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# Section I



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## **SOCIAL INNOVATION STRATEGY IN HUNGARY; AN EVALUATION FROM THE POINT OF WELFARE PROVISION**

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**Abstract:** Social innovation is an effective response to changing social demands in welfare societies. By reshaping social interactions in welfare provision, it essentially aims at building a new and more participative wellbeing, namely “the enabling welfare state”, without causing any decline in welfare rights of citizens. The European Union, in this sense, started a rigorous transition process to social innovative strategies in welfare provision in the beginning of 2000s. Hungary, as an outstandingly emerging economy of its region, also launched social innovation programs to make not only the market, but also citizens, community and local authorities more active in the co-provision of welfare. Even though social innovation strategies have not spread over the whole country yet, Hungary seems to have sufficient capacity and resources to make social innovation an effective part of “co-provision of welfare” or to turn itself an “enabling welfare state” in the near future.

**Keywords:** *Social Innovation, Welfare Provision, Welfare State Restructuring, Rights-Based Approach*

### **1. INTRODUCTION**

New quests in neoliberal economy and politics have resulted in major shifts in both the thought of welfare state and the relationships between civil society, the market, the citizen and the state. This has prompted a reconsideration of concepts to adapt to the new socioeconomic and sociocultural order. Social innovation, along with social investments, social inclusion, social integration and social entrepreneurship, is just one of these concepts to re-evaluate regarding welfare provision.

Having its roots and policy outcomes in a large variety of research fields, social innovation is an emerging concept in welfare state debates. While social innovation has been the focus of numerous studies and researches particularly in urban and local development studies as well as political sciences over the past decades, (Moulaert et al., 2013) there is still a lack of extensive research in social policy and welfare theory studies. (Evers, Ewert and Brandsen, 2014; Jenson, 2012) However, social innovation may contribute significantly to the debates about the future of the welfare state and social policy.

Welfare states have been experiencing a financial crisis for the last few decades. Governments have long been facing a challenge to spend less on welfare of citizens without leading a decline in overall social protection level. Social innovation strategies emerged as effective tools to overcome this challenge by essentially leading a new type of division of labour among welfare providing actors. Hence, social innovation as a new way for social intervention to socioeconomic problems in societies may offer an effective alternative to the restructuring of welfare state by enabling a new role sharing among welfare providers, namely in welfare mix.

Social innovation differs from classical civil society solidarity in many respects. Considering it as a new and more effective method of self-help mechanism, it envisages a much more productive cooperation between welfare provider actors and has the potential to combine formal and informal welfare provision activities. In this sense, social innovation is a self-help mechanism for the ones who are not satisfied sufficiently while meeting their basic needs in private market, institutional welfare policies or traditional civil society solidarity networks.

Claiming social innovation as a unique way to reconfigure market and state relations in support of welfare production, this study seeks to evaluate social innovation strategies in Hungary in regards of its potential in welfare provision. Even though social innovation mechanism is not a new tool in welfare and social protection provision, it definitely offers a new way to reorganise the existing providers, which are namely the state, the market, family and NGOs. In this sense, it is a new combination between civil society organisations, social entrepreneurs and central and local state authorities. The main purpose here is to find a better and more cost-effective way to respond to unmet social needs of individuals.

## **2. SOCIAL INNOVATION AND WELFARE PRODUCTION**

In every society, there is a mix of sources of wellbeing for everyone. The market, for instance, is the major source of wellbeing for the majority of people in a society. In this sense, people earn their livelihood either directly or through someone else in their family from the market. (Esping-Andersen et al., 2002, p. 11) Therefore, the market, together with state institutions, is the formal provider of wellbeing. The state and other public authorities, on the other hand, provide public and social services for needy citizens without charging them with market prices as well as redistribution of income. However, wellbeing is also possible to be provided from informal sources, such as the family and community or civil society. Welfare societies that can achieve a balance and harmony in the cooperation and coordination among given sources of wellbeing become the most successful welfare states and offer better social protection to their citizens. However, the economic, social, political and even cultural environment around the world has changed significantly over the last few decades and this change has threatened the capacity of all welfare providers to sustain the existing level of wellbeing for all citizens. (Hall and Lamont, 2013; Cerev, 2014, pp. 248–252) The rise in the number of working poor and budgetary restraints for public services indicate the insufficiency of markets and state institutions clearly. Considering



the benefits it provides, social innovation has emerged as one of the best alternatives in the redesign of welfare mixture by enabling a more active society and citizen in welfare provision. Therefore, it finds itself a solid place in many of the leading social policy analysis. (Ewert and Evers, 2014, p. 428; Ayob, Teasdale and Fagan, 2016, pp. 10–14; Cerev and Yenihan, 2017, p. 81)

As a new approach to social policy interventions, social innovation offers significant contributions to attempts to overcome budgetary restraints as well as addressing ineffectively met social needs and demographic challenges in societies. Combining not-for-profit, for profit, and public authorities altogether and through a more activated civil society, social innovation presents a new way of social intervention in meeting welfare and social protection needs of citizens. In other words, social innovation offers one of the most cost-effective solutions in welfare provision by passing beyond the classical ways of labour of division between the state and other providers. (Swyngedouw, 2009, pp. 66–70) This might mean a solid step taken towards a new form of “enabling welfare state” or “active welfare state” to response to changing social demands more effectively by requiring a change of attitude among stakeholders and active involvement from citizens.

Welfare economies now face a number of demographic and societal challenges, such as rising poverty rates, changing family norms and types like lone-parenthood, decline in fertility rates, and an inadequate supply of jobs etc. Welfare states may response to changing social demands stemming from these challenges in a number of different ways. One of the most common measures taken to meet new welfare needs of citizens is the capacity expansion of markets and attribute a coordinator role to the state rather than the direct provider. In other words, the state takes over the leading role in welfare provision to a lesser extent, but the coordination of a new style of division of labour among private companies, civil society organisations and even the family. This is absolutely a new type of partnership rather than a hierarchy between the state and other welfare providers.

Thus, social innovation has taken a leading role increasingly in both the definition and solution of changing social demands and risks in many developed welfare societies. Expanding the active involvement of markets in welfare provision, some of which were previously provided by the state under rights-based social policy principles, alters the essential purposes of markets by turning them towards purposes such as social inclusion and social development along with the traditional goal of making profit (Nicholls and Murdock, 2012, pp. 2–3; Osberg and Schmidpeter, 2013).

### **3. HUNGARIAN SOCIAL INNOVATION EXPERIENCE IN COMPARISON WITH EUROPEAN UNION’S AGENDA**

Social innovation has been an ongoing topic in debates over the future of European welfare state since the second half of the 2000s. The European Commission considers social innovation as a new and effective method of social intervention to deal with unmet socioeconomic needs. The most attractive feature of social innovation is that it enables various policy sectors to work collectively and collaboratively to respond to

dynamic societal challenges and needs by providing active involvement of citizens and civil society. (Barroso, 2011; BEPA, 2010, p. 7)

When the European Commission launched its Renewed Social Agenda in July 2008, social innovation appeared in one of the Union's policy papers for the first time. This reflected a change in the overall attitudes of the Union towards social problems in the shape of transition from attempts to create more jobs in the market and promote economic growth (Euroactiv, 2009) to more inclusive and active participation. Following this, Bureau of European Policy Advisors (BEPA) launched the report 'Empowering people, driving change. Social innovation in the European Union' in 2010 (BEPA, 2010, p. 6) and this report is broadly believed to form the basis of the European social innovation strategy. Considering the first attempts of extensive social innovation programs, Hungary seems in accordance with European Union regarding its timing.

Besides these institutional developments in the EU, some individual efforts in some member states were recorded as well. The Dutch King Willem Alexander, for instance, claimed that the classical welfare state was replaced by the 'participation society'. In this new society and welfare order, the citizens are expected to be more active particularly in care services, which were provided public institutions formerly. As another individual example, the government in the UK (even though it is no more a member state) launched a new programme called "Big Society Initiative" in 2011. This programme relied similarly on the active involvement of the society on its own issues via various social innovation practices. (Ishkanian and Szreter, 2012)

The essence of all these efforts is to encourage the active citizenship and active welfare state, which requires more involvement of citizens, market forces and civil society particularly in times of crisis. (BEPA, 2010, p. 7) However, since social innovation is a new and more effective way of welfare provision by empowering citizens and civil society, a threat may emerge here in the shape of getting away from rights-based policies due to the decreasing involvement of the state in provisions. Therefore, a detailed legal framework must be regulated not to cause any decline in welfare rights and entitlements of citizens. In regards of this point, Hungary seems in need of strengthen the legal framework regarding social innovation more in order to guarantee social protection entitlements of citizens on a rights-based manner.

#### **4. GENERAL EVALUATION OF AND RECOMMENDATIONS FOR SOCIAL INNOVATION STRATEGY OF HUNGARY**

Social innovation strategy of Hungary has outstanding aspects to evaluate in the light of the general framework mentioned above. First, it occurs clearly from the White Paper (Social Innovation White Paper, 2021) that Hungary is fully aware of the fact that social innovation strategies are supposed to complete welfare state rather than replace it. Otherwise, possible failures in regards of rights-based social protection may occur and this may threaten the overall social peace.

Today, unlike the Golden Age period, it does not seem possible and plausible to make the majority of the welfare expenditures only by the state. In other words, market, family and civil society organizations should take more responsibility and complete the state more effectively. To this end, the smartest solution seems to be social innovation, one of the most effective self-help mechanisms, because social innovation has the potential to employ all actors in coordination and cooperation, instead of working separately and independently. Considering this, it is understood that there are sufficient number of social innovation supporters in the private sector in Hungary. A similar positive inference can be made on the family/interpersonal solidarity bonds on community level.

One of the conditions that directly determine the success and effectiveness of a social innovation strategy is financial resources. In this context, sources of financing should be both adequate and sufficient. While there is the advantage of targeted operational and developmental financing facilities, sustainability issue requires direct state and/or government support on both central and local levels. However, no definite inference can be drawn from the White Paper analysis regarding the direct and clear support from central and/or local authorities in Hungary.

The most striking negative conclusion from the White Paper is that the legal infrastructure regarding social innovation has not yet been fully launched in Hungary. In addition to other problems, this deficiency may cause failures in the establishment and maintenance of a rights-based social protection approach via social innovation activities.

A positive feature that can eliminate many deficiencies is the strong culture of “learning by doing and from each other”. In this way, a social innovation strategy that is successful in one sector can be transferred to another one. It can also create a constructive environment of competition between industries, businesses, local governments and even individuals. This could start a “race to the top” process in social protection and welfare provision.

When the examples of successful countries in social innovation are examined, it is understood that one of their common features is a consensus between stakeholders and beneficiaries on what exactly social innovation means. Therefore, the lack of a clear definition of social innovation still stands out as an important deficiency in Hungary. As such, there is a possibility and risk of being confused simply with traditional civil society solidarity.

Similarly, it is understood from the White Paper that there is a narrow social innovation environment that focuses on limited subjects and fields, instead of spreading over different regions and subjects. Besides, more disadvantaged regions appear to be less developed in terms of social innovation. It would be appropriate to strengthen the local ecosystems of regions accordingly by motivating and mobilizing local governments. Even though social innovation is a self-help mechanism at its core, its effectiveness and financial sustainability depend largely on the open support of local governments. Otherwise, effective implementation of localization, which is the dominant trend in social protection and social welfare issues, will be difficult.

Imported practitioners, methods and ideas cannot guarantee the success, as local conditions are not fully known. Therefore, in general terms, social innovation practices seem still in the development stage in Hungary.

Lack of a system in which the results of social innovation activities are observed and measured regularly is also an important deficiency. The impacts of social innovation in combating social problems such as poverty and deprivation is not fully evaluated. For this reason, direct and more rigorous involvement of government agencies and private enterprises to social innovation campaigns highly unlikely. Dissemination of impact analysis is extremely important and necessary in order to be professional in social innovation activities and to achieve effective welfare production and provision in this way.

The fact that civil society organisations in Hungary has a more individualistic perspective rather than working in cooperation and coordination is another factor that makes it difficult to complete public welfare services more effectively. Therefore, in order to develop social innovation strategies quantitatively and qualitatively with the participation of community organisations and private enterprises, it may be appropriate to explain the importance of social innovation practices on the brand/business image and, thereby, profitability rates via social innovation campaigns.

Looking at the successful country examples in social innovation, it is clearly seen that not only legal framework and the financial sustainability, but also direct state support both on local and central levels are provided as well. For this reason, Hungary's priority should be to create a dynamic legislation on the one hand (so that the changing demands and needs can be responded immediately), and to develop road maps with the support of central and local governments on the other.

Moreover, establishing international partnerships may be helpful in the rapid improvement of social innovation culture and the spread of successful examples, especially in the beginning stages. For this reason, it would be more accurate to establish international partnerships and see these relationships as a learning process.

In the light of all these evaluations and suggestions, it is possible to assert that further studies and analyses are required to see how successful social innovation strategies will be launched in Hungary in terms of complementing and modifying the traditional welfare state provisions without causing any decline in social protection rights of citizens. The supranational social innovation ecosystem, in which Hungary is involved and which is encouraged by the EU, is the most significant advantage of Hungary to develop more effective social innovation strategies in the near future. Therefore, it is plausible to claim that as an outstanding emerging economy recently, Hungary seems to redesign its welfare scheme in conformity with the EU perceptions, which include empowering the citizens, the civil society, the market and local authorities more in welfare production.

## **5. CONCLUSION**

Changing social demands and demographic transitions challenge the previous configuration of welfare mix. In the search for a more effective social intervention model,

governments need to establish a new and proper balance between welfare providers, namely the market, the state, the family and civil society, without compromising quality of life and welfare rights of citizens. Social innovation, in this sense, has emerged as a recent and solid contribution to the debates over “enabling welfare state”. The ultimate purpose has not changed at all; it is still to improve social inclusion and social cohesion. However, the way that welfare societies address the issue has changed significantly thanks to social innovation strategies.

Social innovation strategies varies from funding social enterprises engaged in training and retraining the hard-to-employ, the disadvantaged who are excluded from the labour market or those with insufficient or inappropriate skills on the one hand, to creating new programs addressing unmet needs or services on the other. The most visible difference that social innovation makes in the field of social policy is that formal and informal providers come together in an innovative collaboration. As such, even social risk areas, which are usually considered outside of the market provision, are included in the welfare provision agenda of market actors to generate new well-being thanks to fruitful collaborations established with civil society and the state.

Hungary, as an outstanding emerging economy in Europe, has attributed a significant role to social innovation in welfare provision recently as a part of its reconfiguration process of welfare provision in conformity with the EU Agenda. To this end, the government has laid the necessary foundations to build an effective social innovation agenda in the near future. Even though there are still a number of issues to solve before reaching effective results in social innovation strategies, such as the lack of relevant legislation, limited coverage and imbalanced distribution among regions in terms of social innovation practices etc., Hungary can rapidly complete this foundation-building process through its emerging markets and dynamic civil society structure. In the way of being an “enabling and active welfare state” rather than a “passive” one, Hungary aims to employ social innovation practices including empowering not only the market, but also citizens, civil society, and local authorities in co-production of welfare without causing any decline in existing social welfare and social protection rights of its citizens.

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## **SOCIAL INNOVATION IN BULGARIA: AN AMBIGUOUS CONCEPT WITH FRAGMENTED PRACTICE**

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**Abstract:** This short paper is part of a project in preparation for a White Paper addressed to the Hungarian government defining social innovation.<sup>1</sup> Its aim is to add the specific experience of social innovation in Bulgaria to this discussion. The concept of social innovation has been almost absent from public debates and policy agendas in Bulgaria since the country's European Union accession. The reasons for this are beyond the scope of this paper but certainly do deserve special attention from the academic community in the future. The paper includes a short presentation of the specific Bulgarian context, followed by a section on social innovation and a final section focusing on workplace social innovation.

**Keywords:** *social innovation, workplace social innovation, Bulgarian aspects*

### **1. THE BULGARIAN CONTEXT**

Bulgaria is the poorest member of the European Union (EU). It has experienced a difficult economic and political transition and faces substantial demographic and social challenges. The Bulgarian state could be characterised as weak in Bohle and Greskovits' typology (2012), as it tends to postpone reforms or impose them without domestic consent, further locking the fragile economy into 'low-road' competitiveness policies. In this context, policymakers are not particularly interested in innovation, not to mention social innovation. Secondly, any emphasis on social innovation is very often put in advance by the European Union. In Bulgaria, which joined the EU in 2007 along with Romania, the imprint of the European references seems to be losing ground (Delteil and Kirov, 2017).

### **2. SOCIAL INNOVATION: DEFINITION AND USAGE**

During the last years, social innovation emerged in the European public policy debates as a vehicle to developing innovative and efficient solutions to addressing societal needs (Sinclair and Baglioni, 2014). In the EU social innovation has been understood as "a solution to both old and new social risks" (Nicholls and Edmiston,

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<sup>1</sup> It was presented at the online conference "Strategy of Social Innovation Workshop", organized by Tinlab Project and the University of Miskolc on 7 May 2021.

2018). While at the beginning, the European Commission was not willing to provide a definition of social innovation, already in 2010 the Bureau of European Policy Advisers (BEPA) stated that social Innovation relates to the development of new forms of organisation and interactions to respond to social issues (the process dimension). As claimed by Nicholls and Edmiston (2018). It aims at addressing (the outcome dimension):

- 1) Social demands that are traditionally not addressed by the market or existing institutions and are directed towards vulnerable groups in society.
- 2) Societal challenges in which the boundary between ‘social’ and ‘economic’ blurs, and which are directed towards ‘society as a whole’.
- 3) The need to reform society in the direction of a more participative arena where empowerment and learning are sources and outcomes of wellbeing. (BEPA, 2010)

But despite the overall European push for social innovation-based policy, Bulgaria has remained outside this process. The term social innovation has not been defined either in legislation or within particular policy documents in Bulgaria. At present, there are multiple strategies focused on innovation in the country. However, only sporadic programmes and policy documents ever mention the term social innovation, usually with different meanings. In her recent study on innovations in Bulgarian schools, Kachakova (2021) concludes that the imperative of innovation has been embedded in different policies without sufficient justification. In this way, innovation turns into a commonplace phrase which means different things to different people (teachers, principals, politicians, researchers).

Most often, social innovation is used in the context of social services and social entrepreneurship by the public authorities and NGOs. For example, the Ministry of Labour and Social Policy has launched a competition for social innovation in the social economy.<sup>2</sup> More precisely, three categories have been advanced in this competition: social innovations related to employment; social innovations related to social inclusion and social innovations related to the provision of social products and services.

In parallel to such national programmes, there are some actors at municipal level also promoting social innovation in the domain of social services. One example is the Bulgarian capital city of Sofia and its programme “Social innovations”,<sup>3</sup> in which NGOs in the sphere of social services compete for project funding. By Resolution No. 292 of 8. 6. 2017, the Sofia Municipal Council approved an Agreement on Cooperation for Achieving Social Protection and Inclusion through Social Services between the Sofia Municipality and Civil Society Organizations, which includes the establishment of a funding program for social innovation projects. This programme aims to improve the quality of life, social inclusion of vulnerable groups by stimulating the implementation of short-term social innovation projects by the active participation of civil society. Social innovation projects are accepted for activities aimed

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<sup>2</sup> <https://seconomy.mlsp.government.bg/page.php?c=2&d=119> (Accessed: 25 April 2021).

<sup>3</sup> <https://www.sofia.bg/program-social-innovation> (Accessed: 25 April 2021).



at the creation, implementation or realisation of new ideas or processes for Sofia Municipality that address the needs of vulnerable groups and are significant for the social policy of the municipality. Practices and models that are applied for the first time in the territory of Sofia Municipality are accepted as new ideas. Eligible applicants are non-profit legal entities and people's cultural institutions 'Chitalishtes', based in the territory of Sofia Municipality. However, the available funding is really limited: in 2021 this programme provides funding from the municipal budget for social innovation projects up to BGN 5,000 per project. Despite the scarce funding, the interest has been large as 22 project proposals were received by Sofia Municipality.

In addition, social innovation has been associated with the so-called social entrepreneurship, and various associations and non-governmental organisations have been launching contests for 'social innovation' projects. A case in point is the Junior Achievement Bulgaria,<sup>4</sup> which organises an annual competition among high school classes as well as social innovation camps in partnership with different schools. The competition encourages participants to come up with a solution to a social problem by developing their idea for a social innovation business. The call for the competition says: "If you are a student between the ages of 15 and 18 and you have an attitude towards the environment around you and what is happening in it, this competition is your opportunity to create improvements in it." As a result, for the 6th consecutive year, Junior Achievement Europe and the company NN Group have partnered through the Social Innovation Relay to empower young people to tackle societal challenges by using innovation and entrepreneurship.

Finally, some civic platforms have been advocating the need for social innovation of the future, for example, in explanation of European trends. Move.bg<sup>5</sup> was established by the former CEO of HP Bulgaria and assigns smart cities, the shared economy, and others the label of social innovation. According to this organization, "social innovation is the process of inventing, providing support for and implementing new solutions to social needs and problems, as defined by Stanford University. It is a process that is not the privilege of a single country, entity or organisation, because to be successful, social innovation needs cross-sectoral and multidisciplinary efforts". Move.bg underlines that, according to European experts' assessment, there are several radical social innovations that will develop in the following 20 years: such as sharing economy, basic income, Body 2.0, smart cities without cars, alternative currencies, shared innovation spaces, gamification, life recording, local food cycles, new journalism networks, new ways to store and share health data, new reading/writing culture and reinventing education.

As it could be visible on the basis of these examples, social innovation in Bulgaria is mostly associated with social economy and social services

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<sup>4</sup> [http://www.jabulgaria.org/category/iniciativi/social\\_innovation\\_relay](http://www.jabulgaria.org/category/iniciativi/social_innovation_relay) (Accessed: 25 April 2021).

<sup>5</sup> <https://move.bg/socialni-inovacii-budeshte> (Accessed: 30 April 2021).

### 3. WORKPLACE SOCIAL INNOVATION

Workplace social innovation also takes up marginal space in Bulgarian policymaking and societal debates. Already in 2012, Pot et al. (2012, p. 161) argued that “workplace innovations are social both in their ends (quality of working life, well-being and development of talents together with organisational performance) and in their means (employee participation and empowerment)”.

But again, as in the case of social innovation in other spheres, the workplace is still not a centre of efforts of the relevant stakeholders (company managers, trade unions, employers’ organisations). After some experimentation with self-management in the 1980s, and following the start of the transition in Central and Eastern Europe, the workplace social innovation was left behind in the public interest. For a long time, privatisation and the question of property distribution mobilised efforts among different stakeholders in various enterprises. However, in the context of massive foreign direct investment flows and a search for rationalisation and efficiency, the workplace has taken importance again. But what is the position of innovations in the context of transferred management models and, in some cases, ‘retaylorization’ (Kirov, 2001). In the same time research and development (R&D) units are being transferred more and more often to the West.

Deficits of social innovation have not been filled by ‘good practice’ transfers. In some cases, the interest has been heavily focused on (isolated) cases of good practices resulting from different experiments or corporate social responsibility (CSR) approaches in the region (Koleva et al., 2010).

The question of these social innovation deficits in the workplace in the new member states of the European Union is still on the agenda. In recent years, there have been some programmes supported by European Social Fund (ESF), for example, the Operational Programme Human Resource Development, that have funded projects introducing social innovation (mainly understood as organisational innovation) in Bulgarian companies.

### 4. CONCLUSION

The Bulgarian experience has demonstrated the limited use of the concept of social innovation. The concept itself is not defined within legislation and is often ambiguous with different meanings for different actors. The actors involved in supporting social innovations are mainly concentrated in the social services and social entrepreneurship areas, underlining the way in which the policy value of social innovation is limited in the contemporary Bulgarian context. Some civil society organisations have attempted to introduce into the debate a larger range of social innovations, aligned with the technological innovation of the contemporary Technological revolution (Perez, 2002).

On the basis of the Bulgarian example, a few recommendations could be drawn for Hungary. First of all, social innovation should be contextualised and defined in connection with Hungarian realities. Secondly, a common understanding of social inno-

vation should be adopted by actors (such as by regional and national authorities, companies and their organisations, universities, and NGOs). Thirdly, social innovation should be featured in the country's policy documents and operational programmes for the structural funds. Fourthly, while foreign practices might be inspiring, Hungarian actors should find their own policy approaches based on social innovation in order to address challenges on the ground related to development and societal change.

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## THE SOCIAL INNOVATION WHITE BOOK'S DRAFTING PROCESS AND RESULTS

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**Abstract:** This article summarises the work of Definition Working Group of the National Social Innovation Laboratory and the key findings of the resulting White Paper, as a prelude to the evaluation of the Social Innovation Strategy, the second part of the Social Innovation White Paper.<sup>1</sup>

**Keywords:** *social innovation, National Social Innovation Laboratory, Social Innovation Strategy, Social Innovation White Paper*

### 1. THE DEFINITION WORKING GROUP

In this article I would like to summarise the content of the Social Innovation White Paper and its role in the National Social Innovation Laboratory, as a prelude to what the other authors will say.

The National Laboratory for Social Innovation was set up under a call for proposals launched by the Research Development and Innovation Office in April 2020. The aim of the call was to bring together at national level specific areas of research development and innovation.

In the field of Social Innovation, the consortium formed by Eötvös Lóránt University, the Pannon University, the University of Miskolc and the Hárfa Foundation aims to achieve the following tasks:

- Developing a national social innovation framework and work plan
- Implementation of a social innovation promotion activity
- Promotion of social innovation at national level
- Development of a social innovation impact measurement system
- Developing a social innovation good practice collection – drawing on national and international good practices
- Capacity building of policy makers and practitioners

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<sup>1</sup> This study is based on: Bogdány, Eszter – Varga, Krisztina – Veresné Somosi, Mariann (eds.) (2021). *Társadalmi Innovációs Fehér Könyv*. University of Miskolc, Miskolc: University Press.

- Development of thematic social innovation forum on different themes, backed by a platform-type organisation.
- Development of a detailed research and innovation programme for the National Laboratory – identification of specific areas of research and innovation, definition of selection procedures and criteria for pilot projects, preparation of a detailed work plan.
- Design of a long-term sustainable operating model for the National Laboratory for Social Innovation.

Six working groups have been set up to carry out the tasks, and the consortium partners have been entrusted with leading them and organising the work involved. The survey working group is led by the Pannon University, the definition and training working group by the University of Miskolc, the literature and communication working group by the Eötvös Lóránd University and the framework working group by the Hárfa Foundation.

For the first year, the Definition Working Group undertook to define the precise definition of social innovation activities, their fields of reference and delimitation from other fields; to examine the legal background and make proposals; to prepare a White Paper on Social Innovation.

The working group brought together theoreticians and practitioners from the field of Social Innovation. The practice is represented by Dániel Magyar, the Director of the Innovation Centre of ELTE and Melinda Hosszu, staff member of the Innovation Centre and Szabolcs Hollósi, staff member of the Hárfa Foundation. Among the theoretical experts, Mariann Somosi, who is the dean of the Faculty of Economics of the University of Miskolc, and Krisztina Varga, Assistant lecturer at the Faculty of Economics of the University of Miskolc, Eszter Bogdány, Adjunct Professor at the Faculty of Economics of the Pannon University, Gábor Mélypataki, Adjunct Professor of Social Law and István Olajos, Associate Professor of Rural Development and Environmental Law at the Faculty of Law at the University of Miskolc have participated.

Our fundamental task was to create a definition of social innovation. In this context, Eszter Bogdány, who had already conducted a preliminary study of the literature on the definition in the context of an international Social Innovation Challenge, surveyed the definitions in the field and grouped them according to the following criteria: what activities are included in social innovation (What?) (Hochgerner, 2011; Howard and Schwarz, 2010; Pisano et al., 2015; Ruiz and Para, 2013; Polman et al., 2017; Caulier-Grice et al., 2012; Howaldt et al., 2018; Kristen et al., 2016; Moulaert et al., 2017; Antadze and Westley, 2010; Cajaiba-Santana, 2014; Balogh, 2018; Nemes and Varga, 2015, p. 436); at which level of society does it have an impact (Where?) (Polman et al., 2017; Phills et al., 2008; Kocziszky et al., 2017; Howaldt and Schwarz, 2010; Howaldt et al., 2016); why should we address this area? (Why?) (Howaldt and Schwarz, 2010; Pisano et al., 2015; Polman et al., 2017; Caulier-Grice et al., 2012; Phills et al., 2008; Kocziszky et al., 2017; Kristen et al., 2016; Moulaert et al., 2017; Cajaiba-Santana, 2014; Balogh, 2018); how and in what ways does it solve social problems? (How) (Howaldt and Schwarz, 2010; Pisano et

al., 2015; Ruiz and Parra, 2013; Cajaiba-Santana, 2014; Polman et al., 2017; Nemes and Varga, 2015, p. 436; Howaldt et al., 2016; Caulier-Grice et al., 2012; Phills et al., 2008; Kristen et al., 2016).

By identifying the common elements of the definition, the Definition Working Group created a core concept. During the development of the core concept, care was taken to ensure that all the fundamental questions were answered. In developing the definition, attention was also paid to creating a concept that is valid and can be integrated into the conceptual framework of the Innovation Act. Therefore, two alternatives were formulated in the paper sent to the experts. One defines social innovation as a modification of the concept of innovation and as an element of innovation, and the concept of social innovation refers back to this. The other alternative identifies its role in the concept of social innovation.<sup>2</sup>

The definition has already been presented at the Social Innovation Strategy workshop on 7 May 2021, where international and national experts in this field were invited to give a presentation and according to that write an article. In order to take into account the working group's proposals for change, it developed a White Paper on the background, purposes and functions of social innovation, the boundaries of it, the definition of complementarity, the levels and processes of it, the grouping of stakeholders and networking as a new unit of definition. The White Paper also includes the definition of areas of application, which was elaborated in detail by the Assessment Working Group.

## 2. THE BACKGROUND OF SOCIAL INNOVATION

The most important antecedent of social innovation is the Lisbon Agenda, adopted in 2000 and amended in 2005. Among its ambitious goals was that the EU should become the most competitive and dynamic knowledge-based economy in the world, creating more and better jobs and strengthening social cohesion in its Member States. This goal cannot be achieved without developing the so-called knowledge triangle – education, research and innovation. (Benedek et al., 2017)

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<sup>2</sup> The definition is as follows:

Variant A: Social innovation is a new or improved process that aims to create novel solutions to social needs or develops solutions through a new combination of social participation, practices, relationships and behaviours. Social innovation also has an important role in supporting the social diffusion of product and business process innovation results. Social innovation can be understood as a complementary process to other types of innovation.

Variant B: Social innovation is a new or improved process that aims to create novel solutions to social needs or develops solutions through a new combination of social participation, practices, relationships and behaviours.

Social innovation also has an important role in supporting the social diffusion of product and business process innovation results. Bogdány Eszter – Varga Krisztina – Veresné Somosi Mariann (eds.) (2021). *Társadalmi Innovációs Fehér Könyv*. University of Miskolc, Miskolc: University Press p. 23.

For the first time in Hungary, proposals for the objectives and instruments of the National Innovation Strategy were published. The types of projects eligible for funding were defined in relation to the objectives, based on the economic and external analysis, the situation assessment and the interpretation of the paradigm shifts. In the developed short-term vision of the innovation strategy, the authors referred to the practice of training researchers and to regional implementation. The strategy still addresses innovation policy together, but also analyses its social impact and implications. (Havas, 2004)

As a result of the analysis, several calls for proposals (TÁMOP 4.2.2., 2015) were launched under the TÁMOP for the 2007–2013 funding period to develop innovation policy. In addition to analysing the impact of innovation and exploring its economic, social and legal instruments, the calls for proposals also highlighted the importance of territorial and social capital. (Bajmóczy – Elekes, 2013)

The territorial results of social innovation were also defined at the end of the funding period. The concept of innovation was expanded by defining the concept of social innovation and by extending the areas of innovation transfer and education (Nemes – Varga, 2015), and the lessons learned were summarised based on the results of a social innovation project generated by the University of Miskolc. (T-Modell report, 2015) Of particular note is the launched social innovation problem-solving competition generated by the Pannon University, which also has a prominent role in developing the conceptual elements of social innovation.

The planning of innovation development has accelerated in the 2014–2020 funding period. The National Research Infrastructure Roadmap (2018) has been adopted to further develop the recently adopted National Innovation Strategy (2015) and the National Strategy for Smart Specialisation is under development.

One of the most important achievements of the 2014–2020 period in the field of social innovation, beyond EU funding and the definition of innovation outcomes, is the establishment of National Laboratories. Some of them are government-led, while others have been set up and funded through consortia tenders. The role of the National Labs is to synthesise scientific results to date and coordinate concrete educational, scientific and practical outcomes.

The aim of the White Paper is to examine the conceptual elements and components of social innovation and to explore the social and legal framework of it. An attempt is made to define the concept of social innovation and to integrate it into the legislative framework. In order to define a framework that fits the concept, the relationship between social innovation and technical and economic innovation is explored, with regard to the types of innovation that can be understood as complementary processes. In order to provide a complex analysis of social innovation, the process, stakeholders, levels and areas of application of social innovation will be defined and described in detail.

### **2.1. The legal and social background of social innovation**

The legal framework for social innovation is two-tiered. The first level, which dealt with the concept of innovation in Hungary, is the Act CXXXIV of 2004 on Research and Development and Technological Innovation. This legislation is entirely based on technological innovation, thus the concept of it is considered to be the foundation of social innovation. The aim of technological innovation is to improve the efficiency and profitability of economic activity and to achieve positive social and environmental impacts. It achieves it through a combination of scientific, technical, organisational, managerial and commercial operations, resulting in new or substantially modified products, processes and services.

The concept, created in 2004, was amended in 2014, namely by the Act LXXVI of 2014 on Scientific Research, Development and Innovation. This act is innovation-based. It defines innovation as a new or improved product or process, or a combination of these, which differs significantly from the previously applied legal form or financing method.

The innovation is independent of the organisation's previous products or processes, which in the case of a product have been made available to a potential user or, in the case of a process have been put into use by the organisation.

Innovation has two forms, product or business process innovation.

Within in legal background of social innovation we analysed those organisations that manage innovation in Hungary.

The most important institution is the Ministry of Innovation and Technology, which coordinates the following development areas: transport, employment, digitalisation, research and development, innovation, energy policy, higher education, vocational training, consumer protection and trade.

Among these major areas, the backbone institutions for R&D innovation are the SEED Small Business Development Foundation, the Foundation for Cultured Transport, the Hungarian Foundation for Enterprise Development, the Public Foundation for the German Language University of Budapest, the Austrian-Hungarian Science and Research Cooperation Action Foundation, the Hungarian-American Fulbright Foundation and the Tempus Public Foundation.

Innovation itself is organised by the National Innovation Development Agency, which has two main tasks: fund management and science policy coordination.

### **3. SOCIAL CHANGE AS A PREREQUISITE FOR SOCIAL INNOVATION**

Alongside the many benefits of globalisation, its negative effects have emerged in recent decades. These include the energy crisis, the technological revolution and the challenges of social transformation. The increase in material inequalities, the spread of environmental pollution, human rights problems, insecurity and rising unemployment.<sup>3</sup> Although the above mentioned problems do not affect all societies or all

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<sup>3</sup> 2004/2225(INI).



social strata within societies, they are becoming more and more common and often occur together in certain regions.

These difficulties are pushing global business actors, social organisations and public policy makers in the direction of rethinking global business models so that they are not only aimed at business success but also at solving social problems. (Budai et al., 2019)

In addition to the role of the state, the negative effects of globalisation identified above require the social involvement of economic actors and the alignment of their business and innovation processes with the needs of society and the target groups concerned. The focus on environmental and social sustainability requirements makes it necessary to apply more coordinated solutions to the problems of social groups that have hitherto been marginalised. (Clarkson, 1995)

What are the impacts of the digital switchover on society? The economic and social functioning of the 21st century is significantly shaped by the rapid emergence and spread of technological innovations. In particular, the accelerated digital transformation, driven by the pandemic, is affecting all aspects of life, leading to more efficient methods of production, distribution and communication. (Digitális Iskola Kézikönyve, 2017)

Certain groups of the society are very positively affected by the effects of the digital switchover, while some groups may be left behind as they have unequal access to the processes and positive outcomes of the digital switchover and are therefore falling behind or being negatively affected to a greater extent. The distribution of use of, access to and opportunities to the benefits from innovative solutions, which in most cases have been developed with positive intentions, is therefore not even across the society. (Hegyi, 2021)

An analogy can be drawn with the often multi-directional solution methods that are initiated in response to a problem identified in the technological field. There is no single path to solve the most identified social problems, and processes to address the problems of particular social groups can induce change along with many dimensions.

What does social innovation mean in each sector? What is the relevance of integrating social innovation in the daily activities of different economic actors?

Changing expectations of consumers and users regarding the social impact of companies are also pushing business actors to integrate social responsibility into their innovation processes and to initiate processes that can help, solve local community problems of a target group or bring about systemic change in line with their core business.

Corporate social responsibility strategies have taken on a new dimension. Choosing a charitable objective is not sufficient for competitiveness. (Géring, 2018) The role and perception of social enterprises also undergo important changes. A social focus no longer means the exclusion of profit-driven operations. Moreover, there is a growing trend towards technological innovations developed with a social purpose. (Bartus, 2008)

In most cases, new business solutions based on innovative technology are created with an inherently positive purpose, yet we increasingly hear the use of them or misuse for purposes other than those for which they were originally intended.

How can systemic change come about as a result of the actions of independent actors? The independent and coordinated actions of different economic actors can also justify changes in a number of areas, the long-term, systematic development of which can greatly contribute to the high-level solution of problems affecting society as a whole or specific target groups. (Jakab – Rácz, 2020)

The cooperation and joint action of different economic sectors (local government, social bodies, for-profit and non-profit enterprises) have a special role in solving local problems. The funding and preservation of the results of local projects that are multifunctional, have multi-stakeholder and are able to produce sustainable results are achievements that can be displayed at the level of society as a whole and the European Union. (Mélypataki, 2021)

The state also shall engage with the response to societal challenges and processes. When general challenges affect a broad section of society, the state shall enable middle classes to maintain the progress they have made. Therefore, during a pandemic threatened by unemployment and a general decline in incomes, it was possible to reschedule payment obligations without the obligation being cancelled. By maintaining viable businesses, the public charges for businesses that could be adapted to the changed circumstances were reduced, thus helping the state to maintain solvent businesses. In order to maintain rapid adaptability and increasing international competitiveness, some legislative powers have been transferred to the executive, with return of these powers to the legislature if circumstances that gave rise to them cease. The changed social situation in the pandemic has raised the question of whether the scope for European integration can and should be further increased at the expense of the Member States. There is no clear answer for this question, but the limits of the supra-national executive and the effectiveness and speed of its scope have been clearly demonstrated, *inter alia*, in the issue of contracts with big pharmaceutical companies and their enforceability. (Puskás, 2021)

#### **4. LIMITS, DIMENSIONS AND PROCESSES OF SOCIAL INNOVATION**

In the context of defining social innovation, we have written about the dimensions of social innovation. Innovation appears as a social process, where innovation is created through social participation. Social values, norms, needs and the innovation results from them are called social innovation, which aims are to renew society by changing attitudes and social structures. Social innovation is characterised by its aim of improving well-being and quality of life, responding to societal needs, creating new social relationships and cooperation, including innovations that not only benefit the society but also enhance the active participation of citizens. (Nemes – Varga 2015)

The processes of social innovation are characterised by the followings. It is cross-disciplinary and inclusive, participatory and involving a broad cross-section of the society, and is primarily top-down. It is demand-driven rather than supply-driven

and is tailored, as most of such innovations need to be tailored to local circumstances and communities. (EU Commission, 2013)

## **5. THE COMPLEMENTARITY**

In relation to the definition of social innovation, we had to address the complementarity of social innovation by incorporating the criticisms we received on the White Paper.

Social innovation, inseparable companions of technical innovations are complementary processes of innovation, where innovation can be evaluated as complementary processes. (Drucker, 1985; Freeman, 1988; Bulut et al., 2013; Kocziczky et al., 2015) New innovative bases as field of social innovation help the implementation and effectiveness of technical innovations, while at the same time they can enhance each other's strengths to be able to respond to current challenges in society. (Varga, 2017) Successful implementation of social innovation depends on cultural acceptance, economic sustainability and technical adaptability. (Bulut et al., 2013) Technical and social innovations together, complementing each other, can ensure the well-being of society. Indeed, each type of innovation has a social dimension, different types of innovations interact with each other and would lead to a transformation of the economy and social relations. Social innovation has a direct impact on technological innovation, as it can bring about changes in education, health, employment and social development in general. In this sense, social innovation is a complementary process and driver of technological innovation.

## **6. LEVELS AND STAKEHOLDERS OF SOCIAL INNOVATION**

Individuals and their interactions, formal and informal small communities and the family create the stakeholders of the micro level. At the micro level the focus is on local social innovations that meet pressing social needs, which are not addressed by the market or existing institutions and organisations and which have a greater impact on vulnerable groups in society. (BEPA, 2010)

At the meso level actors are defined as large communities, public private and non-governmental organisations, institutions, institution-maintaining associations, local innovation communities, organisations and networks. In this level the focus is on responding to pressing societal challenges that affect large segments of society or the entire sectors of society, often manifested through a complex mix of social, economic, environmental and cultural factors and that require new forms of relationships between social actors. (Baturina and Bežovan, 2015)

At the macro level the actors are the government, national, economic, legal, political and human subsystems. In this case, the level of systemic change in relation to the emphases requires fundamental transformation of the functioning of social institutions and actors, such as the creation of governance structures where empowerment and learning are both sources and outcomes of well-being. (Caulier-Grice et al., 2012)

In relation to networking and organizational issues, social innovation efforts require a combination of top-driven, often theoretical and bottom-up, practical strategies based on civic engagement. (Gerő, 2010)

In addition to thematic networking, we should also consider territorial networking principles by strengthening the meso-level.

Organisational issues should aim at coordinated action and addressing territorial differences.

Within the activities of the workshops attention should be paid to finding joint innovative answers to the problems that arise, to exchange experience, to identify, learn from and disseminate good solutions and knowledge, and to stimulate local innovation activities, involving local authorities, educational institutions, businesses and NGOs more effectively. (Bradford, 2003, pp. 9–11)

Three preliminary studies have been carried out on the issue of reference areas and delimitation. The first one, based on the results of the Survey Working Group, identified concrete applications of the definition in the areas of digitalisation, culture and creativity, local development and good governance, environmental innovation and climate, social well-being, the future of work, human systems and social innovation management. The second one, which defines the field, described it as a new type of innovation: it aims at preserving social values, and its innovation is characterised by social participation, changing social attitudes and social structure.

In the context of the preparation of the White Paper on Social Innovation, the structure of White Papers in the different domains of life was examined and the following areas were proposed for inclusion in the drafting process, which were accepted by the working group.

The background, purpose and function of the White Paper, the definition of the related areas, the conceptual framework, the areas of application and the related social innovation strategy.

The Strategy, which forms the backbone of the White Paper, is made up of the following sub-areas:

An assessment of the benefits and challenges of the Social Innovation Area at micro and macro level and the resulting SWOT analysis. Identification, analysis and interpretation of the problems identified in the SWOT analysis. Developing a mission and vision for Social Innovation. Then, in the spirit of the mission and vision, developing and characterising the objectives to be achieved to address the identified problems.

In the preparation of the strategy, each area had its own person in charge, who discussed the results and the precise ideas with the person in charge of the next stage of the strategy preparation. The preparatory material was discussed by the whole working group and the seven-member working group decided to proceed to the next stage of the strategy preparation.

A difficulty in creating the SWOT was to handle the micro-level problem analysis, that gave the complexity of the concept of social innovation. The problems of the related application areas were also identified. We also focused on the achievements and problems of the sectors involved (public, academic, civil and economic). When assessing strengths and opportunities, existing positive and success stories

have been referred to a general level, but examples have been left as footnotes to the SWOT table. The area of activities identified in the SWOT analysis provided a good basis for the problem and target analysis.

In the followings see the SWOT analysis.

Streights	Weaknesse
The start of TINLAB and the sectoral policy decision behind it, as a milestone in the Hungarian history of social innovation	The definition of social innovation is missing, and its notoriety, acceptance and literature background also needs development
The presence of organizations supporting traditional and novel social innovation in the private sector <sup>4</sup>	In Hungary, currently, there is not a focused frame system, and legal and financing background for the improvement of the social innovation environment, its systemic management and for supplementing the economic and technological innovation processes by social issues
Creation of an increasing number of innovation communities, workshops and community spaces	Several viable and necessary initiatives cannot be started on the way of innovation development due to the systemic deficiencies of the management of social innovation, or they cannot reach the phase of implementation. People directing the processes of social innovation work without special qualification
Targeted operational and developmental financing facilities <sup>5</sup>	The services of the national programs/management organizations supporting innovation currently operating in Hungary contain only a few social innovation focuses and special solutions
Implemented and spread social innovation solutions in the different segments	Tender dependency is high, and most of the tender schemes are predetermined, they inhibit the emergence of real innovative ideas due to the rigid professional and implementation frames
There is a diverse circle of roles according to the organizational background, sectoral and professional classification, and personal motivation	The sustainability of grassroots social innovation initiatives is low
An increasing number of market participants (mainly banks) are starting programs implementing a social goal <sup>6</sup>	There are only a few such good examples that implement a complete RDI process by subjecting the identified problem to a real empirical analysis (including the social impact measurement performed on the certain interference levels as well)
The national institutional system of innovation has started to develop significantly – for example, expanding innovation training offer, research workshops, social innovation excellence programs on the universities, the institution improving steps of the NKFIH (National Research, Development and Innovation Office) (such as resource expansion, more intensive involvement of businesses, universities and educational institutions, sectoral innovation platforms, national innovation manager network)	The lack of communication about the results of social innovation and the lack of cooperation of certain regions makes the spread of best practices and the transfer of the gained knowledge difficult or even impossible

<sup>4</sup> Fis: Ashoka, NESsT, Human Hub Fejlesztő Központ.

<sup>5</sup> Fis: Community Bank, Loans, domestic and international EU tender schemes supporting social enterprises.

<sup>6</sup> Fis: Magnet Bank Community Donation Program, CIB Social Responsibility Foundation, UniCredit Bank “Lépj velünk!” Social Innovation Program, City Bank has launched its Social Entrepreneurship Development Program in collaboration with NESst.

Opportunities	Dangers
Exploration and adaptation of effective and sustainable solutions and positive deviances using relatively novel methods reacting for social problems	The utility of the social innovation projects cannot be presented because of the lack of impact measurement, and this inhibits state and private investments in the sector
Development of entrepreneurial mindset and the culture of cooperation by multidisciplinary and multi-sectoral approach	The product and technological innovation focus do not change, the complementary role of social innovation does not prevail, and social innovation remains in a marginal position in public systems supporting innovation
Mobilization of resources in order to the spread of social innovation in the scientific, economic, government and civil sectors	The real social innovation ideas cannot find their financing possibilities because of the rigidity and predetermining character of the tender systems, so they fail.
Foundation and expansion of the social innovation managers'/mentors' professional knowledge and the creation of their national network	The social innovation ideas cannot emerge in social innovation processes because of the lack of the connection between interpersonal and inter-organizational relationships and their networks
Increasing the sensitivity for social innovation in the educational system, attitude formation, installation of motivators	The strengthening of the individual character of the civil society is not favourable for the emergence of social innovation ideas
Compared to the resource needs of technological and product innovation, it is possible to achieve spectacular and effective results, solve problems and satisfy needs with a lower investment.	The more significant part of the business sector operates by keeping exclusively the profit in mind, and they become less sensitive and active in managing and supporting social problems, they do not take part sufficiently
Social enterprises may have a significant role in connecting people disadvantaged from labour market, social and economic aspect to the world of work, and ensuring their social well-being	The embeddedness of social innovation initiatives is not fulfilled in the disadvantaged deprived regions because of the deficiencies of the local ecosystem, or they apply externally exported solutions which do not react for local needs
Creation of such supporting and financing schemes that consider the sector's characteristics, allow freer experimentation and, in certain cases, the classic "failure" of initiatives in order of success	Social innovation ideas and solutions affecting the public sector cannot gain space during the improvements because of the over-centralized, bureaucratic and closed operation, but these latest things from the side of the governmental frame system generally do not create favourable environment for social innovation

**Figure 1.** SWOT analysis

Source: SWOT analysis of the domestic situation of social innovation. In: Bogdány Eszter – Varga Krisztina – Veresné Somosi Mariann (eds.) (2021). *Társadalmi Innovációs Fehér Könyv*. University of Miskolc, Miskolc: University Press, pp. 23–24.

During the creation of the problem map we have carried out a cause – effect analysis of the problems based on the weaknesses and threats of the SWOT analysis. In doing so, we set up three levels of problem analysis. We were afraid to discover the root

problem in the social acceptance and embeddedness of social innovation. The problems leading to it were perceived as shortcomings in the legislative background and framework, in good practices and knowledge transfer, and as the lack of sustainability of the results of social innovation. The problems leading to this were then broken down into one level for the framework issue and two levels for the knowledge transfer and sustainability issues, using a system of causal analysis. The figure has been made more meaningful by explaining each point in the text.

Next Figure you can see the draft version of the problem analysis.

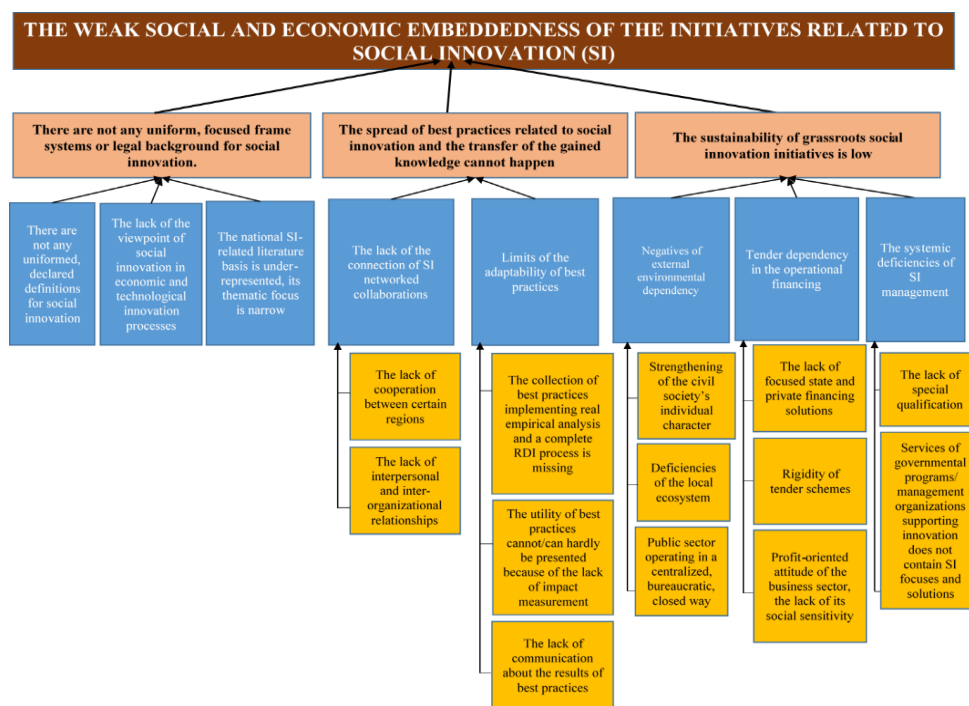


Figure 2. Problem analysis

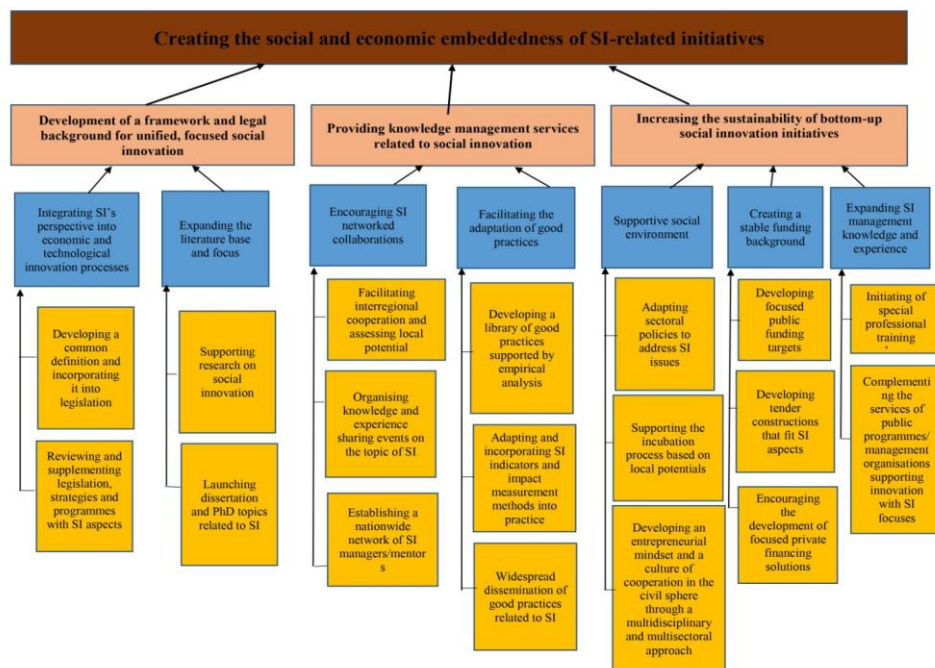
Source: Problem analysis of Social Innovation. In: Bogdány Eszter – Varga Krisztina – Veresné Somosi Mariann (eds.) (2021). *Társadalmi Innovációs Fehér Könyv*. University of Miskolc, Miskolc: University Press, p. 25.

In order to solve the problems and to ensure the sustainability of the strengths and opportunities identified in the SWOT analysis, we have set a long-term goal linked to a specific date to be reached by the end of the research and a mission for the project as a whole. The vision was formulated in response to the when, what, with whom questions used in the definition, while the mission was formulated as the management of a knowledge management service that would facilitate the systematisation and social innovation expected from a social innovation laboratory.

By unifying the levels of strategy development, the basic objective is derived from the basic problems and the objectives are derived from maintaining a system

of three problems. The common focus of the definitional and legislative problems was the integration of social innovation aspects into economic and technological innovation processes. The focus of the literature was further divided into research and educational outputs, which were embodied in the thesis topics. To address good practices and knowledge transfer together, the concept of knowledge management services was created at the second level of the objectives. With regard to the creation of a supportive social environment, we focused on the problems of the public, municipal and civil spheres on which the project could have an impact. In addressing the problems of the funding environment, we focused on the priority role of targets, the mainstreaming of social innovation and the inclusion of CSR programmes in the funding processes. As part of the knowledge management system, the transfer of social innovation knowledge in all areas of education and training, and the expansion of the scope of management organisations based on this knowledge to promote social innovation, were identified as objectives to be achieved.

In the next figure you can see the draft version of the Target Analysis.



**Figure 3.** Target analysis

Source: Target analysis of Social Innovation. In: Bogdány Eszter – Varga Krisztina – Veresné Somosi Mariann (eds.) (2021). *Társadalmi Innovációs Fehér Könyv*. University of Miskolc, Miskolc: University Press, p. 29.



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**SOCIAL INNOVATION – THEORY AND PRACTICE FROM THE PERSPECTIVE OF “CREATIVE CITY – SUSTAINABLE REGION” (KRAFT) NATIONAL PROGRAMME**

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**Abstract:** In this study we summarize the importance, research aspects of social innovation both from the theoretical and practical points of view. We begin with the introduction of the KRAFT Programme (started in 2012), a pilot regional development policy and its relation to social innovation. It is followed by presenting the interrelatedness of social innovation and the UN Sustainable Development goals, highlighting the various challenges which should be addressed. In accordance with many years of experience in regional development, we put much emphasis on the governance of social innovations and the variety of actors which could be the initiators. In this regard, we describe how different organizations can be engaged in such practices resulting in social change (social meta-innovation). Finally, we highlight some best practices in the field of social innovation at the Institute of Advanced Studies Kőszeg (iASK).

**Keywords:** *KRAFT Programme, Social Innovation, Social Change, Sustainable Development Goals, Quintuple Helix, Best Practices*

## 1. INTRODUCTION

The KRAFT Programme is one of the three pilot regional development policies of the Hungarian Government which aims towards the sustainable development of small- and medium-sized towns. The development of the Programme started in 2012, however the concept has a longer history. In contrast to conventional regional and city development practices, the KRAFT Programme integrates so-called ‘soft’ factors (culture, identity, heritage) and their efficient management with ‘hard factors’ such as infrastructure, energy, communication networks and economic sustainability. Another novelty of KRAFT is to identify and utilize synergies of interdependencies among rural and urban development factors, thus properly revealing the full range of conditions required for the implementation of new, complex regional development strategies for urban areas and their surroundings. The Institute of Advanced Studies Kőszeg (iASK) was appointed by the Government as responsible for the preparation of the KRAFT Programme and its adaptation to other border regions in Hungary.

The KRAFT Programme can be seen as a living concept that perceives the effective regional cooperation among economic and social actors as the measure of successful investment and development. It is rooted in the conviction that the key to successful development initiatives and projects is the effective cooperation between the socio-economic stakeholders of the relevant region. The concept takes into consideration the individual (entrepreneurial, governmental, academic, etc.) and community interests in the region.

The KRAFT Concept, by providing an integrated analytical framework enables the collective recognition of individual (i.e., corporate, governmental, academic) and common interests, contributes to a more complex and profound interpretation of the middle- and long-term development objectives of the dominant actors. As Miszlivetz and Márkus (2013) point out this integrated approach is the key to future success and socio-economic and ecological sustainability. Another important aspect of the KRAFT Programme is that it combines the theory of regional development with the theory of social innovation in order to increase the capacity for adaptive and level of regional resilience in various territories. The success of the KRAFT Programme in Kőszeg, the Alliance of Pannonian Cities and the contribution to the Veszprém–Balaton 2023 European Capital of Culture Award are just some examples.

Generally, regional development is conceptualized as a strategic process aimed to maximize the welfare of inhabitants and to create a sustainable territorial structure for long term viability through the mobilization and exploitation of local resources. It should always, however, be kept in mind, as Simmie and Martin (2010) point out that regional development is far from a smooth and incremental process; instead, it is subject to all sorts of interruptions and disruptions (such as periodic economic recessions, the unpredictable rise of major competitors, unexpected plant closures, the challenges arising from technological change and the like), and the state responses to these challenges and the degree of decentralization and adaptive capacity of territories differs to a high extent even in the same national economy. How regions

adapt to these kinds of changes is dependent on the interconnectivity of different stakeholders, shareholders and the state's social innovation ecosystems.

This current study is structured as follows: Chapter 2 highlights the connection and interrelatedness of social innovation and the Sustainable Development Goals. We acknowledge the work which has been already done by TINLAB, summarized in the White Paper (2021), however, we suggest to provide a broader perspective for the SI by embedding it into the framework of the UN. In Chapter 3, we argue that the governance of the SI has a multilateral character which should be taken into consideration when designing the domestic legislation. The White Paper by TINLAB (2021) highlights link between SI and local development – we aim to enrich this topic by the various projects elaborated by the Institute, these are introduced in Chapter 4.

## 2. SOCIAL INNOVATION AND THE SUSTAINABLE DEVELOPMENT GOALS

The research on social innovation, as many scholars point out, is not coherent in terms of disciplinary focus or approach. It is rather approached as a phenomenon from different perspectives and therefore also defined in different ways (see for e.g. Backhaus et al. [eds.], 2017). On one hand, sociological contributions most often identify social innovation as new practices, or new combinations of practices (e.g. Howaldt and Kopp, 2012); on the other hand, urban studies according to Moulaert et al. (2005) distinguish between three dimensions of social innovation such as:

- 1) satisfaction of human needs presently unmet,
- 2) changes in social relations and
- 3) empowerment.

According to the book edited by Backhaus et al. (2017), a dominant group of researchers connect social innovation to social change (Cajaiba-Santana, 2014) or more specifically to societal transformations (Haxeltine et al., 2016; Pel and Bauler, 2014) while the latter authors (as part of the TRANSIT research project) approach social innovation as changes in social relations involving new ways of doing, organising, knowing and framing and consider transformative social innovations as those that challenge, alter or replace dominant institutions.

In this diverse theoretic perspectives, there are critical reviews of the definitions of social innovation, like Pol and Ville (2009) who defined social innovation as one based on “*new ideas that have the potential to improve either the quality or the quantity of life*” (Pol and Ville, 2009). Examples include innovations for:

- better education,
- improved environmental quality,
- and/or longer life expectancy.

This definition proves the direct connection between regional development and social innovation, as the target is to raise both the quantity and quality of life. In order to have a clue what kind of goals could be set, it makes sense to review the UN Sustainable Development Goals adopted on September 25, 2015 by the General Assembly as part of the United Nation's 2030 Agenda for Sustainable Development. At the heart of the blueprint are 17 Sustainable Development Goals (SDGs) that are

urgent calls for action by all countries – both developed and developing countries – in a global partnership. By their adaptation, the United Nations Member States recognized that ending poverty and other deprivations must go hand-in-hand with strategies that improve health and education, reduce inequality, and spur economic growth – all while tackling climate change and working to preserve our oceans and forests.



**Figure 1.** The 17 Sustainable Development Goals (SDGs)

Source: <http://www.globaleducationmagazine.com/sustainable-development-goals/>  
(Accessed: 4 October 2021)

As the International Congress and Convention Association highlight the goals, they represent a fundamental shift in thinking, explicitly acknowledging the interconnectedness of prosperous business, a thriving society and a healthy environment. The goals integrate all sectors as key development actors and require an unprecedented level of societal cooperation and collaboration among civil society, business, government, NGOs, foundations and other stakeholders for their achievement – this links perfectly to social innovation.

Besides scholars who emphasize the aim of social innovation, Cajaiba-Santana (2014, p. 49) emphasized much more the nature of actions that led to the social innovation and defined it as *'new social practices created from collective, intentional,*



*and goal-oriented actions aimed at prompting social change through the reconfiguration of how social goals are accomplished*'. According to this definition the following questions arise: What kinds of actors participate? What kind of organizational framework is needed to bring and sustain social innovations?

Based on the work of Howaldt and Schwarz (2010) we can state that social innovation can:

- be realized both inside and outside of business;
- represent several forms of new services, business models for social networks and movements through governmental guidelines and support, intermediary and self-organized institutions (e.g., foundations);
- concern both inter- and intra-organizational processes;
- be started by charismatic individuals or social entrepreneurs;
- be embodied in social enterprises.

It is important to note that social innovation can be achieved by business innovation, since many business innovations do provide certain benefits to consumers and other social groups, although not all business innovations can be considered as socially beneficial (Pol and Ville, 2009). Describing their dissemination Howaldt and Schwarz (2010) state that it can be circulated in various ways, such as via:

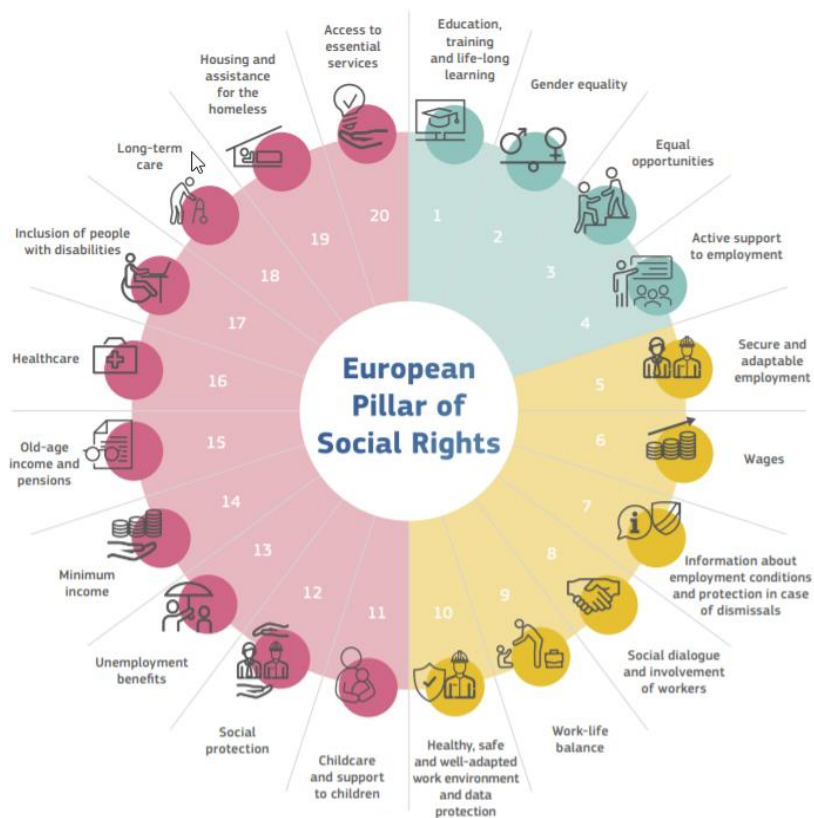
- the market (e.g., new services, business models),
- technological infrastructure (e.g., web-based social networking),
- social networks and movements (e.g., gender mainstreaming),
- governmental guidelines and support,
- intermediary and self-organized institutions (e.g., foundations),
- inter/intra-organizational processes, and/or
- charismatic individuals or social entrepreneurs, and their social enterprises.

In conclusion, social innovation can have a variety of goals. The challenge is not just how to combine the different approaches and definitions to create a general one for the purpose of supporting the local research, but to set an agenda to define the purpose and possible outcomes. Here are a few keywords that may help to clarify the aims and scope of Hungarian social innovation research:

- societal challenges,
- disadvantaged groups,
- human rights,
- equal opportunities,
- social responsibility,
- livable environment,
- local solutions, global effects,
- sustainability.

In many cases the thinking about how to ensure human rights, provide appropriate and effective services for people in need and to fulfil equal access reveal the challenges a country or a society faces and the social innovations that may respond to them.

In addition to the SDGs, focusing on the societal challenges with the aim of building a fair, inclusive society with equal opportunities for all citizens, the European Parliament, the Council and the Commission proclaimed the European Pillar of Social Rights in 2017 at the Gothenburg Summit. The Pillar sets out 20 key principles and with the European Pillar of Social Rights Action Plan the Commission has set out concrete initiatives to achieve its goals. Stakeholders at different levels are identified, such as EU institutions, national, regional and local authorities, social partners and civil society for successful implementation. Social innovations are mentioned as key tools in the process.



**Figure 2.** *The European Pillar of Social Rights Action Plan*

Source: European Pillar of Social Rights, <https://op.europa.eu/webpub/empl/european-pillar-of-social-rights/downloads/KE0921008ENN.pdf>  
(Accessed: 8 October 2021)

Returning to the definitions of social innovation and phrases like: *new ideas that have the potential to improve either the quality or the quantity of life, changemakers, charismatic individuals or social entrepreneurs, effective cooperation between the*

*socio-economic stakeholders, socio-economic and ecological sustainability, etc.*, a framework for a social enterprise can be found.

There are several definitions for a social enterprise and almost all of them mention two determinant factors, one is the social purpose and mission and the other is business strategy. Further important features like leadership (European Commission), financial sustainability (NESsT), scaled social impact (NESsT), making profit are not the main purpose (Bornstein and Davis, 2000). Financial autonomy is dependent on trading activities, and embeddedness in the local environment is crucial (OECD) to this diverse picture.

The European Commission's 2011 Social Business Initiative was created because the European Union was convinced that the market needed new, inclusive growth that focused on employment for all, strengthening the aspirations of people in Europe to make their work, consumption, savings and investment more in line with certain 'ethical' and 'social' principles. In order to promote a competitive social market economy, the Commission has focused on the social economy and social innovation, and the fight against poverty and exclusion has been identified as a priority. According to the European Commission's definition, a social enterprise is an actor in the social economy whose purpose is to achieve a social impact rather than to generate a profit for its owners or shareholders. It operates by providing goods and services to the market in an entrepreneurial and innovative way, and uses its profits primarily to achieve social goals. This organization has to be managed in an open and responsible manner with the involvement of employees, consumers and stakeholders (European Commission, 2011).

### 3. GOVERNANCE OF SOCIAL INNOVATION

In the previous section the interrelatedness of regional development, social innovation and sustainability was highlighted. Taking into consideration that the 17 SDGs integrate all sectors as key development actors, it is quite evident that the development of social innovation ecosystems must pay attention to the organizational dimension as well. Carayannis et al. (2012) describe the evolution of the Triple Helix Model to the Quintuple Helix innovation model:

- the Triple Helix innovation model focuses on university-industry-government relations,
- the Quadruple Helix embeds the Triple Helix by adding as a fourth helix the 'media-based and culture-based public' and 'civil society',
- while the Quintuple Helix innovation model is even broader and incorporates another helix (and perspective), that of the 'natural environments of society' (Carayannis et al., 2012).

The Quintuple Helix stresses the necessary socioecological transition of society and economy in the twenty-first century; therefore, it is ecologically sensitive and corresponds to the 2030 SDGs. (Carayannis et al., 2012)

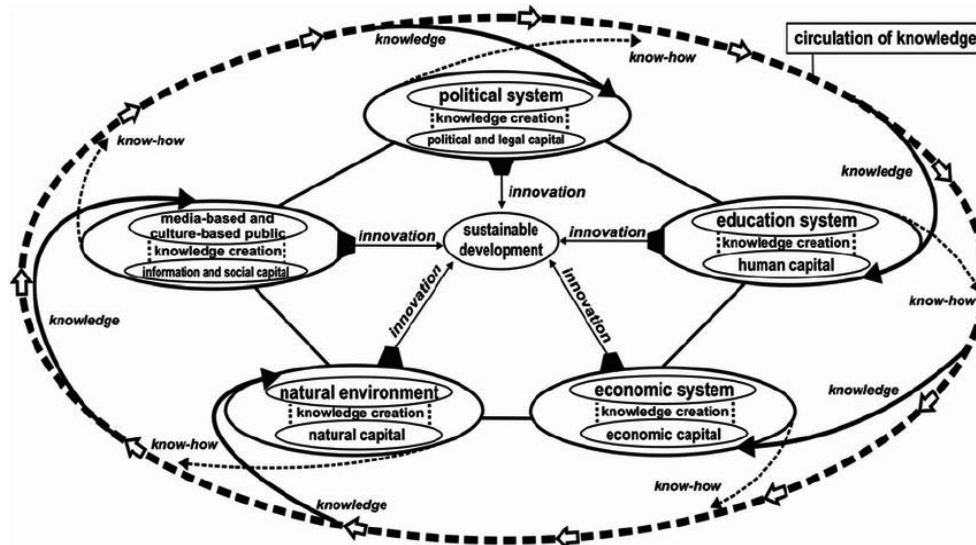


Figure 3. The Quintuple Helix model and its function (functions)

Source: Carayannis et al. (2012)

If we want to strengthen and enhance social innovation activity, the challenge is not just to describe how different organizations and people can be involved, but also how they can be engaged. This leads to finding direction through „social philosophies” that lie behind innovative solutions like: mediating best practices, augmenting individual and community-level entrepreneurial spirit, presenting problems to solve – a whole ecosystem of ‘social metainnovation’.

This ‘social metainnovation’ must meet the following requirements to enhance the level of activity, participation and network-building:

- Creating a culture of *initiation* – involving and including the young generation (digital natives, *digital initiates*) into local, community and civilization level problem solving projects as active partners. They are real resources as partners, passionate originators, promoters and not only target groups that need a nudge (Z. Karvalics, 2014).
- New forms, channels, and platforms of *horizontal value exchange* – shifting the alienated market forces into interpersonal and inter-group practices in newer and newer niche fields in increasingly new ways, redesigning traditional channels and forms of mutuality, fruitfully adapting new possibilities opened by fresh advancements in digital culture.
- *Community control regained*. Relying on the work of 19th century bureaucratic central institutions with diverse, pro forma practices, civic engagement and empowerment trajectories, including mobilizing families and small communities to come closer to a healthy and safe self-management culture is needed.

- *People first.* A basic normative goal is to revolutionize tools and institutions to create and maintain physical, mental, and social well-being, develop various solutions and technologies of self-support and social care. This is a way to approach the long-time predicted paradigm shift to a human/social economy and a hopeful sweep of human technology, following the revolutions in information technology and biotechnology.

When developing the ecosystem, it is highly recommended to analyse how social innovation's best practices are recognized and awarded. For instance, The Schwab Foundation for Social Entrepreneurship, sister organization of the World Economic Forum, is a leading global platform that accelerates outstanding models of social innovation. As it is declared on their website ([schwabfound.org](http://schwabfound.org)) for 20 years it has fostered social entrepreneurship worldwide by highlighting leading social innovation models to top decision-makers in business and government. The organization has strong ambitions to recognize the diversity of social innovation models across multiple stakeholder groups and to further stimulate public-private impact collaborations; currently the Schwab Foundation awards social innovators across four categories (<https://www.schwabfound.org/selection-process>):

- 1) Social Entrepreneurs of the Year (outstanding leaders pioneering solutions for social and environmental challenges),
- 2) Corporate Social Intrapreneurs of the Year (leaders in the public sector, be it local or national governments or representatives of international organizations, who harness the power of social innovation and social entrepreneurship to create public good through policy, regulation or public initiatives),
- 3) Public Social Intrapreneurs of the Year (leaders within multinational or regional companies who drive the development of new products, initiatives, services or business models that address societal and environmental challenges),
- 4) Social Innovation Thought Leaders of the Year (recognized experts and champions who shape and contribute to the evolution of the field of social innovation).

The other well-know organization in this area is Ashoka. One of its mottos is '*The world is defined by change and requires a new mindset*'. Ashoka envisions a world in which everyone is a changemaker and all citizens have the power to make positive changes. The organization was founded in 1981 and since that time has elected 3,500 Ashoka Fellows from 92 countries. Ashoka has operated in Hungary for 25 years with a network of Hungarian Entrepreneurs. Ashoka Hungary has selected more than 35 Ashoka Fellows who are creating systemic changes in areas like health, civic participation, economic development, environment, education and human rights. (<https://www.ashoka.org/en-hu>)

#### 4. iASK'S BEST PRACTICES RELATED TO SOCIAL INNOVATION

In this section three best practices of the KRAFT Programme is presented that can serve as examples for social innovation activities. Not coincidentally, two were selected as Good Practices of the so called 'Local Flavours' INTERREG Europe project lead by the iASK.

##### 4.1. 'The way I see Kőszeg' – collaborative creative arts for the students from the secondary school<sup>1</sup>

'The way I see Kőszeg' art project shows an effective collaboration amongst the youth of Kőszeg, iASK and local entrepreneurs. This practice answers to the problematic question of how to maintain the image (the brand), the identity of a town in the locals' minds. This project of local high schoolers shows a great way to build or strengthen the image of a town living in people's minds and targets, first of all, the locals. The arts and crafts teacher at the Jurisich Miklós Secondary School and her students decided on an art project: they started to plan different designs for T-shirts and bags depicting Kőszeg and its main characteristics: its cultural heritage buildings and their smaller details (e.g., windows, doorknobs), typical landscapes and views (e.g., the usually cloudy skies), moments (e.g., a cat sitting in a window) and traditions or visualizing the colourfulness and diversity on a map of the inner city. The students also prepared a short introductory video for the project, showing the progress and results of their project. The video was shared through social media. iASK decided to fund the project: the Institute ordered the T-shirts and bags with the designs and organized an exhibition of the products to gain a wider audience. There was a full house for the opening exhibition, "Our children made this, for our town" – it is an important aspect of the practice. But how to sell the produced products? Local entrepreneurs found the project a unique opportunity: it represents special marketable value that local students planned and designed the products – products that are valuable to locals, but also for visitors. The resources needed for the project were the creative and proactive locals who were motivated to make an effort for the town; a public institution that saw and realized the opportunity and was able to cooperate. iASK financed the first batch of products, after that local entrepreneurs invested in the reproduction of the products. The main evidence of success is that after 4 years the products are still on market. This shows that local initiatives can rely on the creative ideas of youth, and that creative ideas can lead to physical products that enhance pride and a sense of belonging through personal, institutional and geographical networks. The key success factor is the cooperation between stakeholders: cultural and tourism organisations, the local high school, the public sector and local entrepreneurs.

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<sup>1</sup> Written by Anna Bokányi in the framework of the Local Flavours INTERREG Project. Available at: <https://www.interregeurope.eu/policylearning/good-practices/item/5184/the-way-i-see-koszeg-collaborative-creative-arts-for-the-students-of-the-secondary-school/> (Accessed: 10 September 2021).

#### **4.2. Cultural Heritage Management and Place-making through Storytelling: The Talking Houses in Kőszeg town**

This urban research project is based on the original idea of Elemér Hankiss. The built, silent witnesses – the buildings of Kőszeg – are animated to reveal the stories they hide. Dr. Mónika Mátay, the leader of the research, claims that besides the macro approach to history, the micro perspective is worth considering to develop a better understanding of our common past and experiences. As the website of the project<sup>2</sup> declares, the rich archival documentation of Kőszeg allows historians to investigate the lives of the owners and other inhabitants, tenants, maids, children of the buildings in the downtown area. By reconstructing the everyday routines of the inhabitants, their communication, and in general, their lifestyle as precisely as the archival sources allow, a better understanding of the people of the past is gained. By tracing individual life stories and practices, we can connect them to local identity building and shaping, and also its connection to more universal discourses such as value systems, religion, the Enlightenment, or nationalism. The historical past is embedded in urban spaces and buildings that connect contemporaries to their ancestors. Downtown Kőszeg provides an authentic baroque environment that is unique in Hungary and an important element of the cultural heritage of the city that has gone through major changes during the past three decades. (talkinghouseseuropa.com)

The research activity related to Kőszeg's sense of place, genius loci has been published in order to let the local community as well as interested people to acknowledge the human perspective of history and the innovation of earlier times. The first two books in *Talking House series* deal with the 'Stories of Kőszeg' (Mátay, 2019) and 'Festetics Mystery' (Poczei, 2019). The publication is ongoing, the second book of 'Stories of Kőszeg' will be published in the near future as well as a book 'Heredité Before Mendel: Festetics and the Question of Sheep's Wool in Central Europe' is in progress, too.

#### **4.3. Book Valley – an innovative rural development project**

The five small villages of Nivegy Valley (with a population of less than one thousand people), between Zánka and Nagyvázsony is a home of vineyards, natural beauty, silence, spirituality, and slow tourism.

After fertilizing Veszprém city's application to be the Cultural Capital of Europe (ECC) in 2023 with the idea to extend the geographical scope of the activity with the whole Balaton Area, iASK had the opportunity to provide recommendations for local/rural culture-building projects. Since one of the authors (Z. Karvalics, 2019) has just published a paper on the possibilities of created attractions (with a detailed presentation of the origins and gripping story of the international Book Village projects), we suggested to establish the first Hungarian Book Village in the proposed activity area.

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<sup>2</sup> Talking Houses les points de mémoire. Available at: <http://talkinghouseseuropa.com/en/home/> (Accessed: 10 September 2021).

Luckily, people of Nivegy immediately fell in love with the idea, the foundation of Book Valley and they easily imagined putting the book village development at the “center” of their future building strategy: i.e., forming thematic book lodges from rest-houses, situating open air small book cabinets everywhere, making and exhibiting book sculptures, organizing book art camps, providing roundtables, literary salons and festivals – to dream of a book sanctuary, a home of book culture, without disturbing the residents by armies of tourists.

The Book Valley is a “Blue Pond” – like innovation: a witty application of the well-known Blue Ocean strategy. Blue Ocean innovations are radically new fields of business or social activities, where there are no rivals, thanks to their pioneering nature. Blue Pond is a simple re-creation of a Blue Ocean project in a new environment, on a smaller “lake”, where the advantage of making the first steps to realize the local version of an internationally successful project is a key to catching promising strategic directions.

Blue Ponds projects can encompass very special and original features. In the Book Valley, it is the *transformation of tourism into community building*. Since the hosts provide special thematic collections of books as main attractions, their guests come from the same interest groups. Finally, it is a way to insert high culture into the everyday life of a small rural community.

## 5. CONCLUSION

It is time to pay attention to the fact that the need for social innovation is knocking on our doors since societal challenges are on the table and for solutions we need co-operation, co-production, and the involvement of the local environment and stakeholders.

“Think globally, act locally”, the slogan perfectly fits to contemporary developmental goals. Focusing on our local environment and stakeholders, and taking small but important steps that lead to social impact in fields full of disadvantages and exclusion add up reaching a critical mass that lead to changes first close to the intervention points then expanding to the community, state and regional levels in concentric circles like when a stone is thrown into a body of water. We do not have the resources for unsustainable attempts that is why only conscious, determined, coordinated steps are acceptable in this process.

The spirit of KRAFT and its insistence on cohesive and coherent interdisciplinarity is an excellent methodology and practice to strengthen the social metainnovation capacity of a region. Familiarity with the latest improvements and innovations, performed internationally, generates renewed possibilities for the creation of more and new Blue Pond-like strategic projects.

The presence of corporate and individual social responsibility can enhance social innovation developments and contribute to the public good with governmental support.



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## **A PUBLIC POLICY FOR SOCIAL INNOVATION: LESSONS FROM COLOMBIA IN A NUTSHELL**

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**Abstract:** Social innovation has become an efficient public instrument to address the emerging social problems of contemporary societies. However, social innovation policies are still considered to be recent topics in the literature. This review article presents and describes the Public Policy of Social Innovation in Colombia and its evolution in the last decade. The article describes the policies and actors participating in social innovation processes by giving insights and concrete examples into the configuration of an ecosystem of social innovation. The paper aims to introduce elements which should be considered by innovation policy analysts when develop policies for social innovation in emerging economies that merit attention. By providing abundant examples and frameworks in the Public Policy of Social Innovation in Colombia, lessons for emerging economies are expected to benefit future governments interested in this issue. The review is concluded with suggestions and recommendations for practitioners and policy-makers.

**Keywords:** *Social Innovation, Innovation Policy, Colombia, Public Policy, Transformative Change, Grand Challenges*

### **1. INTRODUCTION**

Social innovation is a contested topic in the literature that is gaining relevance in discussions for policy-makers (Sinclair and Baglioni, 2014). Defined as “a new program, policy, procedure, product, process and/or design that seeks to address a social problem and to ultimately shift resource and authority flows, social routines and cultural values of the social system that created the problems in the first place” (Westley et al., 2017), social innovation has been gazed at and by public institutions as a suitable mechanism that contributes to solving the ‘compelling and growing social challenges’ of current societies (Grimm et al., 2013). Social innovation’s allure for governments lies in its capacity to enhance new forms of collaboration (Domanski, Howaldt and Kaletka, 2020), promote resilient solutions (Westley, McGowan and Tjörnbo, 2017) and even redirect state efforts by reducing government spending on social issues (European Commission, 2017).

One of the trends that have been observed in the literature is the growing interest in implementing public policies that allow harnessing the potential of social innovation in problems of public interest. Particularly, this review article aims to contribute to this discussion by presenting and describing the Public Policy of Social Innovation in Colombia and its evolution during the last decade. The article aims to promote a richer discussion with context-sensitive observations from Colombia that could inspire other emerging economies struggling with implementing social innovation policies.

The paper is structured as follows: After this introduction, in the second part, I present an overview of the two *Public Policies for Social Innovation in Colombia to date*. In the third part, I discuss different actors and initiatives of social innovation in Colombia to understand its ecosystem better and provide examples of interest. In section four, discussion and conclusions are presented by framing three lessons from a Public Policy for Social Innovation in emerging economies.

## **2. A PUBLIC POLICY FOR SOCIAL INNOVATION IN COLOMBIA: AN OVERVIEW**

Social innovation in Colombia and the rest of Latin America is a young notion (Domanski et al., 2016). In Colombia, social innovation emerged when the country was on the attending list to be a member of the Organisation for Economic Co-operation and Development (OECD) (Jaillier Castrillón et al., 2017). Although social innovation became a notion of public relevance at the dawn of 2007 as a tool to overcome poverty, it became the part of national public policies only until 2010 (Villa and Melo, 2015).

Social innovation was introduced for the first time in the National Development Plan '*Prosperity for all*' (2010–2014) under the presidency of Juan Manuel Santos Calderón. The plan conceived social innovation as the solution of social, economic or environmental problems through the interaction between various actors and projects that create effective, efficient and sustainable alternatives to existing problematics. Therefore, social innovation was regarded as a vehicle of social inclusion and a reconciliation strategy, looking for alternatives to accelerate the development of the country's poorest sectors (Departamento Nacional de Planeación, 2010).

One of the most important achievements in this institutional framework was the creation of the National Agency for the Overcoming of Extreme Poverty (ANSPE) and the Centre for Social Innovation (CSI) in 2012 (Doria García, 2017). The purpose of these institutions was to connect stakeholders from different sectors, gain insights into the social innovation capability in the country, and generate innovative, sustainable and scalable solutions for improving the quality of life of the population living in extreme poverty (DNP/Colciencias/ANSPE, 2013). The next step was the configuration of a Public Policy exclusively focused on social innovation.

### **2.1. A Collaborative Approach**

By April 2012, the formulation of the first Public Policy for Social Innovation in Colombia started within the framework of the Science, Technology and Innovation

Policy (STI) formulated by an inter-institutional working group made up of the National Planning Department, the Administrative Department of Science, Technology and Innovation (Colciencias) and ANSPE's Directorate of Social Innovation. This proposal was set out in August 2013 in the document entitled "*Conceptual Basis for a Social Innovation Policy*" to establish the conceptual bases of a Public Policy for Social Innovation aligned with the country's needs (DNP/Colciencias/ANSPE, 2013).

In this policy, social innovation in Colombia was conceived under four approaches: a) a *systemic-sociological approach* that seeks to achieve systemic social change; b) a *pragmatic-economic approach* whose objective is to emphasise the role of the social entrepreneur; c) a *managerial approach* that conceives social innovation as a novel solution to a social problem; and d) a *political science approach*, as an element directly linked to economic efficiency (DNP/Colciencias/ANSPE, 2013). This policy was considered a milestone, not only in Colombia but in Latin America, for utilising participatory and socially inclusive methods on its construction and implementing innovative methodologies on its design (Caicedo and Frías, 2016). Indeed, the interpretation of social innovation meant a rupture from traditional policies in innovation, based on the Oslo Manual, which integrated only four types of innovations (product, process, organisational and commercial) (OECD/Eurostat, 2005). Thus, innovation was traditionally assumed as a mechanism to increase competitiveness and economic growth.

As a supporting instrument, the Social Innovation National Node (NNIS) was created to enable the design and implementation of social innovation policies. The NNIS defined social innovation as "*a process through which value is created for society through practices, management models, and innovative products or services that satisfy a need, take advantage of an opportunity and resolve a social problem in a more efficient and effective way than the existing solutions, producing a favourable and sustainable change in the system in which they operate*" (Pulford, Hackett and Daste, 2014, p. 17). During this period, social innovation was utilised to fight against poverty and improve citizens' quality of life (Villa and Melo, 2015). Since then, social innovation has been integrating actors from different sectors, causing international organisations such as Acumen, B System or Socialab, to arrive in Colombia attracted by the favourable policies and the socio-economic context for developing social innovation projects (Villa and Melo, 2015).

Despite the implementation of a Public Policy for Social Innovation in Colombia in 2012, the topic was still considered in the National Development Plan the following year. The National Development Plan, 'All for a new country' (2014–2018), included social innovation policies that contemplated the identification and institutionalisation of novel solutions to public problems (Departamento Nacional de Planeación, 2014). Its bases reflect a social approach to centralise public institutions around three main goals: Peace, Equity and Education (Villa and Melo, 2015). This Plan centred on using information and communication technologies to coordinate social strategies to generate solutions to extreme poverty problems. With Decree 2559 of 2016, ANSPE was merged within the Department for Social Prosperity

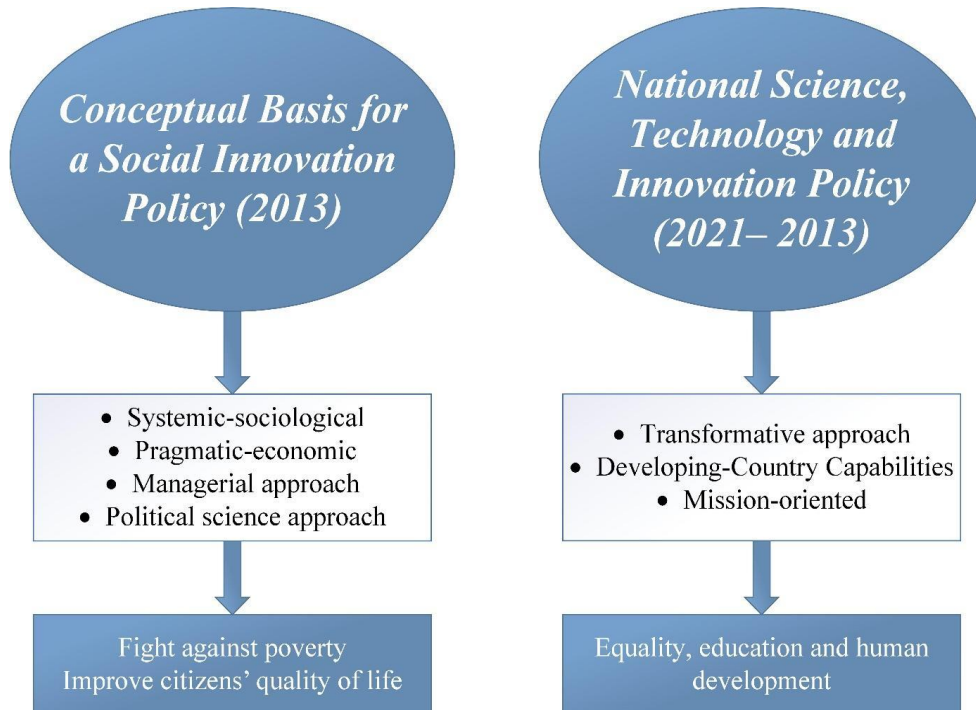
(DPS) (Departamento de Prosperidad Social), whose purpose is to design, coordinate and implement public policies to overcome poverty and social equity. Therefore, the DPS became the governmental institution in Colombia coordinating social innovation issues, mainly related to inequality and extreme poverty. Among the main activities carried out by the DPS, policies, programs and projects for assistance and reparation to violence victims and other excluded and vulnerable groups of individuals in Colombia can be highlighted.

## 2.2. The Mission of the Wise men

With the election of President Iván Duque Márquez in 2018, the National Policy for Social Innovation in Colombia suffered important mutations. The National Development Plan '*Pact for Colombia, the Pact for Equalities*' (2018–2022) focused on three axes: Legality, Entrepreneurship and Equality (Departamento Nacional de Planeación, 2018). This Plan describes innovation and development as pillars of economic growth and is built upon STI (2021–2030) (MINTIC/DNP, 2020). Therefore, a big change from the Public Policy for Social Innovation in Colombia of 2012 and the new Policy of 2021 was its integration into the National Innovation Policy.

Unlike the first Public Policy on Social Innovation in Colombia, this policy was not developed through a bottom-up approach but was directly implemented by politicians, academics and groups with expertise in innovation and social innovation. Thus, the STI policy was created during the so-called '*International Mission of the Wise Men of 2019*', as Mission integrated by 47 national and international experts and led by the Ministry of Science, Technology and Innovation of Colombia (Min-ciencias), focused on economic, social and environmental challenges. This Policy uses a transformative approach to innovation (Schot and Steinmueller, 2018), focuses on the developing-country capabilities method of the World Bank (Cirera and Maloney, 2017), and is framed as mission-oriented (Mazzucato, 2018). This framework means that social innovations are linked with the achievement of the Sustainable Development Goals (SDGs) of the 2030 Agenda, which includes a particular focus on "Grand Challenges Thinking" (Mazzucato, 2016).

In this respect, the STI policy (2021–2030) defines three challenges on which Colombia shall focus: The *first challenge*, "Biodiverse Colombia", is to protect the country's biodiversity by integrating natural and cultural diversity innovations. The *second challenge*, "Colombia Productive and Sustainable", is to reach a more sustainable and productive country based on doubling the share of the manufacturing industry in GDP, promoting the participation of digital industries and doubling the GDP share of agriculture. Finally, which relates to social innovation, the *third challenge*, "Colombia Productive and Sustainable", looks for a more egalitarian and educated society. This challenge seeks to reduce social inequality and multidimensional poverty in Colombia through scientific knowledge and social innovation. *Figure 1* summarises the two Public Policies for Social Innovation in Colombia.



**Figure 1.** Axes of a Public Policy for Social Innovation in Colombia

Over time, social innovation has been gaining more relevance in Colombia, mainly used as an instrument to overcome structural social challenges. The following section explores some examples of social innovation in Colombia developed by different actors, considering an ecosystemic perspective.

### 3. AN ECOSYSTEM OF SOCIAL INNOVATION IN COLOMBIA

Colombia and Brazil are considered to be the most advanced Latin American countries that develop intersectoral initiatives and configure a coherent and comprehensive Policy in social innovation (Frías, Aparicio and Lozano Borda, 2013; Pulford, Hackett and Daste, 2014). This fact is due to the important number of actors implementing social innovations as an instrument for systemic changes. Ecosystems for social innovation are defined as “social networks formed by a myriad of actors and experiences that could be sources of collective intelligence and creativity and contribute to solving urban problems, creating new paths of development, and reinforcing democracy in cities” (Andion et al., 2021, p. 2). Although Colombia does not have a clear social innovation ecosystem, some actors stand out for participating in the Public Policy for Social Innovation. The following summarises the national actors that develop or have developed social innovation initiatives in Colombia.

### 3.1. Social Innovation from Public Actors

The national government is undoubtedly a pioneer in the development of social innovation programmes. Some of the programs that have been successful in Colombia are divided into two lines: *Participatory Social Innovation* and *Open Social Innovation*, both based on creating solutions through participatory processes and relationships with communities (Villa and Melo, 2015). The following section explores examples of both lines:

#### 3.1.1. Participatory Social Innovation

In Colombia, the line that has been most explored is the *Participatory Social Innovation* line, which recognises the communities as strategic allies, seeking to generate spaces of trust to develop their capacities to lead their development processes and needs. Two valuable examples are worth mentioning. The first is the '*Saco Crea*', a socially-innovative oriented program developed in San José de Saco, a town in the department of Atlántico, located in the north of Colombia. According to the 2018 population census, this town has nearly 2,715 inhabitants, characterised by high levels of poverty and social inequities. The program's primary objectives were: *a*) income generation, *b*) food security, *c*) solid waste management and *d*) cultural appropriation. These purposes were sought to be achieved through the enhancement of the textile skills of the local inhabitants through strategies such as the involvement of women who made garments for principal cities in Colombia, the development of home gardens with 50 beneficiary families, or the training of a group of citizens in composting and management of local gardens (Villa and Melo, 2015).

Another program that deserves to be mentioned for its high impact at national level is the '*Water for Education, Education for Water program*' developed by Empresas Publicas de Medellín Foundation (EPM). This project's beneficiaries received technical training in the operation and maintenance of water purification, water quality monitoring and ecological education talks. Between 2011 and 2019, EPM has invested approximately 27 billion Colombian pesos in the project, benefiting around 89,554 people in rural educational communities – 93% in the municipalities of Antioquia (Fundacion EPM, 2021).

#### 3.1.2. Open and Digital Social Innovation

One of the most active lines in social innovation is the Public Program '*ViveDigital*', which is aligned with the Colombian Technology Development Plan of the National Government. *ViveDigital* was developed by the Ministry of Information Technologies and Communications (MinTIC), seeking Colombia to take a technological leap through the massification of the internet and the development of the national digital ecosystem. The plan sought to spread the appropriation and use of technology to generate employment and reduce poverty. The '*ViveDigital*' Plan was designed for the 2014–2018 period, achieving approximately eight thousand free digital connectivity spaces in urban and rural populations, covering almost all municipalities in the



country (Villa and Melo, 2015). This Plan received great international attention. To note some facts, Mark Zuckerberg – the founder of the social network Facebook – was part of this project and committed with the National Government to provide free internet for the population (MinTIC, 2015). *ViveDigital* included social innovation initiatives such as acquiring digital accessibility software for blind people and people with hearing disabilities or creating movie theatres adapted for people with these disabilities.

### 3.2. Private and Third Sectors

In addition to social innovation public programs, projects developed by the private sector also stand out. One of them is '*Pioneros de la Innovación Social*' (Pioneers Alliance), a public-private alliance initiated in 2011 to finance the early stage, prototyping and validation of solutions market of extreme poverty. Another well-known example was carried out by a non-profit organisation named Corporation for Participative and Sustainable Development of Small Rural Producers, which promote participatory innovation processes with small farmers using the methodology of a) Organizational Development, b) Empowerment of Small Rural Producers, c) Participatory Rural Enterprises and d) Participatory Technological Improvement (Villa and Melo, 2015).

Other private sector actors that support the social innovation background in Colombia are international organisations with a track record in social innovation. One of the most relevant examples was the involvement of the *Young Foundation* and the *Social Innovation Exchange (SIX)* in collaboration with ANSPE and supported by the Inter-American Development Bank and Compartamos con Colombia in 2013. Through the development of workshops and practical sessions, the project aimed to help building a community for social innovation (The Young Foundation, 2013).

Another example is Instiglio, a non-profit actor aiming to improve social services in developing countries by financing social programs in 13 developing countries, including Colombia. Other international actors are *Impact Hub* (Medellín and Bogotá) which gathers a community that connects and manages the creation of value in the entrepreneurial ecosystem that promotes social innovation; *Corporación Somos Más*, dedicated to designing innovative processes of collective construction based in Spain, Belgium and Colombia; or *Minka-dev*, an online tool that seeks to develop sustainable business models to solve social/environmental problems (Doria García, 2017).

### 3.3. Academic Sector

Besides the public and private implications in social innovation initiatives, the academic sector also stands out. Particularly, Corporación Universitaria Minuto de Dios (UNIMINUTO), a religious university corporation, created a *Social Innovation Science Park* in 2012 and created the methodology "*Route of Social Innovation*", an initiation in partnership with the Secretary of Science, Technology and Innovation

of the Government of Cundinamarca and the National Fund for Science and Technology. Its purpose is to respond to the needs of the poorest communities, focusing on social entrepreneurship, solidarity economy, traditional knowledge, productivity and community appropriation of innovation (Arias, 2016). Other universities that stand out are the Jorge Tadeo Lozano University, with a social innovation Consultancy Office; the Metropolitan Technological Institute (ITM) with the introduction of the Social Innovation Laboratory; the University of Antioquia with the Social Innovation incubator; or the National University of Colombia with the Bank of Social Innovation Projects (Villa and Melo, 2015).

### **3.4. International Cooperation**

Colombia also has a relevant background in international cooperation reception. Outstanding international cooperation projects promoted social innovation initiatives, led by institutions such as the Swedish Agency for International Development, the Department for International Development of the United Kingdom and the Ministry of Foreign Affairs of the Netherlands through the Business Partners for Development (BPD) program in the period 1998–2001 (Business Partners for Development, 2002). The BPD program aimed to combine practical action with decentralised learning involving partnerships between the civil society and the public sector to reach measurable business profits in poverty. It targeted extractive and water sanitation industries.

### **3.5. Smart and Innovative Cities, when Technology meets Social Innovation: The Case of Medellín**

Medellín, a in the department of Antioquia, is the second-largest city in Colombia, both in economic and population growth. In 2013, Medellín was awarded *'The World's Most Innovative City of the Year'* by the Urban Land Institute (ULI) of Washington above other innovative cities such as New York and Tel Aviv. The municipality of Medellín has consistently enacted Public Policies for Social Innovation, including its most recent version for the period 2020–2023 by Mayor Daniel Quintero Calle (Alcaldía de Medellín, 2020).

Since 2004, innovative policies and programs have been implemented in education, civic culture, coexistence and social urbanism of high international recognition. Interestingly, many of these innovations have been technological in nature; their purpose has been to promote the city's urban development and turn it into a 'Smart City' (Biczyńska, 2019). However, the abundant social problems embodied in the city have become the terrain for these technological innovations to be turned into opportunities for social innovation. In urban mobility two of the city's most significant milestones are worth mentioning. In December 2011 the *'Electric Stairs'* project was inaugurated, a free public transport system in Comuna 13, one of the most recognised neighbourhoods of the city for its violence rates in the past. The creation of this project attracted new social proposals such as the creation of graffiti, urban art and

remodelling of the neighbourhoods' infrastructure, generating an increase in tourism in this sector.

Similarly, in 2003 was created the '*Metro Cable*', a gondola lift system with zero gas emission integrated into the public transport system that solves problems of citizen mobility in sectors of high social vulnerability. Due to the city's mountainous topography, the '*Metro Cable*' model has expanded throughout the city, connecting various marginal points with the city centre. Consequently, the infrastructure of the neighbourhoods surrounding the '*Metro Cable*' has undergone significant architectural transformations and the receipt of significant figures for international cooperation to overcome poverty in the city.

However, the emphasis on social innovation in Medellín is not only reduced to urban planning and mobility since the city has also developed projects with a high social component. To illustrate, one of the most recent projects led by the Medellín Mayor's Office is the creation of a project called '*Escuchaderos*' (listening centres), whose purpose is to reduce the growing need for mental health care in the city's inhabitants accelerated by the health crisis of Covid-19. Through this program, citizens will be able to access free individual psychological counselling and social support in strategic points of the city and easily accessible through public transport. The program started on April 2021 with the engagement of experts in psychology, aiming to target vulnerable populations of the city in need of psychological counselling and personal development. Many other cases of social innovation like this can be mentioned in Medellín. In particular, it is highlighted that Colombia is a country with significant social inequalities and growing poverty; therefore, a focus on social innovation allows various actors to respond to social and environmental growing challenges.

#### **4. DISCUSSION AND CONCLUSIONS: LESSONS FROM A PUBLIC POLICY FOR SOCIAL INNOVATION IN COLOMBIA**

This review paper aimed to present and describe the Public Policy of Social Innovation in Colombia and its evolution during the last decade. In this paper, it was possible to identify that the Public Policy of Social Innovation in Colombia has presented two important moments in its configuration (see *Figure 1*). Some lessons from the Colombian case are mentioned that may be useful for other emerging economies with similar needs that may see social innovation as useful for policy-makers.

##### **4.1. A Public Policy of Social Innovation is an Evolutionary Road**

The first policy was developed through a process of collective participation between public institutions, private organisations and citizens. The multi-stakeholder participation reflected focus on the fight against poverty and inequalities. This dynamic, which was similar throughout Latin America, sought to use social innovation as a tool to terminate social gaps and inequalities resulting from the poverty that characterises emerging economies (Villa and Melo, 2015). This policy is closely aligned with Moulaert et al. (2013) who conceives social innovation as innovations in social

relations reflected in novel governance structures and greater collective empowerment. The second policy, which was launched in 2021, and is expected to run until 2030, was developed by expert actors, labelled as *'Wise Men'*, who were inspired by academic publications and scientific reports. This policy is aligned with Schot and Steinmueller (2018), Cirera and Maloney (2017), and Mazzucato (2018), which interprets social innovation as a transformative concept with the potential to change social structures and relations. Social innovation is a notion that cooperates and collaborates with sustainable development and their activities are intertwined with the well-known development goals.

#### **4.2. A Public Policy of Social Innovation Needs Maturity**

Although it is premature to identify which Public Policy for Social Innovation is more efficient or successful at this stage, what is possible to identify a transition of social innovation as a public mechanism to reproduce systemic changes in dialogue with global agendas. These decisions by policy-makers also reflect a degree of maturity in the understanding of social innovation, as it requires particular policies and concrete mechanisms for its implementation. Lessons from Colombia show that while the problems of society remain the same, they evolve over time as societies change and adapt to new socio-technological regimes. Therefore, learning from the mistakes of previous policies has allowed Colombia to build a more mature and concrete Public Policy on Social Innovation. A lesson for emerging countries would be to review their progress over time and interpret what each society considers as *'desired'* from a social innovation policy.

#### **4.3. A Public Policy of Social Innovation Needs Adaptation**

Colombia's problems are far different from those of other countries in Latin America and other emerging economies. Colombia, in particular, has serious problems of extreme poverty, inequality, low levels of education and insecurity due to Colombia's armed conflict and the growing number of criminal gangs (Robinson, 2016). Therefore, social innovation in the country has been interpreted as a mechanism to solve the basic problems of the Colombian society. Undoubtedly, lessons for other emerging countries consist in adapting social innovation policies to the needs of each country. It should be noted that although social innovation aims to promote change in social relations (Cajaiba-Santana, 2014) and is based on a transformative concept of society (Westley, McGowan and Tjörnbo, 2017), the basis of its implementation is to solve social problems (Grimm et al., 2013; Moulaert et al., 2013). Therefore, taking into account the signals and messages emitted by the environment, policies should be adapted to the needs and capacities of each country.

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## **Section II**



## ROMANIA’S PUBLIC FINANCES: WHERE ARE WE NOW?

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**Abstract:** The outbreak of the Covid-19 pandemic could be a good opportunity for the implementation of structural measures that would lead Romania to a new paradigm of economic growth, more resilient to external shocks.

The budget constructions for 2021 and the following years are and will be marked by the year of 2020, which through its particular exposition, brings to the fore the need for a new economic approach and the preparation of conditions for a new way of formulating public policies, strengthening the concept of sustainability, of the balances between macro and microeconomics, strengthening governance, orienting future investment projects towards reducing/eliminating structural vulnerabilities (transport infrastructure, health infrastructure) in the context of the challenges of a profoundly changing society.

**Keywords:** *public finances, crisis, the excessive deficit, the inflation*

Currently, we live in moments when the problems seem to become easier to identify, to conceptualize. The government was deposed with the highest score in the history of censorship motions in the last 30 years, and, in this state of affairs, the country is sinking into crisis every day. The government that will be formed already has a very busy agenda<sup>1</sup>.

Also, we cannot neglect the impact of the pandemic in the area of finance, which is a very severe one, increasing the uncertainty and placing the recovery on a difficult trajectory. The health crisis has effects on the Romanian economy and, as it can be seen, unfortunately, the presence of vaccines is not enough to eliminate the “civilizational” gaps between Romania and the developed countries of the West.

The pandemic, from a financial perspective, passes through societies, economies bringing changes for a long time, and in this context, financiers are called to analyze the possibilities through which states, unions of states, various other decision-makers can fight against and mitigate the negative effects of the crisis.

In addition to the financial problems caused by the Covid-19 pandemic, the high costs of managing the health crisis, we are also facing another threat, namely, the

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<sup>1</sup> We specify that at the date of the conference there were only negotiations regarding the structure of the new government of Romania. Meanwhile, after a period of political crisis, on November 25, 2021, the government led by Nicolae Ciucă was invested.

climate change that can destabilize the public budget. The impact of the climate change can far outweigh that of the pandemic, it can cause devastating effects for communities, society, and these effects will also affect public budgets, communities and individuals in general. The economic impact of the pandemic is considered to be transitory (even if long-term), but public budgets would not need to be destabilized in general if pre-pandemic levels of economic activity are reached in a sustainable way. The climate change, an extreme event and an existential threat, transposes us into another paradigm, in the sense that the effects on the economic activity and on the public, firm and individual budgets will be permanent.

History reminds us that, as in 1931, when Romania was struggling with the raging waves of the economic crisis, researching the organization of Romanian public finances, it was found that, unlike the states with extensive experience in public administration (France, England), our competent ministry did not have sufficient resources to carry out its important mission (Stan, 1937, p. 71). The same aspects can be felt today in the context in which the quality of public services is among the lowest in the European Union, the level of taxpayer satisfaction regarding the government's fiscal policy, the activity of the National Agency for Fiscal Administration and the trust in the civil servants is very low in the surveys conducted.

During the previous economic crisis (2007–2009) many member states of the European Union entered the excessive deficit procedure, now Romania is in this situation again, the letter from Brussels arriving in April – after the outbreak of the pandemic.

The Council adopted the recommendation under the excessive deficit procedure for Romania and the recommendation establishes that Romania should put an end to the excessive deficit situation by 2024 at the latest<sup>2</sup>.

The Council found that an extension to the current deadline for Romania to correct its public deficit would be important in order not to compromise the economic recovery after the Covid-19 pandemic. The new deadline for correcting the excessive deficit allows for a more gradual effort and a balance between fiscal consolidation and the economic recovery.

The recommendation indicates that, in order to meet this new deadline, Romania would need to achieve a general government deficit target of 8.0% of GDP in 2021, 6.2% of GDP in 2022, 4.4% of GDP in 2023, and 2.9% of GDP in 2024, which is in line with the Romanian government's objectives.

The Council has taken into account the changes in the Romanian fiscal situation, budgetary developments in 2020 and the new budgetary strategy put in place and calls for reforms, including in the management of public finances. In this context, the Recovery and Resilience Facility can provide an opportunity for Romania to improve its fiscal situation while still supporting growth and job creation.

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<sup>2</sup> See <https://www.consilium.europa.eu/en/press/press-releases/2021/06/18/excessive-deficit-procedure-council-adopts-recommendation-for-romania/>, consulted (Accessed: 1 October 2021).

Regarding the inflation, we start from the reports of the National Bank of Romania (August 2021) which showed that the annual inflation rate continued to increase in the second quarter of 2021 exceeding the upper limit of the range associated with the stationary target and reaching the level of 3.94% at the end of the analyzed period (+0.89 percentage points compared to March 2021)<sup>3</sup>. But the annual inflation rate continued its upward trend, rising to 6.3% in September, according to the data released by the National Institute of Statistics.

The inflation perspectives must also be analyzed in terms of keeping the epidemiological situation under control. The annual inflation rate is expected to continue its upward trajectory seen in the first half of this year and in the second half, being forecast at 5.6% in December 2021, a level above the upper limit of the target range.

Lifting most of the restrictions and restoring confidence in the summer of 2021 supported the revival of the economic activity, but activities involving physical interaction have not yet fully recovered the losses associated with the restrictive measures and the population's prudence. Additionally, the strong manifestation of the new pandemic wave tempers the encouraging evolution of the Romanian economy.

In Romania, the health and financial crisis brought the public debt to record values, however, below 50%. As a share in GDP, Romania's debt decreased in July 2021, to 49.3% compared to 49.5% in June 2021, the explanation being that of significant economic growth, even though the government added another 20 billion lei in a month to the total amount of public debt.

Although the above-mentioned figures are worrying, the reports of the National Bank of Romania emphasize that the big problem is the country's ability to pay its loans. The additional indebtedness must have a counterpart in assets or changes in the structure of the economy, which will allow the payment of debts without generating the particular burden of future generations.

If we follow the reports on budget execution<sup>4</sup>, we notice that in the second quarter of this year the budget registered a deficit of 19.17 billion lei (1.68% of GDP), and in the third quarter, the budget recorded a deficit of 10.48 billion lei (approx. 0.89% of GDP). Let's not forget that, during all this time, every effort has been made to combat the effects of the Covid-19 pandemic.

Budget revenues have increased, but this increase is mainly due to the fact that in the previous period / year the revenues had to "suffer" due to the effects of fiscal measures instituted in order to support taxpayers.

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<sup>3</sup> See <https://insse.ro> (Accessed: 1 October 2021) and The inflation report August 2021, <https://www.bnr.ro/PublicationDocuments.aspx?icid=3922> (Accessed: 1 October 2021).

<sup>4</sup> *Report on the implementation of the budget for the third quarter of 2021*. <https://mfinante.gov.ro/domenii/bugetul-de-stat/informatii-executie-bugetara> (Accessed: 30 October 2021).

In the third quarter of 2021, the tax revenues amounted to 46.93 billion lei (approx. 4% of GDP), a positive trend, recording revenues from profit tax, income, VAT, social contributions<sup>5</sup>.

There is also a significant increase in the local tax collection. This upward trend was mainly due to some legislative changes, such as the annual indexation of taxes for freight vehicles with a total authorized mass of 12 tones or more, as well as for combinations of freight vehicles with goods with the maximum total authorized mass equal to or greater than 12 tones, depending on the exchange rate of the euro in force on the first working day of October of each year and published in the Journal of the European Union and the minimum levels laid down in Directive 1999/62/EC<sup>6</sup>.

If things were to recover and keep up, it would be time for the economy to support the state again.

Let's also look at the evolution of the general consolidated budget expenditures. They accounted for 8.9% of GDP in the same reference period, in the third quarter of this year, respectively. The expenditures related to this quarter compared to the volume of expenditures in the third quarter of 2020 increased by approx. 0.86 billion lei<sup>7</sup>.

Thus, we notice that the personnel expenses represent 2.3% of GDP, those with goods and services 1.3% of GDP, the interest rates approx. 0.3% of GDP, the subsidies 0.1% of GDP, the social assistance expenditures 3.1% of GDP and the capital expenditures approx. 0.5%.

Despite all the positive aspects revealed, in the third quarter of 2021, the level of budget revenues did not reach the programmed level in the conditions in which the revenues received from the internal economy exceeded the programmed level for the analyzed period.

The situation is also caused by the fact that the revenues expected to be collected from non-reimbursable external funds registered a lower degree of achievement than the level scheduled for the third quarter of 2021, which led to the non-realization of the scheduled budget revenues for the analyzed period.

In the next period, the pace of revenue collection in the domestic economy should increase. This must also be the main objective of ANAF (NAFA – National Agency of Fiscal Administration n.t.), achievable through<sup>8</sup>:

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<sup>5</sup> During this reference period, the revenues from the profit tax represented 0.4% of the GDP, from the income tax 0.6% of the GDP, from the VAT approx. 1.8%, from insurance contributions 2.7%.

<sup>6</sup> See Law no. 296/2020 which amended and supplemented art. 491 Fiscal Code, an article that regulates the method of updating inflation set in fixed amounts. The indexation procedure can be done either by adopting a decision of the local council or by the effect of the law. Law no. 296/2020 for the amendment and completion of Law no. 227/2015 on the Fiscal Code, published in the Official Gazette of Romania no. 1269 of December 21, 2020.

<sup>7</sup> In the third quarter of 2020, the expenditures amounted to 103.6 billion lei, and in the similar period of 2021 they increased to 104.46 billion lei (by about 0.8%).

<sup>8</sup> See [https://www.anaf.ro/anaf/internet/ANAF/info\\_publice/plan\\_masuri\\_colec\\_venit\\_bgc](https://www.anaf.ro/anaf/internet/ANAF/info_publice/plan_masuri_colec_venit_bgc) (Accessed: 30 October 2021).

- simplification of tax administration procedures to support voluntary compliance with the declaration of tax obligations;
- supporting the compliance with the payment of tax obligations;
- measures to prevent and fight against tax evasion;
- ensuring a differentiated tax treatment depending on the tax behavior of the taxpayers.

It is also necessary to take measures at the level of the main authorizing officers to increase the absorption of non-reimbursable external funds, as well as to increase the rigor in the quarterly programming of public expenditures.

We are once again in a moment when the revival of economic growth in the EU requires urgent measures, a trend that our country is also in line with (Lazăr, 2016, p. 151). Thus, although quite late, the actors involved in the procedure of drafting the budget state that they are preparing a balanced budget construction, responsible for stimulating the economy and for correctly distributing the public money for the welfare of the Romanians.

The government program in the field of public finances does not suggest the introduction of new taxes, as a source of revenue. Instead, the new government assumes the control of the budget deficit by applying fiscal-budgetary responsibility, preparing in this regard, as we have shown, a balanced budget with the role of stimulating the economy. In outlining the budget projection for the next year, the government is also considering the possibility of increasing the budget revenues by fighting against tax evasion.<sup>9</sup>

Obviously, given the exceptional character of the budget years during the Covid-19 pandemic, which also determines the prolongation of measures to eliminate the multiple effects of the health crisis, in the next budget year a credible budget construction is required, avoiding pro-cyclical policies and creating fiscal space. It is intended that the budget correction be an exception, not a solution to a crisis<sup>10</sup>.

Let us not forget that this difficult budgetary context of 2021 also requires measures to accelerate the digitization of the tax administration. The approach will be materialized by reporting in digital format the fiscal and accounting information

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<sup>9</sup> Take into account the role of the tax record in preventing and fighting against tax evasion and in streamlining the administration of taxes and duties owed to the state. In this regard, see Coștaș, 2021, p. 91.

<sup>10</sup> See the situation of the budget corrections from the current year – at the beginning of September 2021, the Emergency Ordinance no. 97/2021, published in the Official Gazette of Romania no. 858 of September 8, 2021, which aimed to allocate resources to finance unforeseen expenses to combat the spread of Coronavirus, such as: providing the necessary funds for the purchase of vaccines, medicines, the implementation of national health programs and the implementation of incentives for Covid vaccination; ensuring the necessary amounts to finance the expenses with medicines and medical services, the remuneration rights for the personnel from the public health units and for the payment of the indemnities related to medical leaves. Also, on November 24, 2021, the Ministry of Finance sent to the Fiscal Council a draft budget rectification requesting its preliminary opinion on this proposal.

(standard audit and tax file system – SAF – T)<sup>11</sup>. From 1 January 2022, SAF-T reporting will become mandatory for large taxpayers, and the others will be enrolled in the subsequent reporting system in 2022 and 2023, respectively.

The construction of the budget for 2022 will be a severe test given the need to reconcile the management of the very difficult situations facing Romania (the health crisis, the energy price shock, the effects of the tensions on international markets), which require adequate resources, with the need for budget consolidation, the visible reduction of the budget deficit. In this context, we emphasize that it is mandatory to strictly control the spending of public money, public spending that provides basic public goods for citizens (such as health, education) and at the same time to take into account the constraints imposed by the budget consolidation. All these measures will have to be combined with the increase in tax revenues. Without a substantial increase in tax revenues, it will be virtually impossible to meet current and future challenges regarding the public budget, the public finances and the Romanian society.

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## REFORMING THE LEGAL EDUCATION SYSTEM IN 18TH CENTURY HUNGARY AND KARL ANTON MARTINI

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**Abstract:** In Hungary, the scientific cultivation of law used in the field of education was based on the *Tripartitum* by István Werbőczy until the 18th century. The kind of literature on natural law that conveyed the spirit of Enlightenment, henceforth equally meant the theoretical cultivation of law could start its journey in Hungary with some delay, however, proved very fruitful in terms of views on natural law. The era of rational natural law, the so-called Law of Reason arrived by the end of the 18th century, thinkers of this line derived answers given to questions of state and legal settlement from the human reason. Karl Anton Freiherr von Martini was the most outstanding figure in the 18th century Austrian natural law, a representative of the Law of Reason branch (*Vernunftrecht*) in the German linguistic area, which bore the ideals of Enlightenment on itself. These works were course books at the same time, counted as compulsory study material at the Austrian Faculty of Law until the 1820s. Their authority, however, had a lasting effect since they were regarded as basic works in Hungarian legal education until 1848.

**Keywords:** *Natural law, Law of Reason, Karl Anton Martini, education reform, Ratio Educationis, legal education, Martini's works on natural law, legal philosophy, the Kantian natural law*

### 1. THE SITUATION OF THE SCIENTIFIC APPLICATION OF LAW IN 18TH CENTURY HUNGARY

Until the 18th century, the Scientific cultivation of law – also used in the field of education – was based on the *Tripartitum* by István Werbőczy. The *Tripartitum* had a considerable impact on the development of Hungarian law, not only by the fact that it was applied in customary law until 1848, but its theoretical effect cannot be neglected either. Due to this, – according to Moór Gyula – instead of the reception of Roman Law, institutions established by the *Tripartitum* came into being in Hungarian legal practice, furthermore, “speculations in natural law” that are so fashionable in contemporary Western Europe did not gain a significant influence in Hungarian legal thinking. (Moór, 1992, p. 6)

The kind of literature on natural law that conveyed the spirit of Enlightenment, henceforth equally meant the theoretical cultivation of law could start its journey in Hungary later on this century with some delay, however, proved very fruitful in

terms of views on natural law. (Pauler, 1843, p. 209) The era of rational natural law, the so-called Law of Reason arrived, in which the ideals of Enlightenment and keywords like citizenship, humanity, and equity became predominant, and thinkers of this line – through Pufendorf, Leibniz, Thomasius, Wolff as far as Fichte, then Kant – derived answers given to questions of state and legal settlement from the human reason. (Frivaldszky, 2001, p. 219)

Even though at the University of Nagyszombat (Trnava) natural law was taught in the spirit of the old, Aristotelian scholasticism as a part of the Arts studies, legal education gradually became a field of acceptance of new ideas. (Molnár, 1881, p. 223) In this process, the engagement of the state in the field of education served as the actual catalyst, and development took a new momentum mostly due to state initiatives. More and more scholars and experts compiled a draft on public education for enlightened monarchs, in which they emphasized the public character of education, they regarded it as an undeniable state task, which aims at educating subjects that are useful and loyal to the state. Such a draft was the one compiled by Diderot for Empress Catherine II, the concept compiled by Christian Wolff for Frederick II as well as the objectives created by Karl Anton Martini and Joseph Sonnenfels, the main ideologists of Empress Maria Theresa. An excellent reference was the Wolffian thesis, where the main aim of the state is to ensure public welfare, for which it is the ruler who is entitled to govern the affairs of all citizens, education included, in a sovereign way. (Kornis, 1927, p. 4)

## **2. KARL ANTON MARTINI (1726–1800)**

Karl Anton Freiherr von Martini was a counsellor on central administration of Maria Theresa, then Joseph II and Leopold II, a legal academic of great authority of the school of natural law, a late follower of Samuel Pufendorf and Christian Wolff, who was awarded the title of Austrian baron (*Österreichischer Freiherr*) for his work in 1779. He was Paul Joseph Riegger's student at the University of Innsbruck, following his studies in Philosophy in Trento. He received his doctorate at the University of Vienna. Following his studies in Germany, the Netherlands, France, Italy and Spain, he completed a diplomatic service of 13 months at the Madrid Embassy. He started his career as a lecturer in law at the Collegium Theresianum in the 1750 (Hebeis, 1996, pp. 70–74), an academy for the nobility established by Maria Theresa, where the most lecturers came from the Jesuit order, except for the law teachers at the Faculty of Law.

The Habsburg imperial court ordered the foundation of the Collegium Theresianum with the decree dated on 24th February 1746 following the initiative of the Austrian Jesuit province. The institution opened its gates in 1746 under the guidance of the Jesuit fathers. At that time, the Collegium Theresianum welcomed 24 students, including two Hungarian noble youths, József Niczky and Earl András Perényi. (Kökényesi, 2012, p. 35) The main aim of the institution was to facilitate access to higher education for noble youths, as well as to train well-qualified professionals for public service. In the beginning, only subjects belonging to the framework of the

later grammar school were taught in the institution. However, later subjects included modern languages and legal studies, and as a result of this, representing an academic level, the institution became an academy. Thus, after finishing their grammar school studies, students attended the University of Vienna in their first and second academic years as boarding students. Hungarian students, however, were required to complete their third and fourth year at the University of Pest, or with some higher permission in other, but by all means Hungarian member institution.

Therefore, the legal training at Theresianum, underwent a considerable modernization in comparison to the one at its establishment, due to which it represented the highest level of legal education in the Habsburg Monarchy – prior to the reform of the University of Vienna. The reform of legal education at Theresianum started in 1749, lecturers on law hired for the renewed curriculum later became decisive professors at the University of Vienna, where they also took part in the restructuring of the Faculty of Law as well as in the renewing of its training. In the renewing staff of the Theresianum we find Paul Joseph von Riegger, former professor at Innsbruck University, followed by Martini on the list of professors as one of the professor's best students from Innsbruck. Martini had already gained considerable prestige at the Theresianum, due to therefore which he was invited to the University of Vienna in 1753, where he was asked to reform the Faculty of Law. Within the framework of the reform, a separate department was set up for the education of natural law, Martini was appointed to be the Head of the Department.

From 1761, he gained even greater authority as a court educator in Maria Theresa's court and as an educator on law of Prince Leopold Peter, therefore, it was no accident, that as an education reformer, he had a major word in the reorganization of public education initiated by Maria Theresa between 1760 and 1779. All this did not mean the end of his state duties, he played an important role not only in education matters, but also in economics and church politics as a state counsellor to Joseph II. (Hebeis, 1996, pp. 70–74.) Martini's reform activities remained unbroken even under Leopold II when he participated in the preparatory works of the Austrian Civil Code, which lasted almost sixty years. Emperor Leopold II (1790–1792) continued the codification process begun by Maria Theresa, which her son, Joseph II failed to accomplish. Leopold II convened new commissions, which included legal experts on natural law, like Karl Anton Martini, and after his death Franz von Zeiller. The Austrian bill got its final form by 1796 and as a trial version it entered into force in West Galicia in 1797. This so-called Galitian Code "meant the first and complete codification in private law both on a European and on a global scale". (Hamza, 2002, pp. 113–114)

### 3. MARTINI AS A LEGAL ACADEMIC

Martini was the most outstanding figure in the 18th century Austrian natural law, a representative of the Law of Reason branch (*Vernunftrecht*) in the German linguistic area, which bore the ideals of Enlightenment on itself. With Paul Joseph Riegger he

built his concept of state and law on Samuel Pufendorf and Christian Wolff's doctrine of duty. Samuel Pufendorf was the first to present natural law in a system, that became suitable for being officially supported as an academic science. This kind of practical legal philosophy examines innate (*iura connata*) as well as acquired rights of the individual (*iura adquisita*) in the light of the obligations associated with them. (Pufendorf, 1673, pp. 28–37) “Right is based on obligation, obligation precedes right, because if there was no obligation, we could not speak about right either.” – claims Christian Wolff. (Ahrens, 1870, p. 115) The obligation refers to the goal that man must always improve themselves. (Pauler, 1852, p. 67; Frivaldszky, 2001, p. 216) On the one hand, this concept was suitable to justify the engagement of the state in this field, since according to the Wolffian views, the main goal of society is to ensure personal improvement. The state needs to serve this goal – which is embodied in public welfare – in a way “to ensure the satisfaction of personal needs by the most comprehensive regulation of public relations”. (Pruzsinszky, 2001, p. 11) On the other hand, this line of Law of Reason gave the basis to practical answers in the rational relationship between law and state, which was based on common sense and in compliance with the demands of the era. It contributed to natural human rights getting a more secure theoretical basis. (Frivaldszky, 2001, pp. 208, 222) This system of ideas, presenting some practical character, besides Frederick II was in compliance with Maria Theresa's reform ideas, whose primary goal was to build a uniform state structure, to steer the church under a state influence, to restructure central administration, to codify entity in private and criminal law and to set up a board of officers being able to operate the state. (Szabó, 1980, p. 35)

Martini therefore worked out his views on natural law in the spirit of the Wolffian theory, so useful to the Viennese court, too, in which he suggested principles of law and state, showing how the ruler is provided with the most widespread rights by his status to care for his people and their welfare. (Palme, 1999, p. 127) However, his doctrines can be interpreted as a preliminary criticism of the Austrian natural law since he claimed more strongly than his forerunners that the ruler should intervene into personal fundamental rights resulting from natural law to the extent justified by the social purposes. (Kraus, 1953, p. 299) He developed his views most comprehensively in his work entitled *De lege naturali positiones* published in 1767 and in *Positiones de iure civitatis* published in 1768.<sup>1</sup> (Mészáros, 1989) These works were course books at the same time, counted as a compulsory study material at the Austrian Faculty of Law until the 1820s. Their authority, however, had a lasting effect since they were regarded as basic works in Hungarian legal education until 1848.

The common opinion concerning Martini's work was that although he constructed his thoughts remarkably, they are not really original. (Hebeis, 1996, p. 109)

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<sup>1</sup> His textbook on natural law, firstly published in Vienna in 1767, was published several times in Hungary. Thus, in 1777 in Kolozsvár, and then in the publications of the University of Buda in further editions (1795 and 1800). Mészáros, I. (1989). *A tankönyvkiadás története Magyarországon*. Budapest: Tankönyvkiadó.

Although Martini built his legal theses on Christian Wolff's geometric method as well as on the antique and scholastic knowledge, his conclusions were in compliance with the contemporary natural law doctrine. In some questions – such as the development of statehood – he builds a completely independent natural law. (Palme, 1999, p. 127) It is evident from his arguments that he possessed a deep knowledge of the Bible and antique authors. He endeavours to prove that natural law can exist only in accordance with the truth revealed in the Bible. However, this system of argumentation leads to the fact that according to his natural law, the spheres of law and morals are often blended together. More precise separation of ethics and law will appear only at his successors who apply guidelines accepting the Kantian natural law.

#### 4. THE REFORM OF LEGAL EDUCATION

From 1745 the reform of the University of Vienna started under the leadership of Gerhard van Swieten, counsellor of Dutch origin to Maria Theresa. Within this framework, education got into the hands of the state, first at the Faculty of Medicine and Theology in 1752, then at the Faculty of Law in 1753 in a way that besides the former Jesuit lecturers lay professors were also invited to the board of university teachers. The Faculty of Law in Vienna boasted professors such as Rieger and Martini. In the legal training, a separate department was set up for the education of natural law, with Martini was appointed as the head. The equally restructured Faculty of Arts had professors like Sonnenfels and Miksa Hell among its lecturers. At the University of Vienna, Martini and Sonnenfels – similarly to the Wolffian spirit at German universities – became proclaimers of the *maxima societas*, i.e. the scope of state power extending on the whole society. Slowly, scientific awareness came to accept the consequences of clear state philosophy based on deductions of the new Law of Reason, which proclaimed that public education is subject to state regulation. (Kornis, 1927, p. 4)

Reforms executed at the University of Vienna did not only mean a structural transformation of the university, but also brought an essential change both in the education and the study materials. They intended to reduce church hegemony in both fields and sought to separate legal thinking from theological views of the world. Education of natural law played an important role in it, since it was the newly developing science dealing with rights of the individual, their social obligations, ideals of the state and regulations of international relations.

The Viennese government made the education of private and public law compulsory before the reorganization of the University of Nagyszombat (Trnava). In its decree (Kovachich, 1786, pp. 66–69) regulating legal education to the Esztergom Cathedral chapter dated on 3rd November 1760, the Royal Council ordered that the lecturer on Roman law had to lecture on natural law as well. Earlier, however, natural law knowledge was taught together with morals at the Faculty of Arts, due to the decree of 1760 Mihály Szedmáky, lecturer on Roman and Feudal law taught natural law as well to first year students. For the education of natural law, a separate department was established by Maria Theresa's decree dated 14th December 1769. (Pauler,

1843, p. 209) The *Norma Studiorum*, issued on 29th October 1770, laying down the rules of studies for each faculty, claimed that concerning the University of Nagyszombat (Trnava) subjects taught at the University of Vienna needed to be the norm, therefore study material of the University of Vienna was to be followed, also in the case of natural law. (Kovachich, 1786, pp. 66–69) The same regulation ordered that the lecturer of natural law should introduce his students into “the literature of this science, advantages and disadvantages of its major authors and deny doctrines dangerous to the state or religion”.<sup>2</sup> (Kovachich, 1786, p. 67) The Head of the newly formed Department of Private and Public Natural Law became professor Van der Hayden, who, following the Viennese decree regarded Martini’s books as fundamental ones. Besides university education, Departments of Natural Law were ordered to be founded at the royal academies of law, where the application of Martini’s works was made obligatory.

In Chapter 6 of *Ratio Educationis* from 1777, §186. entitled “Legal education in the academic section as well as details of Law Major” declares that for the education of natural law “two hours a day need to be consecrated in the first year of legal studies in a way that natural law, general and international public law must be lectured in the first semester based on Martini’s theses”. (Komlósi, 1983, p. 147) Therefore, the education of natural law happened taking Martini’s works entitled *De lege naturali positiones*, as well as *Positiones de iure civitatis* into consideration.<sup>3</sup> (Kovachich, 1786, pp. 99–100)

However, Martini’s books on natural law presented knowledge related to natural law in a fairly concise way, structured in points – according to Győző Concha: “Martini’s abstract and burdensome style is scholastic”, (Concha, 1885, p. 16) – therefore it became inevitable to complete them with explanations for beginner students. (Pauler, 1878, p. 285) This gave a new momentum for an era in legal literature that lasted for almost fifty years, making Martini’s views known, explaining them, and making them more practical, which characterized the end of the 18th century and the beginning of the 19th century. A whole sequence of Martini commentators published their articles on natural law, such as György Lakits, (Lakits, 1778) Samuel Dienes (Dienes, 1792), Adam Brezanóczy, (Brezanóczy, 1795) János Ujfalussy Nep., (Ujfalussy, 1825) János Szilágyi, (Szilágyi, 1813) Samu Benkő, (Benkő, 1787) Pál Rosos,

<sup>2</sup> “*Ex post jus quoque naturae ac publicum universale seu gentium, in Universitate hac Tyrnaviensi tum ob studiorum horum utilitatem, cum vero in majus universitatis ornamentum et decus, per introducendum distinctum professorem subtilius declarata ratione expanabuntur.*” *Norma Studiorum* dto. 29 Oct. 1770.

<sup>3</sup> See also: “*Ordo Praelectionum in singulis facultatibus. Series authorum, qui in facultatibus praeleguntur. [...] In facultate iurica. Professori iuris Imperialis praelegenda et expleanda venirent: I) ordo historiae iuris civilis ad ductum libelli Carolide Martini hunc in finem edidit.*” Kovachich M. Gy. (1787). *Mercur von Ungarn: oder Litterarzeitung für das Königreich Ungarn und dessen Kronländer*. Vol. II, Pest, pp. 99–100, which provides a list of authors whose works were required to be performed at university lectures.

(Rosos, 1777) Antal Virozsil, (Virozsil, 1833) some of them strictly followed Martini, others modified his structure, still others restricted themselves on commenting only on certain parts of the Martini style natural law.

In the meantime, at the University of Vienna, although Immanuel Kant's ideas started to show their effect, they still existed besides Martini's ones and only semi-officially. The Kantian Law of Reason line was represented by Franz Zeiller, Martini's successor in the department who endeavoured to establish Kant's views at the University of Vienna and wrote a manual on private law "appropriate to science" entitled *Das naturliche Privat-Recht*. (Zeiller, 1802) Zeiller's work slowly marginalized Martini's *De iure naturali positiones* in the education of private law related to natural law. Concerning state and international law Martini's *Positiones de iure civitatis* was regarded as fundamental, but parallel to this the commentary entitled *Das natürliche Recht* written by Franz Egger to Martini's *Positiones de iure civitatis* was also used. Finally, Zeiller's private natural law revised by Egger, complemented by Egger's commentary on state law became official material at the University of Vienna. (Szabó, 1980, p. 97)

In Hungary, Martini's natural law was first reconsidered by Mihály Szibenliszt – a lecturer at the Academy of Lay in Győr and the University of Pest in the two volume *Institutiones juris naturalis*. (Szibenliszt, 1820, 1821) Szibenliszt endeavoured to revise Martini's theses knowing that the Zeiller–Egger course book, which Szibenliszt also used for compiling his own institutions, had already been introduced at the University of Vienna. His innovative work, however, did not gain unanimous recognition in the domestic scientific life. Even though his work got official permission, his superiors at the University of Pest ordered the author to follow Martini's theses more strictly in his education. (Eckhart, 1936, p. 278)

## 5. AFTERWORD

Martini was the most prominent figure in the 18th century Austrian natural law as a representative of the Law of Reason (Vernunftrecht), which appeared in the German linguistic area and bore the spirits of the Enlightenment on itself. His work is outstanding both on a theoretical and a practical level. As a university lecturer, court educator and counsellor, besides his active role in the codification of the Austrian Civil Code and popularization of public education, his theoretical works used at the universities and the legal academies of the Habsburg Monarchy had a deep impact on the legal education and the legal thinking of successive generations of lawyers. The Kantian line, developing his theses further on, gradually surpassed his views and served as a point of reference for a considerable amount of time during its organic development – at least formally and especially in Hungary. Martini's works on natural law can be considered the starting point of the intellectual prosperity that marked the complete Hungarian literature on natural law during the 19th century. (Concha, 1885, p. 13)



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## LABOUR LAW PROTECTION OF EXECUTIVE EMPLOYEES IN HUNGARY AND WESTERN EUROPE

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**Abstract:** This article examines a specific chapter of the Hungarian Labour Code, the regulation on executive employees. The study is comparative in nature and aims to reveal the difference between the old and the new legislation. It compares changes in past and current legislation and presents the solutions used in Western European labour law to achieve the most optimal regulation of the executive status. The study also looks at what solutions should be adopted in the field of management regulation and what would be the tasks of the legislation that would bring about the updating of labour law provisions. Such a problem does not arise in the Western European legal literature, as in countries following the unique works council system this is prevented by the legal disclosure of the hierarchical chain of executive employees, and in dual systems the dual composition of works councils, where one side is occupied by members elected by subordinate employees from among their own circle, while the other side is provided by the upper level of executive employees by delegation from the employer.

**Keywords:** *labour law, executive employees, Labour Code, management, collective agreement, regulation*

### 1. INTRODUCTION

This article examines a specific chapter of the Hungarian Labour Code, the regulation on executive employees. The study is comparative in nature and aims to reveal the difference between the old and the new legislation. It compares changes in past and current legislation and presents the solutions used in Western European labour law to achieve the most optimal regulation of the executive status. The study also looks at what solutions should be adopted in the field of management regulation and what would be the tasks of the legislation that would bring about the updating of labour law provisions. The final chapter presents the forms of Western European settlements that include rules for the protection of the interests of executive employees.

The narrowed “*de iure*” notion of executive employees in Hungary also allows for abuse. That is because, in the absence of an ‘*ex lege*’ chain hierarchy of executive employees that exists in Western Europe and the United States, executive employees may be entitled to exercise ‘*de facto*’ management and control rights at lower levels on the basis of instructions and work organization from the employer. This, in turn, may lead to a background situation. According to Section 235 of the Hungarian Labour Code (Kardkovács, 2014, p. 389), the Hungarian works council belonging to the German-type unique works council systems, may only have subordinate employees as members and such a works council shall negotiate with the works owner and the management. However, due to the fact that the Hungarian Labour Code does not broadly define the concept of a manager and the hierarchical ranking of managers, it is possible to nominate formally non-managers to the works council as subordinate employees and direct the works council through them. So far, no one has addressed this problem in the Hungarian legal literature. Such a problem does not arise in the Western European legal literature, as in countries following the unique works council system it is prevented by the legal disclosure of the hierarchical chain of executive employees – Similarly – in dual systems, in the dual composition of works councils, one side is occupied by members elected by subordinate employees from among their own circle, while the other side is provided by the upper level of executive employees by delegation from the employer. Regarding the conceptual scope of executive employees, the Hungarian legal literature only distinguishes executive officers from other executive employees with a particular emphasis on managers.

## 2. HUNGARIAN LABOUR LAW PROVISIONS

According to the current Hungarian provisions, an executive employee’ shall mean the employer’s director, and any other person under his direct supervision and authorized – in part or in whole – to act as the director’s deputy. Thus, in the case of the second-line leader, the new law no longer refers to an employer requirement. The employment contract – with the exception set out in Subsection (2) of Section 209 of the new Labour Code, which excludes the application of the collective agreement to executive employees – may invoke the provisions on executive employees if the employee is in a position considered to be of considerable importance from the point of view of the employer’s operations, or fills a post of trust, and his salary reaches seven times the mandatory minimum wage. (Berke and Kiss, 2012, p. 214)

With regard to the establishment of a legal relationship, the Labour Code does not establish special rules for executive employees, nor did the previous Labour Code. It is not illegal to have a provision in the executive employment contract that is contrary to the content of the collective agreement concerning the employer. Regarding the employment relationship of an executive employee, a uniform practice has developed according to which he or she is employed by the employer with which he or she operates. As for executive employees in companies, it is conside-

red typical in practice that no separate employment contract is concluded for them, only the decision of the supreme body contains the election. (Pál, 2016, p. 399) This is recorded either in the memorandum of association or, in the course of amending it, in the minutes of the meeting of the supreme body, the part of which includes the instrument of incorporation which is transferred to the memorandum of association and a consolidated version is prepared. (Kenderes, 2007, p. 78) It is accompanied by a declaration of acceptance, and this practice is considered lawful and meets the requirements of concluding an employment contract.

The employment contract with the executive employee shall be drawn up in writing. Given that there are no special requirements for the conclusion of an employment contract in the aspect of executive employees, there is also no difference in the regulation of probation. The Hungarian labour law makes no distinction when establishing a legal relationship in the field of probationary regulation, whether it provides legal regulation for an executive employee, including a manager or any other leader, or for an employee. The duration of the probationary period was uniformly regulated. This solution is increasingly questionable to what extent it is designed to meet economic needs. (Kiss, 2001a, p. 201) The regulation of the probationary period has changed in the new Labour Code as it is also possible to extend it within the legal framework, however, according to the current Section 50 (4) of the Labour Code, the probationary period can be 6 months on the basis of a collective agreement, which does not apply to an executive employee pursuant to Section 209 (2) of the new Labour Code, so a derogation from Section 45 of the new Labour Code is not possible for an executive employee pursuant to Section 50 (4).

In connection with the conclusion of an employment contract, and thus the establishment of an employment relationship, it can be stated that in Hungarian labour law the employment relationship of an executive employee, an employee of mental or physical occupation is usually regulated by uniform rules. There is nothing to prevent a collective agreement or employment contract from laying down different rules for employees and workers, or part of them, which are based on employment-related circumstances and do not constitute discrimination. (Kiss, 2014, p. 150)

However, an employment contract with executive employees is most similar to a civil law agency contract because a personal relationship of trust is established between the parties, which lacks the employee subordination and self-employment that characterizes the employment relationship. (Törő, 2003, p. 37) The manager performs the management of the employer with a high degree of independence, with unlimited civil law liability, and practically the employer's right of instruction does not apply to him. However, the employee does not appear "under his own name" in the economic turnover, in this capacity he is "not marketable".

Pursuant to Section 74 of the former Labour Code, if the employer's authority was not exercised by the authorized body or person, the procedure was invalid, unless the employee could reasonably infer from the circumstances the entitlement of the acting person or body. (Kiss, 2001b) In connection with an executive offi-

cial, it is not considered irrelevant who should be considered entitled during the exercise of the right, which is defined by the regulations of the Civil Code.

When establishing an employment relationship, the employer is obliged to inform the employee which body or person exercises or fulfills the employer's rights and obligations arising from the employment relationship. The new Labour Code does not change this provision either. (Keserű, 2016, p. 533)

The fact that the delegation is not mentioned in the memorandum of association or in the deed of foundation of a particular form of enterprise does not mean that the employee does not know who exercises the employer's authority over him or her, so the mere fact that the provisions written in the Civil Code have been omitted, does not mean that the employee cannot reasonably conclude who exercises the employer's rights or who fulfills the employer's obligations. Nevertheless, the court has ruled in several cases that the exercise of the employer's power is invalid even if the given body or person exercised it in violation of the rules of the Civil Code, regardless of the extent to which this omission affects the provisions of the Labour Code.

According to the provisions of the current Labour Code, the designation of job is a conclusive element of the employment contract, and this also applies to the contract concluded with the executive employee. As such, it must be determined by the parties that they establish an employment relationship for the operational management of the given company. It is not obligatory to include a job description in the executive employee's employment contract either, so it is up to the parties to determine the level of details of the executive employee's duties and responsibilities.

As far as the Hungarian executive employee contracting practice was concerned, the problematic formulation of the concept of an executive employee, especially in the first period, provided an opportunity for abuse. According to the original wording of Section 188 of the 1992 Labour Code, not only the employer, that is to say, the manager of the company and his or her deputy counted as an executive employee, but also the person who was classified as such by the employer. (Sárközy, 2015, p. 3) As mentioned above, this has allowed for serious abuses and subjective decisions. It has already been pointed out that a very common phenomenon among the auxiliary staff, that those employees who perform administrative and descriptive working tasks, have been formally placed in executive positions in a way that is not justified by their scope of activities, with the establishment of a fictitious executive position. (Nádas, 2017, p. 83) Most of the time with the formal new title, they continued to hold their previous jobs because they did not have the skills and qualifications to fill a higher position. It has also been mentioned above that the employers were happy to broaden nominally the scope of executive employees, because this way they tried to enforce the negligent damage of their employees in the hope of full compensation and not based on the reduced extent established by the Labour Code. Such and similar abuses of the unlimited conversion of executive positions were eliminated by the amendment of the 1992 Labour Code by Act LVI of 1999, providing that only employees holding an important and confidential position may be qualified as executive employees. The Labour Code currently in effect has also adopted this. (Pál, 2007, p. 43)

### 3. THE PROTECTION OF EMPLOYEES' INTERESTS IN EUROPE

In the developed continental states of Western Europe, as well as in the countries of the European and transatlantic Anglo-Saxon legal systems, each company enters into an employment contract with the executive employee, usually called as an installation contract, rather than a long-term contract to produce a work or an agency contract, in which they determine which unit the executive employee should manage, which organizational unit is above him or her and what relationship he or she is obliged to maintain with the leader and how should he or she co-operate with his or her leader and unit. At the same time, the installation contract lists the organizational units that are subject to its supervision and defines the professional, economic and organizational direction of the exercise of supervision. It shall also specify the manner in which the executive employee is to maintain professional, economic and organizational contact with the superior head of unit and how to execute his or her instructions and transmit them to the lower units subordinate to him or her, and how to inform the superior unit about the results of the control of their implementation. Although neither the general collective agreement for employees nor the sectoral collective agreement covers executive employees, trade unions representing the interests of executive employees enter into collective agreements to protect their interests, the content clauses of such collective agreements apply to and affect the content of installation contracts. Currently, there is no such thing in Hungary, although it would be good to introduce one. Therefore the Hungarian legal literature could only confine itself to the basis of the provisions of the Labour Code, and as the collective agreement does not cover the executive employee, the employment contract with the executive employee may be in conflict with the corporate collective agreement. The representatives of this position, including Emese Törő (Törő, 2002, pp. 479–480), are absolutely right, but it would be right if sectoral trade unions protecting the interests of executive employees were formed in Hungary at the sectoral level, which could form a national association and conclude collective agreements with employers and their associations in the interests of executive employees, and of which the employer would be obliged to take into account when concluding employment contracts for executive employees. (Pál, 2015, p. 334)

The general expectations of executive employees in the developed Western European and transatlantic states were (Pázmándi, 2014, p. 232), and still are, loyalty towards the employer, and a ban on all activities that could harm or reduce their competitive position in the market. For this reason, in Western European states as well as in Hungary, conflict of interest regulations are strongly emphasized, as are the legal disadvantages that burden executive employees during bankruptcy proceedings. However, the new Hungarian labour law does not address the prohibition of engaging in an economic activity or conduct that may worsen the economic competitive position of the company or organizational unit it represents on the market. The executive employee may not engage in counter-advertising activities against his or her employer. To a large extent, it is obliged to keep the confidential information of the company and/or of its internal organizational unit and to negoti-

ate with customers politely but purposefully, keeping the interests of the company in mind. In addition, with necessary critical remarks, the executive employee is obliged to implement the wishes and decisions of the company upon written request, even if he or she has reservations about them. Nor can he or she pursue a lifestyle or engage in conduct that could potentially remove customers from entering into an economic contract with the company. To prevent this from happening, an executive employee can be expected to lead a scandal-free and fair, as well as a passion-free and corruption-free lifestyle. In short, in conducting his or her public and private activities, an executive employee, regardless of the level of the executive employee hierarchy, must always keep in mind what his or her company has an interest in and how he or she should behave in different situations. These are general expectations for which it is not necessary to make separate normative legal regulations. The established jurisprudence takes these aspects into account on the basis of customary law and imposes legal consequences even if all this is not regulated by law. Conduct contrary to that set out here, irrespective of the damage involved, justifies the immediate termination of the post of the executive employee in case of an intentional or a deliberate serious breach. However, this happens in the rarest of cases, as the executive employee usually knows a lot about the internal and external relations of the company. Therefore, in most cases, they are released from work with immediate effect and even before the installation contract, the concluding of a non-competition agreement sets out that they are not allowed to jeopardize the competitive position of their former job, either as a contractor or by entering into a new employment relationship. (Birk, 1990, p. 216)

#### 4. SOLUTIONS

The Hungarian labour law makes no mention of the protection of the interests of executive employees, unlike the labour law of Western European and transatlantic countries. Moreover, Section 209 (3) of the Labour Code of 2012 states “*expressis verbis*” that the scope of the collective agreement does not extend to the executive employee. In contrast, in all developed western states, as already indicated in this study, executive employees also have trade unions, which are grouped into territorial and national general and intersectoral associations and, with the exception of Germany, enter into collective agreements with employers’ associations. Two solutions have emerged in continental Western European states. One is where sectoral and intersectoral unions and their associations have executive employee sections, and the other is where executive officials and employees have independent unions. The former is characteristic of Francophone-Latin systems, while the latter is characteristic of Germanic legal systems. With the exception of Germany, these unions or sections usually protect the interests of executive employees and officials by concluding national sectoral collective agreements. Thus, in France, the ‘Convention collective nationale des ingénieurs et des cadres’, ie. the collective agreement for engineers and executives, and in Italy, ‘Contratto collettivo per i dirigenti industriali’ ie. the collective agreement for industrial directors, were concluded. In the



BENELUX states, a comprehensive collective contract network is concluded in national professional committees and affects the protection of the interests of economic leaders, while in Denmark, a national cross-sectoral collective agreement for executive employees and subordinates plays a significant role, which was signed into law by the state.

In Germany, the trade union organization of executive employees has not yet developed. As a result, there are no collective agreements protecting the rights of executive employees. (Kaiser, 1996, p. 40) However, the fact that the individual employment status of German executives is not worse than in Western European states, where executives have the protection of interests embodied in collective agreements, is due to the fact that executive employees in all companies have an elected organ, the so-called "Sprecheausschuss"<sup>1</sup> which has co-decision rights "(Mitbestimmungesprecht)". Based on its content, this can be considered as a conciliation committee for executive employees. Just as the status of works councils in

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<sup>1</sup> SprAuG: § 12 Sitzungen des Sprecherausschusses

(1) Vor Ablauf einer Woche nach dem Wahltag hat der Wahlvorstand die Mitglieder des Sprecherausschusses zu der nach § 11 Abs. 1 vorgeschriebenen Wahl einzuberufen. Der Vorsitzende des Wahlvorstands leitet die Sitzung, bis der Sprecherausschuß aus seiner Mitte einen Wahlleiter zur Wahl des Vorsitzenden und seines Stellvertreters bestellt hat.

(2) Die weiteren Sitzungen beruft der Vorsitzende des Sprecherausschusses ein. Er setzt die Tagesordnung fest und leitet die Verhandlung. Der Vorsitzende hat die Mitglieder des Sprecherausschusses zu den Sitzungen rechtzeitig unter Mitteilung der Tagesordnung zu laden.

(3) Der Vorsitzende hat eine Sitzung einzuberufen und den Gegenstand, dessen Beratung beantragt ist, auf die Tagesordnung zu setzen, wenn dies ein Drittel der Mitglieder des Sprecherausschusses oder der Arbeitgeber beantragen.

(4) Der Arbeitgeber nimmt an den Sitzungen, die auf sein Verlangen anberaumt sind, und an den Sitzungen, zu denen er ausdrücklich eingeladen ist, teil.

(5) Die Sitzungen des Sprecherausschusses finden in der Regel während der Arbeitszeit statt. Der Sprecherausschuß hat bei der Anberaumung von Sitzungen auf die betrieblichen Notwendigkeiten Rücksicht zu nehmen. Der Arbeitgeber ist über den Zeitpunkt der Sitzung vorher zu verständigen. Die Sitzungen des Sprecherausschusses sind nicht öffentlich; § 2 Abs. 2 bleibt unberührt. Die Sitzungen des Sprecherausschusses finden als Präsenzsitzung statt.

(6) Abweichend von Absatz 5 Satz 5 kann die Teilnahme an einer Sitzung des Sprecherausschusses mittels Video- und Telefonkonferenz erfolgen, wenn

1. die Voraussetzungen für eine solche Teilnahme in der Geschäftsordnung unter Sicherung des Vorrangs der Präsenzsitzung festgelegt sind,

2. nicht mindestens ein Viertel der Mitglieder des Sprecherausschusses binnen einer von dem Vorsitzenden zu bestimmenden Frist diesem gegenüber widerspricht und

3. sichergestellt ist, dass Dritte vom Inhalt der Sitzung keine Kenntnis nehmen können.

Eine Aufzeichnung der Sitzung ist unzulässig.

(7) Erfolgt die Sitzung des Sprecherausschusses mit der zusätzlichen Möglichkeit der Teilnahme mittels Video- und Telefonkonferenz, gilt auch eine Teilnahme vor Ort als erforderlich.

Germany is governed by the Betriebsverfassungsgesetz, these committees are also governed by a separate law, the Sprecherausschuttsgesetz<sup>2</sup>. The protection of the interests of the works council of executive employees has also been resolved in those states where the works council operates in a dual form and where such a special committee of executive employees is unknown. Although, within the Belgian works council system, its organization is made up of two sections, one of which consists of elected subordinated employees and the other of the plant owner, that is to say, the executive employees delegated by the owner. The latter department, ie. the executive employee department, similarly to the “Sprecherausschuss”, negotiates separately with the employer company owner to represent the interests of executive employees. The situation is similar in Luxembourg and the Scandinavian states, where the works council means the committee of subordinate workers elected from among the union’s candidates and the committee of executive employees negotiating jointly, but the interests of executive employees are protected by the committee of executives.

In this way, at least in the majority of continental Western European states, the collective labour law representation of executive employees is ensured through the participation of both trade unions and works councils. This is important because if either a minor or a major economic or financial crisis unfolds and the company’s economic performance declines or stagnates as a result, business owners immediately begin to blame the executive staff. This justifies the organizational development of their legitimate interests, which should be established in Hungary as well.

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## **CHILD INTERVIEWING IN LEGAL CASES. A EUROPEAN PERSPECTIVE**

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**Abstract:** Child interviewing in legal cases is a multidisciplinary, multiprofessional topic that has been addressed as a following realisation, that accurate and eligible oral evidence, information or confession from children can only be obtained by a specific genre of interviews. Child development experts and researchers have advocated for specialised techniques for forensic child interviewing since the 80s and 90s, along with specialised police training and practice. In the European Union the last decade could rightly be called the decade of child-friendly justice. During these ten years several legal instruments were implemented about children's involvement in legal proceedings and their special needs and rights as a vulnerable group. This shift is reflected in national legislations, however, there is still room for improvement, especially in the everyday practices within the interrogation rooms.

**Keywords:** *child-friendly justice, forensic interviewing, child interviewing, police training, children first*

### **1. INTRODUCTION**

Children's involvement in legal proceedings has always been a controversial domain for developmental psychologists. While child interviewing in legal cases is mainly connected to police activity and criminal cases where a child is involved, children participate in civil proceedings, as well. Children may be victims, witnesses or offenders in criminal cases, and parties in civil cases, for example, in divorce cases. Whether they are a suspect, victim or witness a child can be assumed to have gone through at least one traumatic incident that may shape their perceptions and emotions, while it is also traumatic to talk about these events and personal feelings to strangers. International treaties on the rights of the child recognise children as a vulnerable group and ensure special rights to them during legal proceedings, for example, the right to be heard. Crimes related to children are a distinct focus of police work therefore it is – of special importance that police and prosecution should gain adequate and accurate information of what happened to the child.

One of the main challenges in cases where children are involved is that they are usually the only available sources of information about events. Even if physical, medical or psychological symptoms are present – which may be lacking in the vast

majority of cases – they may still be inconclusive and without any other witnesses the child’s narrative is the only available source. (Baugerud and Johnson, 2018, p. 121) Therefore, police work rely heavily on the ability of the interviewer whose task is to “maximise the quality and quantity of information obtained from the child”. (Baugerud and Johnson, 2018, p. 121)

Scientific examination of investigative interviewing started with William Stern, a German scientist, in 1903. (Stern, 1903, p. 103) Stern was researching techniques and questions that helped gaining the most valid information from people during interviewing. He introduced a distinction between open and closed questions and demonstrated the “superiority of open questions”, proving that they helped acquire more and a better quality of adequate information compared to closed questions. (Stern, 1903, p. 103) Ten years later, in 1913, the Norwegian Women’s National Council put forward a motion to the Norwegian Parliament, to “amend an existing law about investigative interviews of children who have fallen victim to sexual felonies”. The amendment came into effect in 1926 which allegedly made Norway the first country in Europe to “statutorily outline how investigative interviews in child sexual abuse cases should be conducted”. (Myklebust, 2018, p. 101)

## **2. FORENSIC CHILD INTERVIEWING MODELS IN EUROPE**

Forensic or investigative interviews are designed to obtain as much accurate information as possible from victims of sexual crimes while reducing the stress of the interviewee as much as possible. As interviewing techniques developed, they were expanded to interviewing child victims and other vulnerable individuals and also witnesses of sexual or physical abuse. Many sexual abuse allegations do not include physical evidence, thus child investigative interviewing is a crucial element of child abuse investigations and it is absolutely vital that the information gained of events should be true and adequate.

On the other hand, there are potential dangers of interviewing children by the police or child protection professionals. As research shows children are increasingly vulnerable to suggestive interviewing techniques and are prone to creating false memories of abuse and abusive events. Moreover, there are several factors that can make children reluctant to disclose abuse, such as feelings of shame and fear of the consequences after disclosure. Forensic child interviewing was developed to interview victims or witnesses of crime, however, child offenders can also be investigated with the interviewing techniques. Child offenders are not very different from child victims or witnesses. They can also develop false memories of events as a result of improper questioning, and in many cases, they may feel deep shame of their actions or fear of the consequences of confession. However, there are certain types of interview questions that can minimize false memories and anxiety while producing detailed recall of events. (Erens et al., 2020, p. 1)

The superiority of open-ended questions over closed and yes/no questions is demonstrated in several researches and the benefit of using open ended questions is listed in many investigative interviewing guidelines. (Oxburgh, Myklebust and

Grant, 2010, p. 46) The three main benefits of open questions in child interviewing are the following: 1. When children are asked questions by adults they try to be as compliant as possible with perceived expectations. When they are encouraged to talk freely it helps them gain control over the situation which reduces anxiety, facilitates cognitive processes and is more compatible with a witness-focused approach. 2. Child interviewing should always happen according to the mental and emotional age of the child. Open questions facilitate elaborate responses and provide opportunity for the interviewer to assess the child's level of mental stage and language skills. Subsequent questioning style can then be adjusted accordingly. 3. Open-ended questions and attentive listening from the beginning of the interview build up an expectation in the child that they will do the most of the talking throughout the interview. (Myklebust, 2018, p. 103)

The type of memory that professionals are dealing with during forensic interviewing is episodic memory.<sup>1</sup> Since the 1980s a large body of research has investigated techniques in which episodic memories can be retrieved with the least possible transformation of true episodes. Due to the inherently constructive nature of human memory, perfect recollection of events is almost never possible. – The reduction of false memory of events, however, can be achieved by the proper techniques. There are several trainings to train child care professionals and law enforcement officers on how to conduct effective interviews. The trainings help prepare professionals to acknowledge the type of the interaction: interviewers have to take into account that the purpose of the interview is to investigate facts, and not to provide counselling or therapy to the child. – In order to minimize the number of traumatic interviews for the child, interviews are advised to be conducted by a multidisciplinary team of psychologists, social workers, police officers, prosecutors, and other professionals, they should be video-recorded to ensure accurate documentation and – be conducted in the early stages of the investigation.

### **2.1. Training of police**

An interviewer's knowledge and level of competence can directly affect the responses of interviewees. (Fisher, Geiselman and Raymond, 1987) Thus, the more interviewers are trained in scientific findings of rapport-building, memory retrieval, and questioning techniques the more accurate police work may become. During the last two decades police interviewing has undergone serious transformation and professionalisation almost in every European country.

Despite extensive researching, the knowledge about how to conduct an "optimal" interview cannot always be automatically translated into practice. Therefore, researchers recommend that besides formal scientific academic training, police officers should undergo intensive short and practical sessions, with extended feedback

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<sup>1</sup> Episodic memory is the ability to recall and mentally re-experience specific episodes and events from one's personal past. It is contrasted with semantic memory which is the recollection of knowledge related memory traces.

to the individual interviewers, and that these short training sessions should be – distributed over time. (Lamb et al, 2002) According to Powell and colleagues (Powell, Fisher, and Wright, 2005, p. 41) the core elements of the most successful trainings had been the use of “structured interview protocols; multiple opportunities to practice over an extended period; frequent expert feedback and ongoing supervision; and the internal motivation of the interviewer to enhance their individual performance”. (Powell, Fisher, and Wright, 2005, p. 41)

Cleary and colleagues assessed existing police investigative interviewing techniques in the US. (Cleary and Warner, 2016) They assessed the use of the most popular investigative techniques: the Reid Technique, the PEACE Model, the ChildFirst method in case of children’s involvement and HUMINT that is used mainly by military intelligence’s investigators. The researchers found that beside these scientifically elaborated methods US law enforcement officers use several other techniques that they learnt mainly on the job. (Cleary and Warner, 2016, p. 272) The Reid Technique comprises of the Behavior Symptom Interview (BAI), where officers are taught to evaluate interviewees’ nonverbal and verbal behaviour to detect indicators of guilt. “If the investigator is ‘reasonably certain of the suspect’s guilt’, the interaction then becomes an accusatory interview in which officers employ various persuasive tactics such as overcoming objections, developing themes, and handling denials in order to secure a confession.” (Cleary and Warner, 2016, p. 272)

In contrast with Reid, the PEACE model – the name comes from the abbreviation of Planning and Preparation, Engage and Explain, Account, Closure, Evaluation – is a non-accusatory, information- and evidence-based investigative technique. Non-accusatory interviewing techniques are considered more advantageous in cases where information gathering is the main focus. With the PEACE model interviewers are able to compare the new information with the interviewee’s previous statements and other available evidence. Due to its success as an effective alternative to accusatory interviewing the PEACE model became a legitimate interviewing technique in European countries. (Bull, 2014)

The Human Intelligence (HUMINT) interrogation is a method used primarily in military and intelligence contexts in the US. It focuses on information gathering about not only past, but present or future events that can cause a threat to national security.

The ChildFirst method was developed by the National Children’s Advocacy Center in 2015. It is built on forensic interviewing strategies and targeted toward child victims or witnesses.<sup>2</sup> The focus of this method is information gathering in a non-accusatory atmosphere, like in the PEACE model.

Apart from these formalized techniques researchers identified several individual interrogation strategies. For example, only in two California police department 25 different interrogation techniques were identified, (Leo, 1996) while in two London departments police officers used 9 different techniques (Pearse and Gudjonsson,

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<sup>2</sup> National Children’s Advocacy Center, 2015 USA, Available at: <https://www.national-cac.org/> (Accessed: 16 August 2021).

1997) and 17 more tactics in other parts of the UK. (Soukara et al., 2009) When police officers were asked about interrogation techniques they use, they mentioned “suspect isolation, rapport building, and identifying contradictions in the suspect’s story” as the most frequent techniques, while “physical intimidation, threats for non-cooperation, and expressions of impatience/anger” were mentioned as rarely used techniques. (Kassin et al., 2007)

Cleary and colleagues also assessed what alterations of the frequently used interrogation techniques police officers apply – in case of juvenile offenders. Similarly to child victims and witnesses juvenile offenders react differently to police interviewing than adults. They are increasingly vulnerable to coercive interrogation techniques and more likely to produce false confessions as a result of “interrogative suggestibility”. (Cleary and Warner, 2016, p. 280) First studies starting in 2007 suggested that US police use of interrogation tactics “did not differ for child versus youth versus adult suspects” and included psychologically coercive techniques. (Meyer and Reppucci, 2007; Reppucci, Meyer and Kostelnik, 2010) In the same studies every third law enforcement officer expressed concerns about this practice and said that specialized trainings about interviewing youth and juvenile offenders would be necessary. In this regard, the 2015 introduction of the ChildFirst approach for police officers came as a gap filling exercise. However, it can be concluded, that scientifically based child-focused interview techniques may be in contrast with formal trainings and interrogation protocols, because these techniques leave relatively little room for incorporating “developmental sensitivity”. (Cleary and Warner, 2016, p. 280) On the other hand, police officers reported a relatively rare use of confrontational or aggressively coercive interrogation techniques, while rapport building, offering comfort and non-accusatory techniques were reported as the more frequent ones. Although, officers also reported that they use all techniques with adults and juvenile suspects alike sometimes with children as young as 10 years old. (Cleary and Warner, 2016, pp. 280–282)

## **2.2. The “Nordic Model”**

The “Nordic model” of obtaining children’s testimony is a pre-trial process. It involves video recording of the child’s interview which is accepted in court as key evidence. The defendant is given the opportunity to view the recordings and give observations in court. Thus, the child does not have to appear in court or repeat their testimony several times to different audiences. (Myklebust, 2018, p. 101) In Iceland, the judge is present during the child investigative interview, while in other Nordic countries the police or the prosecution are in charge of the interviewing process. The interview is conducted by a specially trained professional and the parties’ legal representatives are allowed to question the interviewee only through this professional. (Myklebust, 2018, p. 101)



The Nordic model is based on the investigative interviewing model used in the Barnahus<sup>3</sup> where interviews and medical examinations were “delivered under one roof in a child-friendly environment”. (Baugerud and Johnson, 2018, p. 122) The Nordic and Barnahus models were established as a response to the controversial outcome of two child sexual abuse cases of the end of the 20th century in Denmark and Norway.<sup>4</sup> These cases shed light on the need for reliable and evidence focused investigative interviewing techniques in cases where children are involved and research demonstrated that a child-friendly environment, an interdisciplinary approach and a multi-agency cooperation could enhance the quality of the information that is gained from child investigative interviews.

Another important element of the Nordic model is the use of the NICHD (National Institute of Child Health and Human Development) protocol. The protocol is based on a consensus among researchers, legal and development experts and law enforcement professionals. The protocol takes into account the nature of child memory and children’s communication and social skills and social knowledge, which has been translated into guidelines that aim to improve the quality of forensic interviews of children. (Baugerud and Johnson, 2018, p. 122) The NICHD protocol integrates knowledge about children’s “linguistic abilities, memory retrieval capacities, suggestibility, interviewer behaviour and the effects of stress and trauma”. (Baugerud and Johnson, 2018, p. 124)

As part of the Nordic model, police training in the Nordic countries also differs from other countries. In Nordic police training officers are trained to be generalists who are later authorised for multiple responsibilities. They can be tasked with crime prevention or operational patrolling police duties or even profound and scientifically based detective work. (Myklebust, 2018, p. 104)

Reflecting on this generalist training approach the Norwegian Police University College (NPUC) was founded in 1992. Police officers receive a bachelor degree after a three-year basic education in policing before beginning their patrol work. They may also continue further specialised training and education. (Myklebust, 2018, pp. 105–106) One of these specialised trainings is the forensic child interviewing. The training is based on three main principles: 1) a central national institution should provide the training; 2) the pre-structured interview models are based upon empirically validated guidelines and/or communication models; 3) the interview training is distributed over time with follow-up supervision and feedback to the interviewers. (Myklebust, 2018, pp. 105–106)

### **3. LEGAL FRAMEWORKS OF FORENSIC CHILD INTERVIEWING IN EUROPE**

In Europe forensic child interviewing is not regulated by the European Union, however, mechanisms exist under national law. Nevertheless, the EU and the Council of

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<sup>3</sup> “The Children’s House” – child care system in Norway and other Nordic countries that dates back to the beginning of the 20th century.

<sup>4</sup> The Roum case in Denmark (1989–1993) and the Bjugn case in Norway (1992–1994).

Europe did outline recommendations related to the topics of child interviewing. These recommendations are rooted in the general protection of children's rights, originally declared by the 1989 United Nations Convention on the Rights of the Child (CRC).<sup>5</sup> The CRC sets the age of the child under 18 years and highlights the need for special safeguards and appropriate legal protection for children. Article 12 of the convention states: "1. *States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.* 2. *For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.*" As a part of the compliance mechanism with the CRC the United Nations Committee on the Rights of the Child regularly monitors children's rights in member states. "The Beijing Rules"<sup>6</sup> on the minimum rules of juvenile justice was adopted by the United Nations by the end of 1985. Principle 1.2 of the document states that the juvenile is in a period of their life during which "she or he is most susceptible to deviant behaviour". Therefore, Member States should "endeavour to develop conditions that will ensure for the juvenile a meaningful life in the community" and "foster a process of personal development and education that is as free from crime and delinquency as possible".<sup>7</sup> Other developments toward fostering wellbeing of the child involve, for example, the Global Initiative to End All Corporal Punishment of Children. The initiative seeks to increase number of countries worldwide where violence toward children- including corporal punishment in the home and family is prohibited by law. The other goal of the initiative is to raise the number of countries where suspected cases of child physical abuse receive the same treatment as child sexual abuse, and suspected cases involve criminal investigation. (Lahtinen et al., 2020)

### 3.1. The Council of Europe

Under the Council of Europe children's rights are incorporated into the European Social Charter (ESC) or protected generally under the European Charter of Human Rights (ECHR). It has been debated whether Europe needs a separate treaty on the rights of children – such is the 1989 United Nations Convention on the Rights of the

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<sup>5</sup> *United Nations Convention on the Rights of the Child*. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49.

<sup>6</sup> *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*. Adopted by General Assembly resolution 40/33 of 29 November 1985.

<sup>7</sup> Principle 1.2 of the *United Nations Standard Minimum Rules for the Administration of Juvenile Justice ("The Beijing Rules")*. Adopted by General Assembly resolution 40/33 of 29 November 1985.

Child (CRC).<sup>8</sup> Although, it is alleged that in the practice of the European Court of Human Rights (ECtHR) the rights of children are adequately protected under Article 3 (the right to protection from inhuman and degrading treatment) and Article 6 (the right to a fair trial), the need for a separate mechanism rises periodically.<sup>9</sup>

In 2007, the Lanzarote Convention was adopted in Spain. It is the first regional treaty dedicated specifically to the protection of children from sexual violence. The convention entered into force in 2010 and has been signed by all 47 Council of Europe Member States.<sup>10</sup> Article 35 of the convention outlines the minimum requirements for forensic interviews with the child. The article states that member states should “take the necessary legislative or other measures to ensure” that interviews take place without unjustified delay after the facts have been reported and in premises designed or adapted for this purpose. Interviews should be carried out by professionals trained specifically for this purpose and the same persons should conduct all interviews with the same child, while the number of interviews should be limited to the necessary minimum, the child may be accompanied by a legal representative or an adult. Interviews should be videotaped and the recordings should be made acceptable as evidence in the court.<sup>11</sup>

Along with these endeavours the Council of Europe adopted its Guidelines on child-friendly justice in 2010. (Guidelines, 2010) The Guidelines state that all “children between birth and the age of 17 – be they a party to proceedings, a victim, a witness or an offender – should benefit from the ‘children first’ approach”. (Guidelines, 2010, p. 8) The document also introduces the term “child-friendly justice” which indicates that the judicial process, for either a victim or offender, should be age appropriate. (Guidelines, 2010, p. 17) The document is also promoting child-friendly actions such as creating child-friendly environment in interviewing and waiting rooms, (Guidelines, 2010, p. 30) or supporting “research into all aspects of child-friendly justice, including child-sensitive interviewing techniques and dissemination of information and training on such techniques”. (Guidelines, 2010, p. 33) The Guidelines address the problem of collecting evidence/statements from children and call for science based professional protocols in the area. (Guidelines, 2010, p. 87) Member states should allow evidence to be given via audio, video or TV link in the pre-trial phase and avoid possibility of re-victimisation. National judicial authorities should overview the process of establishing model interview protocols, rather than single judges.

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<sup>8</sup> *United Nations Convention on the Rights of the Child*. Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 1990, in accordance with article 49.

<sup>9</sup> *Handbook on European law relating to the rights of the child*. Joint publication of the European Union Agency for Fundamental Rights and Council of Europe, 2015, p. 30.

<sup>10</sup> *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*, Lanzarote, 2007/2010.

<sup>11</sup> *Ibid.* pp. 46–47.

### 3.2. The European Union

The European Union's 2006 strategy on the rights of the child (Rights of the Child, 2006) stated that the protection of children's rights in Europe is fulfilled under the CRC, the ECHR, the practice of the ECtHR, and the practice of the European Court of Justice. However, the document declared that "children's rights are still far from being generally respected, and basic needs are not being met for each and every child within the EU". (Rights of the Child, 2006, p. 5) In 2012, the EU adopted the Charter of Fundamental Rights,<sup>12</sup> where Article 24 is dedicated to the rights of the child and paragraph 2 states that "in all actions relating to children, whether taken by public authorities or private institutions, the child's best interests must be a primary consideration".<sup>13</sup> According to the wording of the paragraph public authorities mean bodies of the justice system as well as bodies of the childcare system. The 2012 EU Directive<sup>14</sup> on the rights, support and protection of victims of crime mentions specific requirements towards child victims that can be read as "child friendly justice" as described in the Council of Europe's Recommendations and Guidelines.

In 2015, the Directorate-General for Justice of the European Commission collected all existing available data on children's involvement in civil, administrative and criminal proceedings.<sup>15</sup> The study also described the legislation and policy in place with regard to children's involvement in justice in the (then) 28 Member States. In preparation, the study was built on the 2012 EU Directive and the Council of Europe's Guidelines on child-friendly justice.<sup>16</sup>

The 2016 EU Directive<sup>17</sup> – on procedural safeguards for children who are suspects or accused persons in criminal proceedings – takes into account the special needs of children during police questioning. Paragraph 42 states, that "*Children who are suspects or accused persons in criminal proceedings are not always able to understand the content of questioning to which they are subject*".<sup>18</sup> In addition, paragraph 44 states that "questioning should in any event be carried out in a manner that takes into account the age and maturity of the children concerned"<sup>19</sup> and in paragraph 59 "children should also have the right to be accompanied by the holder of parental

<sup>12</sup> *Charter of Fundamental Rights of the European Union*. (2012/C 326/02)

<sup>13</sup> Article 24 (2) of the *Charter of Fundamental Rights of the European Union*. (2012/C 326/02)

<sup>14</sup> *Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision. 2001/220/JHA*

<sup>15</sup> *Children's involvement in criminal, civil and administrative judicial proceedings in the 28 Member States of the EU*. Policy Brief. Child Law Clinic, University College Cork, European Commission, 2015.

<sup>16</sup> *Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 Member States of the EU*. DG Justice, European Commission, 2014, pp. 6–7.

<sup>17</sup> Directive (EU) 2016/800 of the European Parliament and of the Council.

<sup>18</sup> Directive (EU) 2016/800, paragraph (42).

<sup>19</sup> Directive (EU) 2016/800, paragraph (44).

responsibility during other stages of the proceedings at which they are present, such as during police questioning”.<sup>20</sup> The Directive highlights the need for special training of judges and prosecutors who deal with criminal proceedings involving children “in particular with regard to children’s rights, appropriate questioning techniques, child psychology, and communication in a language adapted to children. Member States should also take appropriate measures to promote the provision of such specific training to lawyers who deal with criminal proceedings involving children.”<sup>21</sup> Although, in paragraph 42 the questioning by police is expected to be audio-recorded, the 2016 Directive does not preclude such video recording to be accepted by the court as evidence or mention that the questioning of the child should only be carried out by a specialised expert. On the other hand, when debating about the protection of child victims these two principles appear periodically.

The European Forum on the rights of the child stated in 2015 that “the investigation and forensic interviewing are carried out by specialists who are trained on rights of the child, child protection and on communicating and dealing with children. Treatment for the child is delivered by specialists and is child-sensitive, prevents secondary victimisation, and ensures adequate follow-up and reintegration measures, including additional school support to make up for time out of school.”<sup>22</sup> The European Commission’s latest strategy on victims’ rights<sup>23</sup> highlights the need for a better adoption of EU rules on rights of victims by Member States. One of the conclusions that the document states is that “For the most vulnerable victims, such as victims of gender-based violence, child victims, victims with disabilities, elderly victims, victims of hate crime, victims of terrorism or victims of trafficking in human beings, it is particularly challenging to go through criminal proceedings and to deal with the aftermath of crime”.<sup>24</sup> This is related to child victims of physical sexual assault and abuse. The Barnahus Promise network<sup>25</sup> regularly monitors the implementation of the Barnahus model to the protection of child victims and witnesses in the 21 EU states, and Ukraine, Scotland, Northern Ireland, England, Moldova, Albania, Georgia, and Norway. In Hungary, for example, the “Barnahus Act” came into force 1 Jan 2019, which was preceded by a number of other measures taken by the Hungarian authorities, the establishment of the National Competence Center for Barnahus in Szombathely.

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<sup>20</sup> Directive (EU) 2016/800, paragraph (59).

<sup>21</sup> Directive (EU) 2016/800, paragraph (63).

<sup>22</sup> European Commission. Directorate-General Justice and Consumers. (30 April 2015). 9th European Forum on the rights of the child. Coordination and cooperation in integrated child protection systems. Reflection paper. p. 12.

<sup>23</sup> COM(2020) 258, (24. 6. 2020) EU Strategy on victims’ rights (2020–2025).

<sup>24</sup> Ibid. p. 2.

<sup>25</sup> <https://www.barnahus.eu/en/barnahus-news/> (Accessed: 23 August 2021).

#### 4. CLOSING REMARKS

In Europe, forensic child interviewing protocols were first developed for interviewing child sexual abuse victims in Norway. The Nordic Barnahus model is still prevailing in effective child interviewing and is based on scientific considerations like the special memory functions of the child, or children's susceptibility to suggestive questioning and creating false memories of abuse. The Barnahus model – now a network and also a movement in Europe – sets out simple and practical recommendations how to overcome the pitfalls of interviewing children. Using video-recorded interview sessions, applying specially trained interviewers and enhancing close cooperation between law enforcement and child care professionals are the three main elements that every Member State should implement in the European Union. The European Commission have set four different guidelines for the protection of victims' rights and the protection of children from sexual abuse. These directives still urge Member States to implement appropriate procedural safeguards of victim and witness protection.

Nonetheless, measures for child offenders should also take into consideration the Barnahus model. Interviewing child suspects do have similar challenges of false memories or false confessions and specialized trainings for interviewers are needed in juvenile suspect interrogation, as well. The Council of Europe's child-friendly justice incorporates both domains of child interviewing. In this context, child-friendly justice means that any legal proceeding involving a child, whether a victim, a witness or an offender, should take into account the child's best interest before anything else.

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## THE INNOVATIVE RESPONSE OF THE EUROPEAN UNION TO MANAGING THE DIGITAL FINANCE

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**Abstract:** On 24 September 2020, the European Commission (EC) adopted its proposal for the Digital Finance Package. The 168-page document includes a digital finance strategy and a strategy for retail payments, as well as a bill on a European Union (EU) regulatory framework for cryptocurrencies and a EU framework for digital financial resilience. The Commission has proposed the first piece of legislation on crypto-assets (digital value or rights displays that can be stored and sold electronically). The Markets in Crypto-assets (MiCA) Regulation will boost innovation while preserving financial stability and protecting investors from risk. The regulation creates a clear legal situation and legal certainty for issuers and providers of cryptocurrencies. The new rules will allow economic operators licensed in a Member State to provide their services throughout the EU. The required collateral includes capital requirements, asset retention requirements, a mandatory investor complaint procedure and investors' rights vis-à-vis the issuer. Issuers of cryptographic assets with significant asset coverage (so-called 'stable cryptocurrencies') would be subject to stricter requirements (for example in terms of capital, investor rights and supervision). In July 2021, the European Central Bank (ECB) decided to launch the digital euro project. This does not necessarily mean that the issuance of a digital euro, but a preparation for its possible release. Interoperability with private sector payment solutions is an important consideration in the development of the digital euro, facilitating pan-European solutions and additional services for consumers. The "triple" procedure of the adoption of MiCA can take 18–24 months, during which the legislators may introduce further amendments so that the final version of the legislation may differ to some extent from the draft proposed by the Commission and it will also take years to create a digital euro after the ECB made its final opinion about it.

**Keywords:** *MiCA, crypto-assets, FinTech, e-money tokens, asset-referenced tokens, utility token, crypto-asset, crypto-asset issuer, white paper, ARTs, EMTs, stable coins, digital euro*

### 1. INTRODUCTION

"The future of finance is digital. There is a wealth of innovation available to consumers and companies. However, the digital transformation is not risk-free. We protect consumers while promoting innovations"<sup>1</sup>, said Valdis Dombrovskis, Executive

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<sup>1</sup> *Press remarks by Executive Vice-President Valdis Dombrovskis on the Capital Markets Union and Digital Finance.* [https://ec.europa.eu/commission/presscorner/detail/en/SPE-ECH\\_20\\_1739](https://ec.europa.eu/commission/presscorner/detail/en/SPE-ECH_20_1739) (Accessed: 7 November 2021).

Vice-President of the European Commission responsible for Economy that Works for People. In our globalising society our finances play a central role that – thanks to the Internet – we can easily manage online. In January 2020, the European Union’s Expert Group summarised its proposals in 30 points on removing regulatory barriers to financial innovation. On 24 September 2020, following the processing of the received opinions, the European Union’s Digital Finance Package was adopted for four years, as part of the EU legislative proposal on cryptocurrencies markets, more specifically on Markets in *Crypto-Assets*, ‘MiCA’.<sup>2</sup> This is the first time that the European Commission has been involved in the regulating the field of cryptocurrencies. Their aim is to improve competitiveness of Europe and even put the Union at the forefront of financial technical innovation. The digital financial strategy and legal framework would help to revitalise the European economy damaged by the Covid-19 pandemic. The final adoption of the draft may take up to 18–24 months, during which period the legislators may introduce further amendments, so the final version of the legislation may differ slightly from the draft proposed by the Commission in the future. (Cattani, 2020)

## 2. HISTORICAL BACKGROUND

The EU’s Digital Finance Package is built on the European Commission’s 2018 FinTech Action Plan, which recognized that firms in the EU financial sector are authorised and supervised on the basis of their activities, services and products. To prepare the FinTech Action Plan, the Commission held a public consultation in March 2017 to gather stakeholders’ opinions on the impact of new technologies on financial services. Most participants of the public consultation stressed that FinTech and technological innovation drive in general the development of the financial sector as it offers huge opportunities in terms of sources of funding, operational efficiency, cost savings and competition. Opinions on the financing proposal of European Crowdfunding Service Providers were gathered during the preparatory work, including the 2015 Capital Markets Union Action Plan, the public consultation on the mid-term assessment of the Capital Markets Union and the FinTech consultation in March 2017. According to the Commission, Europe should become a global hub for FinTech where EU businesses and investors can take advantage of most of the benefits of the single market in this rapidly developing sector. As a first major achievement, the Commission also presented new rules aimed at the growth of crowdfunding platforms in the EU single market. (Gobert, 2021) The FinTech Action Plan was designed to enable the financial sector to harness new, rapidly evolving technologies such as blockchain, artificial intelligence and cloud computing. Nevertheless, it has tried to make the markets safer and more accessible to new participants. This has benefited consumers, investors, banks and new market operators. In addition, the

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<sup>2</sup> *Digitális pénzügyi csomag: A Bizottság új, ambiciózus megközelítést javasol a fogyasztók és a vállalkozások javát szolgáló felelős innováció ösztönzésére.* [https://ec.europa.eu/commission/presscorner/detail/hu/IP\\_20\\_1684](https://ec.europa.eu/commission/presscorner/detail/hu/IP_20_1684) (Accessed: 7 November 2021).

Commission has proposed a pan-European label for platforms so that a platform authorised in one country can operate throughout the EU. The Action Plan is part of the Commission's efforts to create a genuine single market for capital markets union and consumer financial services, which is part of its ambition to create a digital single market. The Commission's aim is to make EU rules future-oriented and adapted to the rapid progress of technological progress.<sup>3</sup> Since the Covid-19 pandemic hit Europe in the first months of 2020, a massive number of consumers on the continent have been moving to the e-commerce space and shopping via contactless payment methods. However, the rapid steps of the digital world required a coordinated political response that would enable Europe to seize all the potential of the digital age, including financial services, and to keep up with its global counterparts. At the same time, the answer should preserve competition, increase consumer protection, improve and further centralise supervision and enable greater interoperability of services because not only traditional financial service providers are involved in it. The digital financial strategy presented by the Commission is part of a wider effort to make Europe a 'global role model for the digital economy'. The strategy also captures entities whose business model is primarily rooted in data use, not financial transactions. As the President of the Commission, Ursula von der Leyen said in her speech on the state of the Union on 16 September: 'We want to lead the way, the European way, to the Digital Age: based on our values, our strength, our global ambitions'. (Schneider et al., 2020) Eight months later, the Commission adopted the European Union's Digital Financial Regulation Package, which consists of 4 "sub-packages": the *Digital Finance Strategy*, the *Retail Payments Strategy*, the *Regulation of the European Parliament and the Council on crypto-asset markets – MiCA* – and the *Digital Operational Resilience Act – DORA*.

### 3. REGULATION MARKETS IN CRYPTO-ASSETS — MiCA

The goal of the regulation on crypto-assets markets is to boost innovation while preserving financial stability and protecting investors from risks. (Szikora, 2021)

The draft regulation contains four main regulatory objectives:

1. Providing legal certainty for crypto-assets not covered by existing EU financial services legislation
2. Establishing standard rules for crypto-asset providers and issuers at EU level
3. Replacing existing national frameworks applicable for cryptocurrencies not covered by existing EU financial services legislation
4. Establishing specific rules for so-called 'stable coins'. (Vermaak, 2020)

As it is clear from the regulatory objectives of the regulation, cryptocurrencies are among the most important issues. The definition of a crypto-asset can be summarized as the following: "Digital representation of value or rights that can be transmitted

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<sup>3</sup> *Press release of the European Commission of 8 March 2018*. [https://ec.europa.eu/commission/presscorner/detail/en/IP\\_18\\_1403](https://ec.europa.eu/commission/presscorner/detail/en/IP_18_1403) (Accessed: 8 November 2021).

and stored electronically using distributed ledger technology or similar technology”. There are 3 types of them that are distinguished in this document: e-money tokens, asset referenced-tokens and crypto-assets. The question is: what do these concepts mean?

1. E-money tokens: the main purpose of this type of crypto-asset is to be used as a means of exchange and maintain a stable value based on all traditional currencies.
2. Asset referenced-tokens: these are crypto-assets that wish to maintain a stable value by referring to the value of several fiat currencies that are legal tender, one or several commodities or one or several crypto-assets, or a combination of such asset.
3. Crypto-assets: they are defined as digital representations of values or rights that can be transmitted and stored electronically using technology that supports distributed data capture – *Distributed ledger technology, DLT* – or similar technology.

The proposal also includes the definition of “utility token”, which includes a type of crypto-assets that are intended to provide digital access to a good or service available on the DLT and is accepted only by the token issuer. Simple crypto-assets covered by the MiCA are primarily utility tokens, as other tokens are subject to EU law. For these other types of tokens, investor protection may justify legislative intervention through the strict application of existing EU financial law and by the definition of a ‘financial instrument’, which provides an alternative.<sup>4</sup> Although MiCA clearly fills in the perceived gaps, it does not fulfil the second policy objective of the Single European Market: the harmonised application of EU financial law concepts in all EU and EEA Member States. (Zetzsche et al., 2020)

The MiCA also grants to credit institutions certain exemptions in matters relating to asset-referenced tokens and the provision of crypto-asset services, as well as to authorized investment firms where only one or more crypto-services are provided with the investment services and activities to which they are entitled. (Cassar, 2020)

MiCA imposes investor disclosure requirements on issuers of all cryptocurrencies covered by this Regulation, although issuers of e-money and asset-referenced tokens are subject to stricter obligations. For a generic crypto-asset to be offered to the public in the EU or included in an EU crypto-asset trading platform, the issuer shall first prepare a ‘white paper’. The white paper shall be registered with a designated EU regulatory authority in member states where cryptocurrency is traded or authorized on a crypto-asset trading platform and is published on the issuer’s website. MiCA also includes requirements for the content and form of the white paper. These provisions provide a detailed description of the project, the rights and obligations related to the crypto-asset, the underlying technology and risks related to it. The Regulation requires that such disclosures shall be fair and unambiguous. MiCA

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<sup>4</sup> [https://ec.europa.eu/info/sites/default/files/business\\_economy\\_euro/banking\\_and\\_finance/200924-presentation-proposal-crypto-assets-markets\\_en.pdf](https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/200924-presentation-proposal-crypto-assets-markets_en.pdf) (Accessed: 9 November 2021).

will impose liability on the issuer for damages if he/she does not comply with this standard. Issuers should establish legal entity, thereby providing investors with an identifiable party against whom an appeal may be sought.<sup>5</sup> In addition to all these requirements, the Regulation highlights three other main obligations:

1. The issuer shall comply with prudential requirements – which exceed EUR 350,000 or 2% of the average amount of reserve assets or other amounts required by the legislators – and keep his/her reserve assets separated from his/her own capital and unencumbered;
2. the issuer shall have a sound management system, a clear organisational structure, well-defined, consistent and transparent responsibilities, an effective process for risk management, monitoring and reporting and appropriate internal control mechanisms; and
3. the issuer shall provide information on his/her practices, including any events relating to assets in circulation that may have a significant impact on the value and conflict of interest policy of tokens, as well as on complaint handling obligations.<sup>6</sup>

With the exception of existing credit institutions and MiFID II (EU Markets in Financial Instruments Directive) investment firms for services based on crypto-assets – such as custody, brokerage, trading or investment advice – the prior approval by national supervisory authorities is required. In addition to the rules for crypto-asset issuers and crypto-asset providers, the Regulation also introduces rules against market manipulation and insider trading on crypto-asset trading platforms. (Hansen, 2021)

MiCA requires entities covered by the new regime to be authorized and supervised by the competent national authorities of the Member States in which they are based. Those authorities should designate a single contact point for issuers engaged in cross-border business. Regulated entities such as credit institutions, i.e. banks in general and MiFID investment firms which carry out ‘crypto-asset services’, do not require further authorisation to carry out these activities. This Regulation shall not apply to entities engaged exclusively in the provision of crypto-assets to their parent companies, subsidiaries or other subsidiaries of their parent companies, which is called the MiCA Intragroup Exemption.

For those issuers of stablecoins, i.e. what MiCA terms as asset-referenced tokens, the competent national authorities should consult the European Banking Authority and the European Securities and Markets Authority. Where these tokens relate to EU currencies (not only euro, but also Bulgarian leva, Croatian kuna, Czech krone, Hungarian forint, Polish zloty, Romanian lei and Swedish krona), the competent authority shall consult the European Central Bank and the national central bank issuing

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<sup>5</sup> <https://www.sidley.com/en/insights/newsupdates/2020/11/analysis-of-the-proposed-eu-markets-in-cryptoassets-regulation> (Accessed: 10 November 2021).

<sup>6</sup> <https://www.ashurst.com/en/news-and-insights/legal-updates/10-things-you-need-to-know-about-mica-europes-proposals-for-regulating-crypto-assets/> (Accessed: 10 November 2021).

such currencies, which shall give a nonbinding opinion on the prospective issuer's application for authorisation. E-money tokens may be offered or introduced to trading on a crypto-asset trading platform if the issuer is authorized as a credit institution (i.e. a bank or an electronic financial institution) under the conditions of the second e-Money Directive. (Hoffmann et al., 2020)

The proposed rules also set out requirements for the so-called stable coins category, which are divided into e-money tokens and asset-referenced tokens.<sup>7</sup> MiCA distinguishes between crypto-assets in general and Asset-referenced tokens (ART) and E-money tokens (EMT). Crypto-assets typically correspond to "unsupported" payment tokens, while ART and EMT correspond to "backed" payment tokens. For all crypto-assets that are not ART or EMT, i.e. 'non-backed' payment tokens that are not yet covered by the previous financial regulation, the proposed Regulation requires them to be issued by legal entities that are not necessarily established in Europe following the publication of a white paper. In addition, a number of behavioural requirements are imposed on issuers, which are very well known for those who are accustomed to the requirements of MiFiD II. For both ART and EMT, the regulatory proposal includes additional requirements if they reach a certain level and become 'significant'. The proposed Regulation also covers crypto-asset service providers, which are particularly important in controlling initiatives such as Bitcoin, where the lack of a centralized issuer makes it necessary to establish control mechanisms over agents who exchange, store or advise clients with this type of asset. (Arnal Martín, Menéndez-Morán and Munoz Moldes, 2021)

#### **4. THE DIGITAL EURO**

Following the adoption of the Digital Financial Package, the European Central Bank published a comprehensive report on the possible introduction of the digital euro on 2 October 2020. The digital euro is an electronic form of central bank money that – like banknotes but digitally – would be accessible to all citizens and companies so that they can make their daily payment transactions quickly, easily and securely. The digital euro would supplement cash but would not take its place.<sup>8</sup> The report published by the Commission highlights a number of key messages concerning the digital euro that include the followings:

1. The digital euro may be a viable option for the Eurosystem to achieve its objectives related to core central banking functions and the general economic policies of the EU, provided that its design meets the scenario-specific requirements.
2. Digital euro could be issued
  - (i) to support the digitisation of the European economy and the strategic independence of the European Union;

<sup>7</sup> [https://ec.europa.eu/newsroom/fisma/item-detail.cfm?item\\_id=695217&lang=en](https://ec.europa.eu/newsroom/fisma/item-detail.cfm?item_id=695217&lang=en) (Accessed: 10 November 2021).

<sup>8</sup> Press release of the European Central Bank of 2 October 2020. <https://www.ecb.europa.eu/press/pr/date/2020/html/ecb.pr201002~f90bfc94a8.en.html> (Accessed: 17 November 2021).

(ii) in response to a significant reduction in the role of cash as a means of payment,  
(iii) where there is a huge possibility of the widespread spread of a foreign central bank's digital currency or private digital payments in the euro area,  
(iv) as a monetary policy transmission channel,  
(v) to mitigate the risks to the provision of payment services,  
(vi) in order to strengthen the international role of the euro, and  
(vii) to support the improvement of the overall costs and ecological footprint of monetary and payment systems.<sup>9</sup>

In addition, the digital euro would combine the efficiency of the digital currency with the security of central bank money. It would be of considerable help to deal with situations where people no longer use cash as a means of payment and to avoid dependence on currencies issued and controlled outside the euro area, as this could have a negative impact on both financial stability and monetary sovereignty. It should be emphasized that data protection is a central focus point to the digital euro in order to strengthen confidence in online payments.<sup>10</sup>

Money and finance permeate our daily lives and underpin the economy. Any change resulting from technological innovation, if not properly planned, could become a source of disruption to our financial systems, economies and societies. The design of a new form of central bank money includes the definition of operational and technological requirements and preferred options. An example of this is that, in order to preserve financial stability, they provide the possibility of using the digital euro as a payment instrument, not as a form of investment, or, for example, we could choose between the central ledger, which is easier and more efficient to manage, a shared ledger that is more suitable for peer-to-peer transactions, and/or between local storage on the user's device that would allow for offline payments. These aspects all affect each other. Defining a coherent set of choices will play a key role in the smooth functioning of the system. This is the background to the Commission's decision to launch the digital euro project which begins with two years of research into the development of the digital euro. This study involves focus groups, interaction with financial intermediaries, the creation of a prototype and conceptual work. Fabio Panetta (a member of the Executive Board of the European Central Bank) stressed that they will continue to work closely with all stakeholders and other European institutions to define the necessary legal framework. The European Parliament, the European Commission, the European Council and the Eurogroup have all recognized the importance of the digital euro for the innovative financial sector and flexible payment systems and have encouraged the Eurosystem to continue its work. (Panetta, 2021)

However, it should be pointed out that the digital euro will not be a crypto-asset. As mentioned below, crypto-assets can be asset-referenced tokens, e-money tokens

<sup>9</sup> Report of the ECB on a digital euro of October 2020. [https://www.ecb.europa.eu/pub/pdf/other/Report\\_on\\_a\\_digital\\_euro~4d7268b458.en.pdf](https://www.ecb.europa.eu/pub/pdf/other/Report_on_a_digital_euro~4d7268b458.en.pdf) (Accessed: 18 November 2021).

<sup>10</sup> [https://www.ecb.europa.eu/paym/digital\\_euro/html/index.hu.html](https://www.ecb.europa.eu/paym/digital_euro/html/index.hu.html) (Accessed: 18 November 2021).



or utility tokens. The fundamental difference can be outlined as follows: crypto-assets are digital representations of values or rights that can be transmitted and stored electronically using distributed ledger technology, i.e. blockchain, while the digital euro is not a token and is not considered to be e-money issued by supervised individuals.

The European Central Bank describes the digital euro as a risk-free form of central bank money, which is only a digital representation of the cash itself and will therefore be responsible for it. Like the current euro, the ECB seeks to ensure the stability of the purchasing power of the digital euro by enforcing its monetary policy. The general term for such currencies is CBDC (central bank digital currency, the digital currency of the central bank). While the use of blockchain would help solve the confidentiality problem, it would pose challenges to the integrity of payments made using the digital euro, as the principles of knowledge of financial services (*Know Your Customer, KYC*), the fight against money laundering (*anti-money-laundering, AML*), prevention and the fight against terrorist financing (*countering the financing of terrorism, CFT*) are difficult to implement. What background infrastructure the ECB ultimately chooses, depends on other factors. Nicky Maan, CEO of Spectrum Markets, highlighted that, for example, they could use the existing central bank digital payment system that it has been used since 2008 for wholesale transactions: *TARGET2 (T2)* for wholesale payments, *TARGET2-Securities (T2S)* for clearing securities trading with central bank money, and for the settlement of securities trading with central bank money and *TARGET Instant Payment Settlement (TIPS)* for instant payments. However, this would prevent the use of an account-based model in which end-users' accounts are integrated into the Eurosystem's centralized infrastructure, as it would not be able to process the exceptional amount of one-off payments. (Maan, 2021)

## 5. SUMMARY

With this regulation, the European Commission has taken the first step towards establishing a new and standard regulatory framework for crypto-assets. The new rules will allow entities authorised in a Member State to provide their services and sell cryptocurrencies in the EU. The regulation specifically helps to solve many problems of financial crime, such as insider trading, money laundering, secondary market manipulation, etc. One of the main goals of the MiCA is clearly to protect crypto-asset issuers. It is also noteworthy that Patrick Hansen, head of bitkom's blockchain and a RegTrax contributor to the European Union, is of the opinion that MiCA imposes high demands on startups, since they must have more than EUR 350,000 or 2% of the average reserve asset. These financial burdens may make it almost impossible for some of the new participants to enter the market. (Hansen, 2021) The digital euro would not replace cash, but would complement it, and would be issued by the European Central Bank. Nowadays, consumers are increasingly paying electronically, which would facilitate the payment method and bring them more favourable costs. However, with all these advantages, there is a risk that the popularity of the digital euro would increase to such an extent that it would crowd out other currencies used

in the European Union. However, in addition to the foreseeable advantages and disadvantages of the MiCA Regulation and the digital euro, it is difficult to say exactly what changes it will undergo in the upcoming months, as the final form of the crypto-asset regulation has not yet been developed, is constantly changing. The digital euro project phase is expected to be completed in October 2023 and the development and testing phase may take another three years.

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