other sanctions, for example, measures providing for specific performance obligations under threat coercion. Boldly enough, these differences appear after the offense, as it is often the nature of the offense determines all applications of a particular sanction (Illarionova, 1978).

Thus, the concept of civil penalties broader concept of civil liability (Sverdlyk, Strauning, 2002) for the following reasons: (1) civil penalties can be applied regardless of the presence or absence of guilt of the offender; (2) if the application of measures of accountability is always expressed in the laying on of additional offender, bezekvivalentnoy obligations (encumbrances), penalties may be limited, for example, by laying obligation to eliminate defects in the goods (18.03.1999. "Consumer Protection Law"), which obviously has nothing to do with putting on the offender additional burdens ie his civil liability; (2) approval in principle can not only lead to negative consequences for the offender, but equally may include the positive effects and properties in cases of excess encourages behavior.

Civil liability and protection of civil rights

In general, all imposed sanctions as elements of the structure of the legal norm measures aimed at preventing crime, and if it was committed - to protect the interests of the victim and the impact on the offender. Regardless of whether the assessment of sanctions as a measure of responsibility or not sanction acts as measures aimed at ensuring the commitment and, above all, for its execution. And this role provides sanctions is to achieve at all stages of the obligations inherent in the manifestation of goals and their functions (Gurevich, 1976), ie sanction serves as a means for meeting the obligation as a whole.

Penalties differ from other sanctions that: (1) contain mainly negative consequences for the offender; (2) have different foundation application, usually - culpable breach of duty. It was determined that more stringent compared to other sanctions, the nature of the consequences envisaged (Yakovlev, 2006). Taking into account the above, measures of civil liability can be defined as a special kind of sanctions, characterized by the possibility of negative consequences for the offender (which does not exclude, but often involves, at least potentially contains the possibility of positive forms of realization of civil responsibility in this regard of the consequences of a positive nature) which are used mainly for culpable violation of the duty. Thus, measures of responsibility inherent in special effects and grounds for their application, distinguishing them from other measures of state coercion, provided in the event of violations of the law. Along the way, it should be noted that the discussion regarding the structure of the law of its security state coercion is impossible to agree with the authors that the normativity of law is inextricably linked with the possibility of state coercion, that the rule of law should be ensured, provided with a sanction (Bratus, 1976; Zhitsinsky, 1968). But long before this idea aptly put G.F. Shershenevich, who wrote that the lack of guidance on possible measure of state coercion in one way or another rule of law makes it unlawful social norm (Shershenevich, 1924).

With some degree of conditionality sanctions stipulated sanction norms objective law (the law, other legislation, including the private contract), followed by many researchers, can be called static liability. As noted, for example, N. Maleinos static responsible, along with others, is not such measures should be assumed in all norms of civil law in the event of culpable violation requiring special attack effects

(Maleinos, 1968). The responsibility in the proper sense of the word - the consequences of the offense (or positive behavior, excess), the result of applying a static liability consisting in the real occurrence of adverse consequences for the debtor, provided the relevant provision of law or contract in case of violation Gurevich, 1976) or established by the relevant legal acts of positive consequences. With that said, it should be noted in passing that, obviously, we should distinguish responsibility in the legislative and enforcement aspects, as proposed at the time A. Sobchak (Sobchak, 1973).

Future relationship and ensure their sanctions in abstract form laid down in the rule of law (Khalfina, 1974). Prerequisite of their occurrence, as well as the implementation of the above-mentioned facts are legal sanctions. Civil matter is set for the purpose of implementation of the norm of its legal content, transfer of rights and obligations of its constituent areas of possible and appropriate within the scope of the actual. Sanction through the enclosed threat of coercion, provides a dynamic relationship and, accordingly, such a transfer of rights and obligations by the fact of its existence. It is clear that the described stage of existence legal sanction only conceivable as a concrete opportunity to state coercion, and no more, in the event of a legal sanction voluntary execution obligations cease to exist. Therefore, in the case of offenses civil matter comes into abnormal, at least, undesirable stage and of the potential, the possible threat of coercion is transformed into reality.

In the dynamic (pravoprimentelnom) aspect ratio issue sanctions and liability forms is a problem in which the components are implemented sanction measures, including accountability measures . However, again it should be noted that along with the legal relations arising after the offense aimed at the implementation of these measures (sanctions) may occur and other consequences, such as the actual performance of the obligation.

Thus, there is a penalty along with providing its legal relationship and with it stops. Usually altered violation relationship, persists. Its content is the requirement and responsibility for specific performance obligations. In a modified form save, and his sanction. Offense it becomes possible, provided the rule of law or contract consequences in case of violations in real consequences that are realized in a modified and in this regard the new (secondary) relationship along with the actual execution. Maintenance of the new (secondary) is a legal requirement and obligation to pay damages, payment of penalties and other consequences on the real performance of the obligation and implementing sanctions may exist in parallel and independently of each other, but both are implemented within a single protective relationship (Smirnov, 1973). Maintaining said V. Smirnym only note that the concept of legal guarding hardly stand up to criticism, since these are essentially legal regulatory.

As such, the responsibility is the use of static liability. The importance and role of responsibility in the mechanism of civil regulation manifested in dynamics. In this connection, the question of the liability of the various stages of the mechanism of civil regulation and liability relations with its main elements.

At the level of legal rules or static responsibility, as well as any other sanction, is expressed only in the threat of adverse consequences for offender and this is limited.

At the level of legal responsibility retains its static quality - threat of adverse consequences, but the possibility of laying it and, consequently, much more clearly priterpevaniya here, obvious and concrete. In Relationship realized disposition of legal norms, based on the relevant legal fact personality transformation takes place in specific subjective rights and duties of individual- specific individuals. Since the behavior of subjects relevant law obligations, insofar sanctions action is passive.

Active functioning sanctions had read at the level of its implementation. We emphasize that their educational sense and not the real meaning of sanction from this moment, but much earlier, since its establishment in the rule of law. But only in connection with the commission of the offense, through a legal relationship for the implementation of sanctions, it is of particular opportunity becomes reality, it takes a kind of transformation. Begs comparison legal sanctions for the implementation of legal norms with a legal dispositions on the implementation of the legal norm. Obviously, the differences between them consist only in the fact that the implementation of the disposition of the legal norm, what happens on the second level, the level of relations, takes place in person before the law breaking of

concrete subjective rights and duties, which is based on legitimate legal facts, and the implementation of legal sanctions norms (third level) delictual, which, of course, is not limited to tort liability, ie for the commission of a tort, as claimed Y. Weber (Webers, 1976), is refracted into specific personal rights and responsibilities that make up the content resulting from the offense on the implementation of legal sanctions, on the basis of unlawful legal facts.

Essentially on the third level, there is a compound of two closing stages of the mechanism of civil regulation: (1) a step of subjective rights and obligations stemming from the sanctions law and (2) the stage of implementation. Although, perhaps, more accurate and more correct to speak of the origin of the right to claim and the obligation to pay sanctions and on implementation of this relationship. In principle, all the words can be fully extended to tort liability, a feature of which is that the implementation of its content is simultaneously implementing sanctions and civil law, although it is conventionally.

Practical application of special sanctions - static responsibility - makes this dynamic category in responsibility, the implementation of which is not only possible, it is desirable, but mandatory. In principle, it does not matter whether the debtor takes arising from this authorization voluntarily, which is characteristic of civil law, or under duress, especially as in the voluntary execution of sanctions coercion (psychological effects) seems to be the case. Of course, it is impossible not to notice some differences in the implementation of sanctions in the relationship, usually referred to as guarding directly faces and its implementation through the competent institutions. As different substantive and claims one person to another.

Therefore, at the stage of development commitments after the offense, which corresponds to the obligation of harm, we should not focus on sanctions as a possible measure of compulsion and not about static responsibility as a special sanction, namely the use of sanctions as the implementation of coercive measures and the responsibility as the actual implementation of special sanctions (static liability).

But staying in the framework of this approach, obviously, it would be incorrect civil penalties subdivided into measures of civil liability and protection measures [76, 23] and, therefore, oppose them as protection of civil rights include civil and measures liability and civil penalties.

Civil liability and protection of civil rights

Protection of civil rights - one of the most important categories of not only the state, but also the civil procedural law. Can not agree with V. Griбанov, argued that giving individual subjective right not provided from the breach necessary protective equipment, put only a declaration (Griбанov, 2000); practical sense it acquires only on condition that the effective protection and restoration of the original property (property that existed before the commission of the tort).

Traditionally, the right to protection, along with the right to their own actions and the right to demand appropriate behavior on the part of the obligated person, considered as an element of subjective rights. In this sense, the right to defense, considered in the substantive sense, includes the following powers: (1) the ability of the authorized person permitted by law to use its own funds forcing of the offender, protect property rights belonging to him the actual actions (self-defense); (2) The possibility of directly authorized person of legal measures operational impact; (3) the ability of the authorized person to seek public institutions with the requirement of the obligated person to force a certain behavior (Griбанov, 2000).

But as obvious relationship with the content of the above-mentioned features of the subjective right to be protected, they are in various combinations included in the content of his entitlement to protection.

However, in the scientific literature expressed the view that the right to protection is interpreted as a separate subjective right. This right arises from the right holder in the regulatory legal relationship with the commission of the offense and implemented arising in this connection protected environment relationship. In this sense the right to protection of nature consists of the following powers: (1) the right to their own actions, including self-defense, the use of operational sanctions, etc.; (2) the right to

demand certain behavior of the obligated person, providing for sanctions to be applied to the offender by public authorities, to which the victim applies for protection of violated rights (Komarov, 1991).

Means civil rights are two separate object protection, not only personal rights, but also as provided and not provided, but the legally protected interests. This is due to the fact that although the basis of any subjective civil law is of interest, not all actors of civil rights inherent interests received form the legal interests, direct expression in the rules of civil law. Among them may be mentioned, as the protection of honor and dignity, recognition of the transaction invalid, the protection of interest of the former owner in the case of destruction or loss of belongings, etc. However, they are subject to protection in cases of violation.

Conclusions

Civil responsibility, commitment, obligation, duty, protection of subjective rights - are closely interrelated and interactive categories differ from each other not only in its content, but also a place and a role in the mechanism of legal regulation of property relations, the identification of which, in this regard, unacceptable. Civil liability as manifested in the negative and in a positive way. Identification inadmissible civil liability with state coercion, because the coercive nature - the quality of any sanction of the legal norm. Duty and responsibility - not identical concepts, playing in the mechanism of legal regulation of civil liability of a different role.

Content and grounds of liability, on the one hand, and the obligation on the other - are different. All obligations, without any exception are property nature. We emphasize that the relationship neobyazatelstvennyye provided special, specific remedies. Also different grounds of liability and accordingly debt. Sanction - a necessary element of liability. Therefore, unsecured obligations of sanctions are not legal. The concept of „sanction”, regarded as state coercion, wider concept of „responsibility”. Despite the obvious links the concepts of „sanction” and „responsibility”, they represent the different consequences of the breach and relate to each other as genus and species.

The main idea and the main message of the theory of occurrence, has received in recent years is quite distinct expression, especially in the international instruments, is the proposition that liability - is forced recovery of an existing debt, including for claims and forfeit. In this debt collection does not require proof of fault and establishing debtor. For this is enough neposledovavshego the debtor of his duties for any reason.

After a breach in which responsibility is implemented - is not optional, the protective relationship, and converted the primary obligation. In this regard, it is obvious that the legal consequences of the breach - this new obligation arising claiming, provopriyazaniya serve the purpose of bringing to the original obligation that existed before the offense provisions to meet the interests of parties to the contract on which it arose. The result of the offense is not the appearance, new, often referred to as guarding liabilities and the transformation of the primary obligation it „enrichment” new elements. This, in its content, secondary primary broader commitment. It is in the form of secondary liability is realized as remaining after the breach of the primary obligation content (specific performance, in some cases - only monetary compensation), and the content of the consequences of its violation (sanction, including responsibility for its occurrence if there is sufficient base).

The concept of „sanction” and „responsibility” are as subordinates and not coordinating nature.

Measures of civil liability can be defined as a special kind of sanctions, in practice characterized by the possibility of occurrence of mainly negative consequences for the offender (but without prejudice to the implementation and positive form of civil liability and therefore the consequences of a positive nature) that apply for the breach of duty.

Should distinguish between static and dynamic (under application) civil liability. It seems incorrect to divide civil penalties on measures of civil liability and protection and, consequently, to oppose them as civil rights protections include measures and civil liability and civil penalties.

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