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# Res novae



*Revija za celovito znanost*  
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A BRIEF HISTORY OF WESTERN HUMANISM

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**Fakulteta za poslovne vede, Katoliški inštitut**  
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## **Soul, Subject and Person: A Brief History of Western Humanism**

**Abstract:** The history of Western humanism is marked by the emergence of philosophy as a theoretical way for investigating reality. Philosophy studies human beings in connection with the ultimate foundation of reality. Within Western thought, the tradition associated with this kind of research has forged three basic ways of conceiving of human beings' most radical and distinctive features: man as rational soul, as a self-conscious subject, and as a person. All three are based on important theoretical discoveries, but their co-existence has not always been exactly peaceful. Given that human beings cannot live without self-knowledge, the way we see ourselves has important socio-cultural and ethical consequences, which broaden our view of human beings, bringing to light previously hidden features of humanity. Attempting to recover and make sense of the diverse notions of what it is to be a human being is especially important when the very notion of being human is blurred and its normative value is threatened.

**Key words:** soul, person, subject, nature, humanism, freedom, production



## **Duša, subjekt in oseba: kratka zgodovina zahodnega humanizma**

**Izvleček:** Zgodovino zahodnega humanizma zaznamuje vzpon filozofije kot teoretičnega načina preučevanja stvarnosti. Filozofija preučuje človeka v povezavi s končnim temeljem stvarnosti. Znotraj zahodne misli je izročilo, ki ga pripisujemo tej vrsti preučevanja, vzpostavilo tri osnovne načine razumevanja najglobljih in najizrazitejših značilnosti človeškega bitja: človek kot racionalna duša, človek kot subjekt, ki se zaveda samega sebe, in človek kot oseba. Čeprav vsi trije načini temeljijo na pomembnih teoretičnih odkritjih, njihovo sobivanje ni bilo vedno mirno. Glede na dejstvo, da človek ne more živeti brez spoznanja samega sebe, ima način, kako dojemamo sebe, pomembne družbeno-kulturne in etične posledice, ki širijo naš pogled na človeka in dodatno osvetljujejo predhodno skrite značilnosti človeštva. Poskus obnovitve in osmišljenja različnih predstav o tem, kaj pomeni biti človek, je pomembno zlasti v času, ko je že sam pojem človeškega zamegljen, njegova normativna vrednost pa ogrožena.

**Ključne besede:** duša, oseba, subjekt, narava, humanizem, svoboda, proizvodjanje

### **Introduction**

Human beings are the only animals that we know of that must know what he or she is in order to be so. In the following pages, I will outline Western culture's three major frameworks for understanding human beings. This approach is inspired by Leonardo Polo's suggestion that there are three different conceptions of human beings' most radical and

distinctive features, which involve three different ways of conceiving of freedom, undoubtedly one of the most radical and profound human characteristics. (Polo 2007) These three conceptions are based on important discoveries that have decisively marked the history of thought and influenced in different ways the human behavior and human societies. Claiming that they rely on discoveries implies accepting that one should not necessarily supersede another. However, as Polo maintains, if we are to accept and integrate all of them, we must first identify which of them is most radical.

Theory, when it reflects reality or reveals important aspects of it, opens up new paths and guides and improves human practices; when it does not, it obscures the future, disorients and, in the extreme, makes new paths impossible. Obviously, the better we know what human beings are, the more accurate our view of their needs and possibilities will be and, in this way, we are better prepared to experience true development. Yet, human behavior, by responding to specific demands and repeatedly facing reality, may also contain a certain wisdom, translated into practices that are often more appropriate and wise than the explicit theories that try to explain and justify them. Thus, when dealing with practical issues, such as ethics or the art of educating, inherited practical wisdom is always an unavoidable point of reference. Any theoretical reflection must account for it because it may help improve theory or correct its errors.

Below, I will briefly describe the essential features of these three frameworks, explaining some notions that are important for our understanding of human beings. This is not, of course, an exhaustive description, which goes beyond the limitations of a paper; rather, it aims to offer indications for

better understanding what human beings are and how our self-understanding has developed.

### **The discovery of human nature**

The classical period (Jaeger 1973) is one of the most important stages in the history of Western philosophy and is still a compulsory reference point for any reflection on this subject. Our understanding of classical philosophy rests particularly on Socrates' solutions regarding the nature of education in his debates with sophists, who were education professionals. Given the teaching that the sophists offer and their attitude toward knowledge, Socrates insists on the necessity of asking after the real human good. For Giovanni Reale (1989), even though Socrates did not leave a written doctrine and there is room for doubt regarding his actual teachings, something in Western thought changed that posterity has exclusively attributed to him. This change can be summarized around two notions, which acquired a technical meaning and around which ethical reflection flows, namely soul and virtue. For Socrates, the soul is not just the principle of life in general. It has a particular anthropological meaning which is based on the conviction that human beings' different dimensions and activities flow from a unitary source, which we could describe as the center of the moral personality. For this reason, if we seek the good, we can never be satisfied with what we think is good or achieve excellence in any of the activities that we are able to deploy. We must instead seek the good of that which, so to speak, we are essentially because only from there can we reach truly human goods. This perfection is the new meaning that the term virtue takes on in Socrates. Virtue is the good of

the soul, that is, of what we are basically, a good that is not only intellectually or rationally sought, but that maintains an essential relationship with the intellect and reason.

These notions, animated by the force of life and Socrates' example, who presents himself as an unconditional seeker of the truth, significantly impacted the entire Socratic school. Indeed, all Socratics are convinced that happiness is impossible if one renounces the search for man's true good and the exercise of rationality. The greatest Socratics – Plato and Aristotle – as well as the so-called minor Socratics and the most important Hellenistic schools, such as Stoicism and Epicureanism, share this conviction, each with their own nuance. Among post-Socratic thinkers, Aristotle likely contributed the most to the technically coining and defining this and other notions. For Aristotle, the human vital principle, the soul (*psyche*), is distinguished from that of other animals by rationality (*logos*) and by participation in a type of life whose maximum expression is intellectual knowledge of truth (*nous*). He admits, of course, non-intellectual ways of life in which human beings also participate, such as those associated with vegetable and animal life that possess inner movement and some sensitivity. But animals and plants share the condition of being alive. Distinction between the living and non-living is based on the type of activity that characterizes the former. Living beings do not just move; they are not just the seat of movements or processes. In addition to that, even through these processes, living beings exercise and perfect activities (*práxis teleia*). Aristotle's introduction (1933, 6) of this relevant distinction goes as follows:

"Since no action which has a limit is an end, but only a means to the end, as, e.g., the process of thinning; and since the

parts of the body themselves, when one is thinning them, are in motion in the sense that they are not already that which it is the object of the motion to make them, this process is not an action, or at least not a complete one, since it is not an end; it is the process which includes the end that is an action (*praxis*). E.g., at the same time we see and have seen, understand and have understood, think and have thought; but we cannot at the same time learn and have learnt, or become healthy and be healthy. We are living well and have lived well, we are happy and have been happy, at the same time; otherwise the process would have had to cease at some time, like the thinning-process; but it has not ceased at the present moment: we both are living and have lived. Now of these processes we should call the one type motions, and the other actualizations. Every motion is incomplete – the processes of thinning, learning, walking, building – these are motions, and incomplete at that (*ateles*). For it is not the same thing which at the same time is walking and has walked, or is building and has built, or is becoming and has become, or is being moved and has been moved, but two different things; and that which is causing motion is different from that which has caused motion. But the same thing at the same time is seeing and has seen, is thinking and has thought. The latter kind of process, then, is what I mean by actualization (*energeia*), and the former what I mean by motion (*kinesis*)."

Although this text is long, presenting it in full is important because it is the best explanation of one classical thought's decisive claim – i.e., seeking the good is not about achieving something external to human beings, but rather and above all about improving human beings' lives. Vital activities mark the distinction between beings for whom achieving good,

so to speak, matters and those for whom it does not. The reason behind this distinction is clear – only the good in the strict sense can extend to those who are able to enjoy it. But enjoying the good is a way of life, in fact, without which no life is possible. Living is not oriented to anything external to life. On the contrary, the existence of true ends depends on living. Aristotle demonstrates that the search for the good has meaning for the living because life – especially, intellectual life – is precisely the condition of all possession.

Socratics are aware that the search for the human good requires the process and exercise of searching. Unlike some sophist proposals, that search does not just consist of learning and putting our previous desires into practice. Human beings' intellectual condition demands that, above all, we seek what we should want, that is, what our deepest desires are. On the other hand, if no good can exist without a life that makes it meaningful and is capable of possessing it, the true search for the good consists in becoming capable of the good. Aristotle calls this good that we seek happiness (*eudaimonia*). Given the above, it is impossible to conceive of happiness as a state of mere satisfaction. To be happy is to possess the good, which is only possible through the exercise of activities that give meaning to work. Happiness is, following Aristotle, activity according to perfect virtue. The maximum, most vital and perfect activity or actualization that we are capable of is that with which we are happy. Reaching it requires a type of growth that we call virtue. Virtue (*areté*) is a type of habit (*héxis*), which is acquired through the choices (*proairesis*) we make in search of the good and the rational activities that we undertake from there. They not only change our external reality, but, above all, change us and make us more (or less) capable of the

good. This feature of human choice forces us to reflect on the good and, in this way, gives rise to ethics and makes the teaching of virtue necessary.

Aristotelian reflection on the living and, in particular, on living human beings, helps us to better define the meaning of the Greek notion of nature (*physis*). Unlike for contemporary philosophy, for the Greeks, nature is not the opposite of freedom, something whose laws we seek to understand to impose to it our consciously proposed ends. Nature is internal to everything and involves the future of growth itself. It is not predicated on the universe, but rather on each being. For Greek thought's sophist period, the notion "natural" or "according to nature" helped set the criteria that allowed for discernment among the laws and customs of different peoples that were often very different from those of the Greeks. For some, this is an argument for relativism. Others propose, using different conceptions of the natural, that this is an argument for judging them according to whether they agree or not with nature.

The notion of human nature was formulated in this context. (Spaemann 1994) For Aristotle, understanding the nature of something cannot be separated from understanding each thing's essential inclinations or, in other words, from distinguishing between what benefits and harms it. (Murillo 2008) This is particularly clear in the case of living beings. Now, as far as we know, human nature is particular. Along with inclinations that correspond to our particular organic condition, our rational condition makes us fit for wisdom and life in the polis. Wisdom here is not understood as just the learning that helps us achieve specific goals that our tendencies steer us toward. Human rationality involves the

most radical and distinctive trend, namely the desire to know. Leading a properly human life is exclusively based on the desire to know reality and, in particular, the true good. Aristotle presents this desire as the clearest manifestation of human life's difference from animal life. The possession of reason (*logos*) also alters coexistence as it invites us to ask ourselves what is right and what is unjust.

A common misunderstanding in our time surrounding the notion of nature involves assuming that to accept it leads to biological determinism. Although even the notion of biology that this critique presupposes should be discussed, we must remember that both rationality and intellectuality, which are the distinctive features of human nature, are also the root of freedom in the classical view. Aristotle first described the human body as especially indeterminate, which is befitting of a soul capable of making all things. The current understanding of biology is in tune with this observation in that it highlights our nervous system's extraordinary plasticity as the source of our ability to learn and reconfigure our behavior according to what we decide or choose.

Accepting human nature does not imply considering inclinations only as they occur in fact. On the contrary, human nature is oriented toward a perfection that only derives from the exercise of rational activity, which is what we call virtue. Aristotle describes virtue as a kind of habit or disposition that, as a result of action, configures human beings. The notion of human nature does, however, affirm that our organic condition, which is what enables rational and free activity and a characteristically human social life, cannot be forgotten when seeking perfection. The acceptance of what we are, as animals and rational beings, makes growth



and properly understood improvement possible. Education must, from this view, understand human aspirations and possibilities and lean on them in pursuit of our fullness.

### **Human being as a personal being**

Christian culture accepted and assimilated the conviction that human beings are more than what they externally manifest and that they have an inner core that aspires to a unitary good – the notion of soul –, as well as the notion of virtue understood as the perfection of human beings as such, and the idea of human nature as a normative criterion for human behavior. But Christianity accentuated some aspects of the human condition that showed, on the one hand, that the notion of soul is insufficient for radically characterizing human beings and, on the other hand, manifested limitations of the notion of nature as a key for understanding and judging activity. The first of these conclusions developed into the notion of person over the centuries through a theoretical development that continues to this day. The second, however, emerged through a traumatic crisis in Western culture.

The notion of the soul as developed by the classics invites us to consider the end of man, that which makes him happy, as, first of all, a certain form of contemplation. If our loftiest point is knowledge, the most liberating and rewarding activity corresponds to uninhibited contemplation directed towards the highest and most admirable realities. With this way of conceiving of the end, classical ethics tends to be an ethics of moderation and balance. The human good, to be true, must be harmonious and unitary. The highest element is the rational soul, and everything else must be subordinate

to it. The idea that the wise person does not need much to be happy – according to some schools, he needs almost nothing – is common to the schools of antiquity. However, this view runs the risk of offering a much too individual view of human aspirations. Aristotle clearly attempted to resolve this difficulty, and did so more or less successfully according to whom you ask. On the one hand, he affirms that wisdom, as far as we are given to exercise it, is the happiest of activities. The wise man, insofar as he is so, needs no one. However, Aristotle himself points out that human nature makes us political beings and, therefore, fulfillment of the entire good of which human nature is capable is impossible without the polis. Moreover, when talking about friendship in the *Nicomachean Ethics* (2009, 3–6), he argues that “it is a virtue or implies virtue, and is besides most necessary with a view to living. For without friends no one would choose to live, though he had all other goods.” In this way he puts relationships between human beings, whose paradigm and maximum expression is for Aristotle friendship, at the center of the conception of the human good. Christian thought, with a God who is both the creator of everything, including human beings, and a personal being who seeks to establish friendship with us, is the perfect framework for considering the relationships between rational individuals decisive and for grasping how profound and unavoidable those relationships are if we want to understand ourselves.

Reflection on this radical feature of human beings is linked to the formulation of the notion of person in the theological debate. The term person is coined in this area to unequivocally explain the thesis, which the Christian message defends, that God is one and yet that he is the Father, his Son and his Spirit. As is well known, the effort to explain this

claim, that is central to understanding Christianity, led to a distinction between divine nature and three “subsistences” (*hypostasis*), a term that Latin writers translated as “person”. The development of this formulation led theologians to explore the relationships among these divine persons, which constitutes them as distinct. Although the related ontology continues to center on the search for the absolute being, it became increasingly clear that distinctions do not just affect creatures. Indeed, to understand the person at all levels, we must take into account some “relationships” that cannot be reduced to natural qualities alone and that are also present in the transcendent origin of all reality. This term passed from theology to philosophy through long standing theoretical development that was not completed until recent years and whose most important theoretical fruits emerged in the last century. (Housset 2007) While this topic is complex, we will focus on understanding the framework in which the notion of human nature became insufficient for understanding man.

The first centuries of Christianity quickly revealed that their God seemed, in many aspects, more like the god of the philosophers than like the god of the pagan religions at the time. As in Aristotle, or the Neo-Platonists, the Christian God’s transcendence prevented him from becoming a part of the natural order, even though he was its highest and most decisive reference, as well as a source and principle of reality, from which everything neatly and orderly proceeds. That independence, manifested in the freedom to create (or not to create), puts the “personal condition” above mere natural properties. God is not a part of the universe, but rather someone who made the universe on his own initia-

tive and out of nothing, creating persons with the idea of establishing a relationship.

Freedom is central to Christianity. God freely created and calls man to freely decide. Nothing makes the importance of freedom clearer or better helps understand its true meaning than the biblical affirmation "God is love" (John 4:16). Love, as understood here, is a relationship between so-called persons, that is, between beings who can offer, accept and respond. To say that this type of love, which was previously reserved for relationships between human beings, is also found in the divine being runs counter to ancient thought. Christianity expanded on this notion because its whole framework depends on the revelation of what it means that God is love and the extent of His love for man. This expansion even warranted a new term – *agape* in Greek or *caritas* in Latin. Each person's uniqueness and his or her radical freedom become more evident in this intellectual context. The Greeks saw education, especially at an early age, as decisive. Christianity's framework, however, highlights the importance of individuals' collaboration in their own education. Considered negatively, even the best educational effort can be frustrated by an unwilling student. In a positive light, no life is definitively broken; the possibility of freedom always exists despite the past and growth is always possible according to love, the dimension that becomes the most important for human life. This way of understanding what is most radical about human life includes the fact that nature offers a criterion for what is appropriate or not, but does not impose a fixed limit on human growth. One ancient Christian thinker, Gregory of Nyssa (2012), boldly and clearly expressed this idea saying:

“that which is intelligible and immaterial, being released from such confines, escapes limit and is bounded by nothing. But again, the intelligible nature is also divided into two kinds. The first is uncreated and is that which brings intelligible realities into being. It is what it is eternally and is in every respect self-identical. Further, it is beyond any addition to, and incapable of any diminution of, the goods it possesses. The second, however, has been brought into existence by an act of creation. It looks eternally upon the First Cause of the things that are and is preserved in every respect in the good by its participation in what transcends it. It is also, in a certain fashion, always being created as it is changed for the better by being enhanced in goodness. For this reason, no end point can be conceived for it either, and its growth toward the better is not confined by any limit, but the good that is given at any particular time is always a starting point for something more and better, even though it already appears to be as great and as complete as possible.”

### **Production and subjectivity**

This Christian view of the world and of human freedom also contains greater awareness of the importance of human beings' productive action. For the classics, the cultivation of oneself, the search for virtue, is more important than the possession of any external good, which Christians also accept. In the classical view, production tends to be seen as an imperfect activity, aimed at meeting needs. Activities that really count, however, are done for their own sake, such as knowledge and political action. For Christianity, however, productive work is considered relevant to virtue because

work channels and manifests love in the form of doing something for the other.

What we call “production” does not just “naturally” follow from our nature, but also introduces a certain type of novelty, which alters initial conditions and opens up new possibilities. For this reason, producing is a clear manifestation of freedom. Understood in all its breadth, it is radically a human feature that is found at the root of all forms of coexistence – language, for example, and dominion over means, i.e. technique. This appreciation of production reached its peak at the same time as an intellectual crisis regarding to the acceptance of classical heritage, a process that began around the fourteenth century. Some thinkers considered that the Greeks give excessive importance to reason and intellectual contemplation, and tended to understand reason, and the truth it discovers, as a limitation for freedom, which should be understood precisely as a certain independence from reason. (Polo 2012) In the first and nuanced stages, Duns Scotus maintained that freedom of the will resides in its spontaneity, that is, in its ability to self-determine outside of intellectual knowledge. First presented as a critique of a view that could lead to a kind of naturalism that eliminates freedom and personal love, it ended up leading to a new way of understanding freedom and what is most radical about man. For some authors who adopted this way of thinking, production does not just affect the external, improve human life, and express concern for others; it also touches on humans’ innermost being. Deep down, man is, for them, a vacuum that must, if possible, be determined.

From then on, little by little, production began to be seen as the most important category for understanding human

beings. Schelling (2000), for example, states: “The I is nothing other than a production that becomes an object for itself, that is, an intellectual intuition.” The development of this idea goes hand in hand with the elaboration of the notions of subject and subjectivity for understanding human beings. Subjectivity is conceived of as an original reflection and, at the same time, the result toward which the process is oriented, paradoxical though it may seem. The subject is free to the extent that he is indeterminate and can impose his spontaneous determinations on reality and even on himself. Knowledge, from this point of view, is not a vital activity that fully possesses an end, as it was for the classics. It became seen as either a sign of our subjectivity’s limitation, which is imposed upon, or as a kind of production that, for some, is limited to the material that sensitivity offers and, for others, as the idealists, is absolute. *Verum ipsum factum*: What is true is precisely what is made. Indeed, Giambattista Vico’s thesis summarizes a line of thought that runs through all of modernity, of course with several variants and consequences, some decidedly more problematic than others. Such subjectivity is empty; otherwise, it would be determined and would not be truly free. It makes establishing connection with others difficult since, ultimately, according to it, being free begins and ends in radical solitude. For this reason, society tends to be conceived of either as a means for each subject to achieve his own ends, which is legitimized by virtue of a mutually agreed upon social pact that limits the liberal conception of autonomy, or as a reality that endows the individual with true freedom, freeing us from particularity and selfishness (Rousseau).

Explaining the history of this idea and its contradictions in detail goes beyond the confines of this text, which is limited

to offering keys for understanding how our vision of man influences our view of ourselves and how this view shapes our practices. It is not difficult to think, for example, of current approaches that insist on individual spontaneity, reject teaching as an arbitrary imposition or accept it only as a requirement for helping individuals adapt to society.

### **Towards an integral view of human growth**

Someone might think that this brief account is a mere philosophical or “humanistic” vision of human beings, which science is now able to definitively overcome with all its ambiguities and limitations. Yet, we should be prepared to answer the question of whether or not science, now especially neuroscience, can provide a complete guide for life. It seems that, no matter how much we search the brain, we will never find in it definitive answers to the questions of what man is or what he should know. Although there is much that our knowledge of the brain can contribute to this task, it is more important to understand human beings in order to understand the brain than to understand the brain in order to understand human beings. In fact, the study of the brain is only fruitful if we place it within the framework of the living being to which it belongs, who, as we have seen, is only understandable in the light of his operational context and his activity and ends. Some may also object that this position seems to subordinate serious and objective scientific knowledge to the vagaries and subjectivisms philosophy and ideologies convey. But we cannot ignore that this objection also presupposes a vision of reality, of knowledge and of who exercises it. Avoiding difficult questions about the human condition does not protect us against the possibility



of making mistakes. When the perspective provided by the search for wisdom is lost, mistakes are more difficult to recognize. In order to shape human life, we must ask what the human being is, what is good for him and how that good is best achieved. Our knowledge of the brain is undoubtedly part of these answers, but it is not the entire story. If we want to achieve the good, we cannot disregard perspectives that enrich our knowledge of human beings.

There has been much talk of the gap between scientific knowledge and the humanities, and some have even warned that science could end up colonizing what is left of the humanities until making them obsolete. Our intention here is not to blindly defend the value of everything that is done under the name of humanities, but we would do well to recognize that reductionist programs are only verified when they are fulfilled; we are sure that, if neuroscience were to ultimately achieve an appropriate vision of human being, it would change so much in the process that it would become unrecognizable. However, it is also clear that humanistic perspectives cannot do without science. Knowledge is knowledge, whatever the method and discipline with which it is achieved. Moreover, the secular human experience of humanity certainly involves understanding the living being that human beings are and, therefore, in one way or another, better understanding the brain; we cannot ignore it if we want to understand it.

Renunciation of reductionism and oversimplification must also govern how we face the history of how human beings are conceived. Each related conception is based, as we have seen, on some discovery, which must be correctly understood and carefully maintained. Leibniz thought that

philosophers are usually right in affirming and wrong in denying. This is a call to preserve memory and accept knowledge wherever it comes from, as well as a call to improve it when, at the moment, it is difficult to understand how different truths can be reconciled. In fact, many of the questions and suggestions that this brief account explores are present in recent research. Thus, for example, classical reflection on habits offers valuable suggestions for understanding human learning. The Aristotelian notion of habit, although it only formulates what human experience proves, has often been forgotten in the field of neuroscience. It certainly employs a notion of habit, but it tends, in our opinion, to be an impoverished one. Applying the Aristotelian notion to neuroscience research has already inspired some scholars. (Bernacer and Murillo 2014) A similar recovery is underway with the classical and Christian framework's emphasis on the importance of contemplation and the search for truth. (L'Ecuyer 2014)

For its part, the key role of personhood is also reflected, for example, in the interest that another important topic in education has awakened, namely shared attention. (Roessler et al. 2005) The ability to focus attention on the other's gaze, to understand his intentions and know that one's own intentions are understood is a distinctive feature of human beings and underpins our unique capacity for learning. As we have seen, however, much of education and neuroscience are often restricted by paradigms that ignore the explanatory power contained in the classic notions of nature and person. Conflict, in addition to forgetfulness and ignorance, is largely based on the fact that we usually think in terms of mutually exclusive alternatives, such that, if we favor production and subjectivity, we must reject the existence of human nature,

or if we accept that the person is the ultimate root, we are forced to renounce the meaning modernity has given to the term freedom.

This contrast is perhaps most acute between the classical view and the emphasis on production that gave rise to the modern conception of subjectivity. It is true that, if production is only understood as giving rise to terminal products external to the producer, its only value is in the possession and use of its result. In that scenario, no product is guaranteed to improve human beings. On the other hand, the absence of the notion of person and nature is clear, for example, in the transhumanist movement's view of human progress. (Murillo 2014) Leonardo Polo's solution to this problem is to propose that neither of these two dimensions is the most radical. In his view, only freedom that is understood starting from the person and from the relationships between persons appropriately locates productivity because it demonstrates that production is the consequence of a characteristic feature of a personal being, namely effusiveness. Admittedly, changing the status quo requires us to rethink how we understand freedom and subjectivity, but it is also true that the time is right for such a task since only few people think that this isolated model is complete on its own, although all agree on preserving its achievements.

Emphasizing the person, who has a nature but is not reduced to it, and who is capable of producing and creating to improve his world and the lives of the people with whom he shares it, provides a more open perspective for human life. As we have seen, Gregory of Nyssa formulates the central place that growth has for the human person in theological language. Organic growth holds that unity is compatible

with differentiation and plurality. In fact, growth is a kind of differentiation that preserves unity and increases the benefit of it. This growth rightly reflects how we should understand the integrating dynamic characteristic of personal growth. (Murillo 1999) Human life is obviously not exhausted in our organism and its adaptation to the environment, but extends further towards the interpersonal sphere, which manifests itself in culture, society, etc. If we want to avoid the risk that these manifestations turn into an external and possibly enslaving reality, we must develop our capacity to turn them into opportunities for growth – a growth that, although it must respect the human condition in order to improve it, cannot be limited to or enclosed by it.

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1.01 izvirni znanstveni članek

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## **Trinitarični vidik duhovnosti pri Avguštinu, Mariji od Učlovečenja in Favstini Kowalski**

**Izvleček:** Sveta Trojica – Oče, Sin in Sveti Duh – se ljudem razodeva v prostoru in času. Na podlagi razodevanja Svete Trojice sv. Avguštinu, sv. Mariji od Učlovečenja in sv. Favstini Kowalski se približujemo odnosom, ki potekajo znotraj Trojice same. Živost odnosov med osebami Svete Trojice, ki jo doživlja mistik/mistikinja, se želi kot studenec razliti na ljudi. Bog se hoče družiti s svojim ljudstvom in tako si Sveta Trojica v človeku pripravlja svoje prebivališče. Pri tem ima posebno vlogo Jezus Kristus, saj se je Bog preko njega približal človeku in »postal podoben ljudem« (Flp 2,7). Razumevanje odnosov, ki potekajo znotraj Trojice, pomaga vernikom pri poglobljanju odnosa z Bogom ter pri izboljšanju njihovih medsebojnih odnosov. S pomočjo primerjalne metode spoznavamo naravo odnosov v Trojici, teološko osvetljujemo sadove doživetij obravnavanih avtorjev in jih aktualiziramo.

**Ključne besede:** Sveta Trojica, odnosi, mistična poroka, Ženin, očiščenje, zrenje, človeška duša

## **Trinitarian View of Spirituality in Augustine, Mary of the Incarnation, and Faustina Kowalska**

**Abstract:** The Holy Trinity – Father, Son, and the Holy Spirit – reveals themselves to the people in space and time. From revealing of the Holy Trinity to Saint Augustine, Saint Mary of the Incarnation and Saint Faustina Kowalska, we are approaching to the relationships that go on inside of the Holy Trinity. The liveliness of the relationships between the persons of the Holy Trinity, which is experienced by the mystic(s), wants to splatter like a spring on people. God wants to socialize with His people and, therefore, the Holy Trinity is preparing its residence in men. Jesus Christ has a special role in this – through Him, God approached to man and “was made in the likeness of men.” (Phil. 2,7) Understanding of the ongoing relations within the Trinity helps the believers at deepening their relation with God and improvement of their inter-personal relationships. With the assistance of the method of comparison, the nature of the relations within the Trinity is known; additional theological light is shed on the fruits of the experiences of the studied authors which are then actualized.

**Key words:** Holy Trinity, relations, mystical marriage, Groom, purification, seeing, human soul

### **Uvod**

Skozi primerjalno metodo bomo poskušali spoznati, na kakšen način je obravnavane avtorje spreminjal stik s Sveto Trojico in kako se je ta sprememba kazala v poglobljanju odnosa z Bogom ter v odnosih do soljudi. Osvetlili bomo pomen zakramentov v njihovih življenjih; kakšno vlogo so



ti imeli pri njihovem bogatem duhovnem življenju. Eden izmed temeljnih ciljev tega članka je raziskati odnose, ki vladajo v Sveti Trojici. Vloga Očeta do Sina in Svetega Duha, vloga Sina do Očeta in Svetega Duha ter vloga Svetega Duha do Očeta in Sina je bistvena, če hočemo bolje spoznati Sveto Trojico. Tako bomo v prvem delu članka spoznali življenje sv. Avguština (njegovo iskanje Boga) ter njegovo pisanje o Sveti Trojici. V drugem delu se bomo srečali z življenjem sv. Marije od Učlovečenja in поблиže spoznali njeno mistično pot. Prav posebej se bomo posvetili njenemu doživljanju Svete Trojice v mistični poroki in poskušali analizirati besedila, ki se nanašajo na mistično združitev. V zadnjem delu se bomo posvetili opisu življenja sv. Favstine Kowalske, njenemu doživljanju Svete Trojice, predvsem osebi Jezusa Kristusa, ki jo je določil za poslanko božjega usmiljenja. S pomočjo analize metode bomo skušali razumeti naravo Svete Trojice in pomembnost združitve z Bogom, ki jo je sestra Favstina doživljala v mistični zaroki in mistični poroki.

V članku bomo s pomočjo analize metode izluščili stičišča božjega in človeškega. Pri tem bomo na poseben način obravnavali osebo Jezusa Kristusa, saj se je Bog preko njega približal človeku in »postal podoben ljudem« (Flp 2,7). Poleg tega bomo skušali ovrednotiti pomen in učinek Jezusovega vstajenjskega dogodka pri avtorjih. Predvsem bomo preučevali dogodek mistične poroke v luči Jezusovega vstajenja.

### **Sveta Trojica pri Avguštinu**

Svetega Avguština lahko označimo kot velikega iskalca resnice in modrosti. V svoji iskrenosti, da bi »prodril stvarem do dna«, se je srečeval z različnimi pogledi na svet, z različnimi

filozofijami, ki so mu bile v njegovem času na voljo. Šele kasneje je spoznal, da filozofija sama po sebi ni zadostna za spoznavanje osebnega Boga. Lahko pa filozofija postane zelo dobro orodje teologije, kar lahko sklepamo na podlagi zgodovine Cerkve.

Za pravilno razumevanje Avguštinovega pisanja o Sveti Trojici moramo poznati okoliščine tedanjega časa, ki so temu pisanju botrovale: »Avguštinova Trojica spada torej v kontekst pravkar teološko rešenega arijanskega vprašanja, ki pa je ostajalo odprto na nacionalni ravni. In ravno tedaj so v Afriko prihajali germanski Vandali, po verovanju arijanci. Med njihovim obleganjem pristaniškega Hipona je tamkajšnji škof Avguštin stopil s tega sveta pred Trojico, potem ko je prehodil dolgo in pretresov polno življenjsko pot.« (Avguštin 2014, 4) Prav presenetljivo je, kako so v zgodovini Cerkve mnoge herezije spodbudile razmišljanje filozofov, teologov, svetnikov. Lahko bi rekli, da so mnoge herezije (tu mislimo tudi na arianizem) dale povod in spodbudile h poglobljenemu razmisleku o božjih stvarnostih.

V prvem delu knjige *O Trojici* nam Avguštin razgrne namen svojega pisanja o Trojici:

»S pomočjo Gospoda, našega Boga, bom torej po svojih močeh poskusil obrazložiti prav tisto, kar od nas zahtevajo: da je Trojica eden in edini in pravi Bog in kako prav pravimo, verujemo in razumemo, da so Oče, Sin in Sveti Duh ene substance ali enega bistva. Tako se naši nasprotniki ne bodo počutili nekako izigrane zaradi naših izgovorov, ampak bodo v resnici izkusili, da je to, kar morejo zreti najbolj očiščeni duhovi, tisto največje dobro. Oni sami pa ga zato ne morejo uzreti in dojeti, ker se šibkost pogleda (*acies invalida*) člo-

vekove duše ne more postaviti v tako veličastno luč, če se ne krepí in se ne hrani s pravičnostjo, ki izvira iz vere (Rim 4,13).« (33–34)

Avguštinov načrt je torej predstaviti tri osebe Svete Trojice v svoji enosti, v neločljivosti enega bistva. S tem se podaja na težavno pot, na kateri mora biti razum očiščen in okrepljen s strani božje luči, prav tako pa mora biti volja v vsej iskrenosti naravnana na božje. Vsakdo torej, ki se hoče približati skrivnosti Svete Trojice, mora tudi sam krepostno živeti in hrepeneti po Bogu.

Avguštin nam razjasni način delovanja Svete Trojice, njene-ga neločljivega delovanja, saj zapiše:

»O tem, kar zadeva čutno razodevanje Svetega Duha tako po podobi goloba kot po ognjenih jezikih, ko je njegova substanca, sovečna in enako nespremenljiva kot Očetova in Sinova, podrejena in služéča ustvarjenina prikazala z gibi in oblikami, čeprav se ni združila v enost njegove osebe – tako je bilo z mesom, kar je namreč postala Beseda; o vsem torej, kar zadeva to, si ne upam reči, da bi se kaj takega zgodilo že prej. Brez zadržka pa rečem, da Oče, Sin in Sveti Duh, Bog Stvarnik enega in istega bistva (*substantiae*), vsemogočna Trojica delujejo neločljivo.« (208)

Avguštin pride do pomembnega spoznanja, da je Trojica neločljiva glede na substanco. To pomeni, da kadarkoli se je v zgodovini človeštva nekomu prikazal Jezus v svoji človeški obliki (kot učlovečena Beseda), se je skupaj z njim prikazala celotna Trojica. Tako bolje razumemo Jezusove besede:

»Kdor vidi mene, vidi tistega, ki me je poslal.« (Jn 12,45) Kakor je božja substanca tista, po kateri je Sveta Trojica med seboj neločljiva, tako je tudi glede na substanco Trojica med seboj enaka. Sveti Avguštin nam daje vedeti o enakosti Sina in Očeta glede na njuno substanco:

»Po čem naj bi bil Oče večji? Če bi bil namreč večji, bi bil večji po veličini. Ker pa je njegova veličina Sin, niti ta ni večji od svojega roditelja niti ni Oče večji od tiste veličine, po kateri je velik; torej mu je enak. Po čem pa naj bo enak, če ne po tistem, po katerem sploh je in kateremu biti in biti velik ni nekaj različnega? Preostane zatorej sklep: če Sin ni enak v enem samem pogledu, sploh ni enak. Vendar pa Sveto pismo povzdiguje glas: Ni se ljubosumno oklepal svoje enakosti z Bogom. Vsak nasprotnik resnice, ki še kaj da na apostolovo avtoriteto, je torej prisiljen priznati, da je Sin vsaj v enem, in to v kateremkoli pogledu enak Bogu. Naj izbere, katerega hoče. Na osnovi tega mu bomo pokazali, da je enak v vsem, kar je rečeno o njegovi substanci.« (242–243)

To precej pogumno Avguštinovo stališče lahko potemtakem prenesemo na kakršnokoli božjo lastnost. Lastnosti, kot so modrost, veličina, dobrot, lepota, so enake pri vsaki izmed oseb Svete Trojice. Vsaka izmed njih je torej Modrost, Veličina, Dobrot, Lepota, saj jo imajo vsi v enaki meri, čeprav je katera izmed njih posebej tako imenovana. Kljub temu menimo, da tako posebno poimenovanje, izgovorjeno s človeškimi besedami, pomaga zgolj nam ljudem, in sicer pri oblikovanju razumljivejših predstav o Sveti Trojici.

## **Odnos znotraj Svete Trojice in odnos Svete Trojice do človeka**

Avguštin se v okviru pisanja o Sveti Trojici ustavlja pri notranji dinamiki Trojice in hoče globlje prodreti v odnose znotraj nje. Tako se ustavi pri lastnem imenu osebe, iz katerega pa še ne moremo razumeti njen odnos:

»Nikakor ne moremo reči, da je Trojica sin. Glede na to, da je rečeno: Bog je duh, je sicer mogoče na splošno reči, da je Bog svet duh, ker je Oče duh in je Sin duh, in ker je Oče svet in je Sin svet. Ker so torej Oče, Sin in Sveti Duh en Bog in ker je Bog seveda svet in je duh, se mora tudi Trojica imenovati duh in svet. Oni Sveti Duh, ki ga ne razumemo kot Trojico, ampak kot enega v Trojici – to je lastno ime (*proprie dicitur*) Svetega Duha – je označen glede na odnos, saj se nanaša na Očeta in Sina, ker je Sveti Duh duh Očeta in Sina. Iz imena pa sam odnos ni očiten. Jasen pa je, ko ga imenujemo božji Dar. Je namreč Očetov in Sinov Dar, ker izhaja od Očeta, kakor pravi Gospod: in kakor je dejal apostol: Če kdo nima Kristusovega Duha, ni njegov. To pa je rekel o samem Svetem Duhu.« (227–228)

Iz tega razmišljanja lahko sklepamo, da odnos, ki ga ima oseba znotraj Trojice, lahko razumemo samo v povezavi z drugim (oz. z drugima dvema osebama). To je logično, saj sta za odnos potrebna vsaj dva akterja. Vsaka izmed oseb Svete Trojice je naravnana druga na drugo, vse osebe so torej v stalnem odnosu. Ne obstaja trenutek, ko ne bi bile v odnosu, ne obstaja trenutek, ko ne bi bile v ljubezni.

Sveti Avguštin nadalje poudarja: »Boga je treba iskati v notranjosti.« (293) O tem, da je naša notranjost prebivali-

šče Svete Trojice, nam daje Avguštin vedeti iz naslednjih besed:

»Oče in Sin torej pripravljata pri človeku, ki ju ljubi, prebivališče. Mar bomo zato mislili, da je Sveti Duh izključen od tega prebivanja? Kaj torej pomeni, kar je prej rekel o Svetem Duhu, ki ga svet ne more prejeti, ker ga ne vidi. Vi ga poznate, ker prebiva pri vas in je v vas? Tako tisti, o katerem je rečeno, da prebiva pri vas in je v vas, od tega prebivanja ni izključen. Razen če je kdo tako maloumen, da sodi, da se bo Sveti Duh umaknil in tako rekoč prepustil prostor večjima od sebe, ko bosta prišla Oče in Sin, da bosta prebivala pri svojem ljubitelju. Toda takemu posvetnemu mišljenju nasprotuje Sveto pismo. Malo prej namreč pravi: Prosil bom Očeta in dal vam bo drugega Tolažnika, da bo za vedno ostal pri vas. Ne bo se torej umaknil, ko bosta prišla Oče in Sin, ampak bo v istem prebivališču z njima vekomaj, ker ne pride brez njiju, niti onadva ne prideta brez njega.« (57)

Prebivanje Svete Trojice v notranjosti človeka je prav gotovo velik božji poklon človeku. Druženje Boga in človeka v intimnosti duše kaže na božjo ponižnost, na ljubezen, ki jo ima Bog do človeka, s katerim se hoče družiti.

Avguštin daje vedeti, da je za zrenje Boga, do katerega ima dostop človeška duša, nedvomno potrebno očiščenje:

»Dokler smo namreč v telesu, smo zdoma, proč od Gospoda, v veri namreč hodimo, ne v gledanju. Zrenje je namreč plačilo za vero. Da bi srca dosegla to plačilo, se očiščuje z vero, kakor je zapisano: Z vero je očistil njihova srca. Da pa se srca očiščujejo za to gledanje, potrjuje zlasti beseda: Blagor čistim v srcu, ker bodo Boga gledali. In ker je to večno

življenje, pravi Bog v Psalmih: Z dolgim življenjem ga nasitim in mu pokažem svoje rešenje. Najsi slišimo: Pokaži nam Sina, najsi slišimo: Pokaži nam Očeta, pomeni isto: ni mogoče pokazati enega brez drugega. Saj sta eno, kakor je tudi rekel: Jaz in Oče sva eno. Končno pa zaradi same neločljivosti zadošča, če včasih navedemo samo Očeta ali samo Sina, ki nas bo nasitil z veseljem pred svojim obličjem.« (54)

V trinajsti knjigi *O Trojici* Avguštin piše o notranji dinamiki, ki privede do notranjega zrenja: »Kakor da bi se polagoma vzpenjali, se mi je zdelo prav preiskovati oboje: pri notranjem človeku nekakšno svojevrstno trojico – kakor smo prej iskali pri zunanem –, da bi nato v duhu, izurjenem v nižjih stvareh, dospeli do tiste Trojice, ki je Bog – kolikor to moremo, če to sploh zmoremo, in to vsaj v ugibanju in z zrenjem kot v ogledalu.« (443) Vidimo, da je za zrenje pomemben določen proces. Notranja trojica v človeku služi kot nekakšna predpriprava pri vzponu duše, ki jo privede do zrenja Boga. Tovrstno zrenje sicer še ni zrenje Boga iz obličja v obličje, vendar se temu približuje.

Avguštinov življenjski prehod je vsekakor vplival na njegovo razumevanje Svete Trojice in na pisanje o njej. Avguštin daje namreč velik pomen iskanju Svete Trojice v človeški notranjosti (duši), s tem pa nikakor ne ukinja možnosti iskanje Svete Trojice v vidnem (telesnem). Avguštin nas poduči, da so v veliko pomoč pri odkrivanju Svete Trojice in pri poglobljanju odnosa z njo spomin, um in volja, saj človek »tako zagotovo najde podobo tiste prevzvišene Trojice«. (544) Za napredek vernika v odnosu do Svete Trojice mora biti navzoče prav posebno življenje, ki je podrejeno njenemu delovanju, saj: »Da bi to prevzvišeno Trojico premišljeval, gledal in ljubil, se mora nanjo nanašati vse, kar živi, da bi se

je spominjal, jo zrl in se v njej veselil.« (544) Odnosi znotraj Svete Trojice so vedno živi, pristni, neprekinjeni in, kar je najpomembnejše, polni ljubezni. Kot taki so nam lahko zgled za neprekinjen ljubeči odnos do drugih in pri ustvarjalnem izražanju ljubezni do njih.

### **Sveta Trojica pri Mariji od Učlovečenja**

Če je bilo Avguštinovo spoznanje Svete Trojice nekoliko bolj razumsko, imamo pri mistikini Mariji od Učlovečenja ali Marie Guyart v ospredju duhovno doživljanje Svete Trojice, še posebej v okviru t. i. mistične poroke. (Jamet 1932, 6)

Na binkoštni ponedeljek leta 1625 je Marijo presenetilo prvo trinitarično razodetje, razodetje sv. Trojice, milost razsvetljenja. Od tega trenutka dalje je Marija Guyart čutila, kako se v njej poraja močna želja po popolnem zedinjenju v mistični poroki s »sveto učlovečeno Besedo«. V obdobju od binkošti 1625 do binkošti 1627 (s povratki »noči« v letu 1625) je Marija od Učlovečenja živela v stanju, kjer sta se veselje in trpljenje medsebojno prepletala: »Gospod se ji je dal zdaj nejasno videti, zdaj se ji je odtegnil, in je pustil v duši večje hrepenenje in večje prepričanje o velikanskem nesorazmerju med Božjim veličastvom in njeno majhnostjo. V Božji luči dobijo grehi in nepopolnosti razsežnost in neenakost, ki jo zaslučiš; pokaže se to kot nekaj nezdržljivega.« (Oury 1988, 21)

Marijino doživljanje nepopolnosti v luči popolnosti Boga nas spomni na besede četrtega lateranskega koncila (1215), ko izjavlja: »Ne moremo navesti med Bogom in stvarjo nobene tolikšne podobnosti, da bi ne bilo treba navesti še večjo nepodobnost.« (Strle 1977, 74) Čeprav se je Sveta Trojica Mariji



razodevala osebno, nobene človeške besede ne bi mogle v polnosti izraziti tega, kar je doživela. Marija od Učlovečenja si je kljub temu izbrala analogno govorico, tisto govorico, ki je »beseda Molka in molk Besede, zato molči s tem, da govori in govori tako, da molči«. (Forte 1987, 24)

Pisateljica Guy-Marie Oury piše o takratnem Marijinem duhovnem stanju:

»Od velikega tedna l. 1626 je v kontemplaciji gledala Božje lastnosti, neizmerno in večno Božjo veličino, ki je vir vsega dobrega in lepega, in vsako izmed Božjih popolnosti. To občutje se je nadaljevalo leto dni, nato pa je mlada žena zaslutila, da se pripravlja nekaj velikega in da jo Bog pripravlja na veliko milost, ki bo spremenila njeno življenje: to je bilo drugo trinitarično, na Sveto Trojico nanašajoče se razodetje, in mistična poroka z Besedo na binkošti l. 1627: Duši se je dozdevalo, da ji je bil Kristus dan v last, da bi se ga mogla veseliti po mili volji, in če smem reči, tudi vse njegove dobrine so jima bile skupne. Tako je bila sklenjena zveza z Besedo, ki se je polastila duše, jo držala tako rekoč ujeta in si jo popolnoma osvojila. V istem trenutku je Marija spoznala, da ji Sveti Duh daje delovati in ji glede odnosov do Besede navdihuje čustva in vedenja neveste. Stanje mirujoče posesti je sledilo stanju hrepenenja in pričakovanja; iz obdarjene duše se je dvignila notranja pesem; to je bilo neke vrste »ljubezensko zamaknjenje«, čisto v začetku skoraj neprestana notranja samota v takšni intimnosti z Ženinom, ki je nič ni motilo: ‚O Bog, kako tesna je ta združitev! Tu se ljubezen prepleta z ljubeznijo in reči moreš z Bogom: Moj Ljubi je moj in jaz sem njegova.‘« (Oury 1988, 21)

Marija je v tem dogodku potegnjena v samo življenje Svete Trojice. Zopet je Jezus Kristus tisti, ki ji razodeva Trojico, ki jo vpeljuje v bistvo njenega delovanja. Tudi za Marijo od Učlovečenja veljajo naslednje besede: »Ujemanje ojkonomije in imanence skrivnosti je očitno v liku Jezusa Kristusa, učlovečenega Božjega Sina, Božje Besede, prosojne podobe nevidnega Boga (Kol 1,15). Božji Sin, ki je postal človek, je razlagalec Boga Očeta; vendar nam je njegova ‚razlaga razumljiva‘ šele po delovanju Svetega Duha, ki je izlit v našo notranjost.« (Sorč 2000, 53)

### **Mistična poroka**

Milost mistične poroke je bila sveti Mariji od Učlovečenja podarjena v prvem obdobju življenja, ko je bila stara sedemindvajset let. Izraz mistična poroka uporablja, kakor bomo videli v nadaljevanju, Marija sama. V svojih zapisih navaja tudi sopomenko združenje. V mistični zvezi se namreč zgosti vse tisto, kar sestavlja nosilni steber združenja Boga s človekom. Besedila nam razodevajo, da je bilo sveti z mistično poroko podarjeno neko novo dostojanstvo intimne povezanosti z Jezusom Kristusom. Marija ga imenuje »stanje soproge«. To stanje je vse do konca njenega življenja prevladovalo nad ostalimi. (Jamet 1930, 498)<sup>1</sup>

Poročilo iz leta 1625 govori naslednje:

»Naš Gospod me je ponovno dvignil k spoznanju skrivnosti Presvete Trojice na način, ki je bil ves iz ljubezni. Veličina

1 Za dodatno osvetlitev obravnavane teme: Jamet 1929–1939; Martin 1981.

(Presvete Trojice) mi je bila pokazana v enosti treh božjih oseb povsem drugače kakor (takrat), ko sem bila poučena o tem, kar se nanaša na spoznanje in ljubezen. Prvič sem bila namreč bolj v občudovanju kot v ljubezni in okušanju/slasti, tokrat pa sem bila bolj v okušanju/slasti in ljubezni kot v občudovanju. Gledala sem medsebojno priobčevanje treh oseb, kakor sem to videla prvič, vendar sem bila (tokrat) bolj obširno poučena o večnem rojevanju Besede. O, kako je to neizrekljivo, da Oče v zrenju samega sebe rojeva svoj drugi jaz, ki je njegova Podoba in njegova Beseda; (kako je to neizrekljivo) da to rojevanje ne preneha, da je ta Beseda enaka svojemu Očetu v moči, veličini, veličastju; (kako je to neizrekljivo) da Oče in Beseda po vzajemni ljubezni drug drugega proizvajata Duha Ljubezni, ki jima je enak v vsem. /... / To stanje je resnična blaženost, ker ne samo, da nekdo spoznava Boga, pač pa ga z ljubezenskim hranjenjem tudi uživa, da je duša nahranjena na neizrekljiv način.« (Jamet 1929, 204)

»Ko sem bila torej v tej dejavnosti /... /, sem pozabila na osebo Očeta in Svetega Duha in sem se znašla vsa pritegnjena v božjo Besedo, ki je ljubkovala mojo dušo, kakor da bi bila njena in njej lastna. (Beseda) ji je dala izkusiti, da je po združenju in močnem objemu, v katerem jo je imela ujeta, vsa njena in da je (duša) vsa od Besede. Obenem se je duši zdelo, da se ji (Beseda) daje uživati njej v veselje in, če si drznem reči, tudi vse dobrine so (jima) bile skupne. Ko se je moja duša videla tako bogato v okušanju teh neskončnih dobrin, te Večne Besede, si je vseeno želela, da bi s sladko privolitvijo postala njena ujetnica. /... / O, kako je okušanje sladko! To je labirint Ljubezni, v katerem je človek omamljen in sveto očaran. Človek ne ve zase, ker je izgubljen v oceanu ljubezni, ki vse posrka vase. /... / Ko rečem, da je Beseda

držala mojo dušo ujeta, želim s tem reči, da jo je tako tesno držala v objemih, da (duša) ni mogla (početi) nič drugega. Od časa do časa me je žarek svetlobe spomnil na Očeta in Svetega Duha ter mi povzročil neke vrste očitek, da sem pozabila nanju. V istem trenutku sem ju počastila, jima izkazala predanost in ljubezen ter se vrnila v objeme Besede. Kljub temu da sem v sebi čutila delovati Besedo, nikakor nisem zapustila enosti Bistva. Spoznala sem, da je Beseda resnično Soproj duše.« (206–207)

O poročilu iz leta 1633 Alenka Godnič med drugim zapiše:

»Tako kot v pismu Dom Raymond u tudi v Poročilu 1633 najdemo izraz ujetništvo, ugrabitev. Beseda jo je ,tako tesno držala v objemih, da (ona) ni mogla drugega kot (to) prenašati' (*qu'il la tenait si serree dans ses embrassements qu'elle ne pouvait que patir*). Na tem mestu nam besedilo razloži, da pomeni ujetništvo pravzaprav tako tesen objem ali z drugo besedo tako intenzivno združenje, da mistikinja nima moči za nič drugega.<sup>2</sup> In obratno. Objem je obojestranski, združenje vključuje oba, On je ves v njej, in ona je vsa v Njem.« (Godnič 2004, 63)

V tem poročilu lahko zasledimo neki novi element, ki ga v predhodnem poročilu ni mogoče zaslediti. Novi element se nanaša na odnos sv. Marije od Učlovečenja do Očeta in

2 Kakor na več mestih opozarja že mistikinja sama, ne gre za dogajanje, ki bi imelo kakršno koli zvezo s čuti. V prvem življenjepisu sv. Marije od Učlovečenja, ki ga je nekaj let po njeni smrti izdal njen sin, najdemo dolgo razlago o nadnaravnih objemih. Klavdij jih interpretira kot ljubezenske vezi: »*Une liaison d'amour, qui avec des affections unisantes /... / serre si etroitement l'ame avec Dieu, dans un attouchement substantiel et sensible.*« (Jamet 1929, 205)

Svetega Duha neposredno po mističnem združenju. Omejen je »žarek svetlobe« (*un rayon de lumiere*), ki je sv. Marijo od Učlovečenja na trenutke spominjal na Očeta in Svetega Duha ter ji zbudil neke vrste očitek.<sup>3</sup> Marija jima je zato takoj izkazala dejanje »čaščenja« (*des actes d'adoration*), »predanost« (*soumission*) in ljubezni in se nato ponovno zgubila v objemih Besede. (64)

Izrednega pomena je stavek, ki ga je v nadaljevanju najti v poročilu. Stavek nam razkriva, v kakšnem razmerju je sv. Marija od Učlovečenja po mistični poroki z imanentno Trojico: »Kljub temu da sem v sebi čutila delovati Besedo, nikakor nisem zapustila enosti Bistva.« (*je ne sortais point de l'unite de l'Essence*)

Godničeva zapiše: »Stavek je z vidika nauka Cerkve sporen. Izraz bistvo (*substantia*) se v tradiciji Cerkve že od prvih cerkvenih zborov naprej uporablja za izražanje Božje narave, ki je počelo enosti v Trojici.<sup>4</sup> Stavek bi v tem kontekstu pomenil, da je bila sv. Marija od Učlovečenja z mistično poroko pritegnjena v intratrinitarično življenje Trojice, iz katerega

- 3 Iz priloženega besedila ni razvidno, kaj bi žarek svetlobe pomenil. Sklepamo lahko, da je to nekaj zunaj duše, nekaj, kar je prepoznavno z duhovnim vidom (ni denimo duhovni dotik ali okus) in ima namen spomniti. V poročilu iz leta 1654 je obširno razložena vloga Svetega Duha, ki bi bila lahko na tem mestu zaobjeta v izraz »žarek svetlobe«. (Jamet 1930, 254)
- 4 Peti vesoljni cerkveni zbor v Carigradu (553) določa: »Kdor ne priznava, da imajo Oče, Sin in Sveti Duh eno naravo in bistvo, eno moč in oblast, kdor ne priznava enobistveno Trojico, eno božanstvo, ki naj ga molimo v treh hipostazah ali osebah, tak bodi izobčen.« (Strle 1977, 180)

ni izstopila niti med neposrednim delovanjem druge Božje osebe v njej. Takšno interpretacijo je zavrnil že sin Klavdij, ki je stavek komentiral v življenjepisu že leta 1677.« (Godnič 2004, 64)

Sporni stavek Marijin sin Klavdij Martin razlaga s pomočjo besedila iz poročila iz leta 1654, v katerem najdemo jasno razlikovanje med enostjo Trojice in njenim različnim delovanjem: »Ko je sveta Beseda delovala v meni, sta Oče in Sveti Duh gledala njeno delovanje, vendar to ni oviralo enosti, ker se dojema enost in različnost brez pomešanja, in to vse na nedopovedljiv način, vsaka (božja) oseba ostaja svobodna v svojem delovanju.« (Martin 1981, 253) Klavdij, ki je imel pred seboj obe besedili, komentira: »V tej čudoviti ugrabitvi je (sv. Marija od Učlovečenja) pri božjih delovanjih razlikovala med enostjo delujočega počela in prilaščanjem delovanja posameznih (božjih) oseb.« (Jamet 1929, 207) Sporni stavek lahko torej interpretiramo z vidika izključnega odnosa, ki ga ima druga božja oseba do mistikinje. Zveza med Besedo in sv. Marijo od Učlovečenja je bistveno drugačna od odnosa, ki je med Očetom, Svetim Duhom in mistikinjo. Besedilo razodeva jasno zavest delovanja druge božje osebe v Mariji od Učlovečenja, ne da bi se to delovanje mešalo z delovanjem drugih dveh.

V zadnjem stavku poročila iz leta 1633, ki opisuje mistično združenje Jezusa Kristusa s sv. Marijo od Učlovečenja, doseže opis svoj vrh: »Spoznala in okusila sem, da je Beseda resnično Soprog duše.« (Jamet 1929, 206–207) Albert Jamet to izjavo imenuje tudi formula, ki pa v tem besedilu ni pojasnjena. Šele v poročilu iz leta 1654 najdemo razlago in jasno

opredelitev pomena,<sup>5</sup> saj mistikinja piše o tovrstni resničnosti kot o mistični poroki. (Godnič 2004, 64–65)<sup>6</sup>

Marija je znala združevati aktivno življenje s kontemplativnim: »Kadar sem se tudi po cel dan ukvarjala z nujnimi zadevami, me ni nič moglo odtrgati od te božje prisotnosti. /... / Bog torej kliče dušo k temu notranjemu načinu življenja. Zahteva se popolna skladnost in popolna predanost Previdnosti.« Marija nam predvsem kaže na Ženina kot tistega, ki je vir prave sreče za ljudi vseh časov. Jezus Kristus je prehodil pot človeka na zemlji in vstal od mrtvih. Marija tako sodobnega človeka spominja, da se je Bog sklonil k človeku, da je torej on tisti, ki lahko izpolni človeško srce in njegova hrepenenja.

### **Sveta Trojica in Favstina Kowalska**

Sestra Marija Favstina Helena Kowalska se je rodila 25. avgusta leta 1905 v vasi Glogowiec v sedanjem koninskem vojvodstvu na Poljskem. Jezus Kristus je sestro Favstino Kowalsko izbral za posredovalko svojega usmiljenja. (Favstina 2001, št. 47) Favstina je skozi svoje življenje izkušala mnogo milosti, med katerimi je tudi milost (z)druženja s Sveto Trojico.

Prav posebna milost, ki jo je Bog namenil sestri Favstini, je bila milost popolnega združenja z njim. Ta milost se je pri Favstini izkazala v obliki »mistične zaroke« in »mistične poroke«. (Siepak 2002) Iz zapisov lahko sklepamo, da se je Bog s sestro

5 Več v: Jamet 1929, 207.

6 Več v: Jamet 1930, 254.

Favstino na tak način prvič združil leta 1925, vendar se je tudi kasneje z njo večkrat zedinjal in tako poglobljal njun odnos. Jezus daje Favstini vedeti, da mu združevanje z njo veliko pomeni, saj ji sporoči: »Z nobenim človekom se tako tesno in na tak način ne združujem kakor s teboj, a to zaradi tvoje globoke ponižnosti in goreče ljubezni, ki jo imaš do mene.« (Kowalska 2001, št. 587)

Pri sestri Favstini lahko prvo milost združitve z Bogom imenujemo »mistična zaroka«. (Siepak 2002) Sestra Favstina zapiše:

»Bilo je [to] v osmini praznika svetega Rešnjega telesa. Bog je napolnil mojo dušo z notranjo svetlobo, da bi ga bolje spoznala kot največjo dobroto in lepoto. Spoznala sem, kako zelo me Bog ljubi. Od vekomaj me ljubi. V času večernic sem s preprostimi besedami, ki so mi privrele iz srca, izpovedala Bogu zaobljubo večne čistosti. Od tedaj sem čutila močnejšo povezanost z Bogom, svojim Ženinom. Od takrat sem v svojem srcu imela pripravljeno celico, v kateri sem se zmeraj mudila z Jezusom.« (Kowalska 2001, št. 16)

Vidimo, da je Bog ob združitvi napolnil sestro Favstino s svetlobo in ji dal vedeti, kako močno jo ljubi. Bog je torej vedno prvi, ki priobčuje človeku ljubezen. Favstina na to ljubezen odgovori tako, da naredi zasebno zaobljubo večne čistosti. Bog tako prvikrat postane njen Ženin. Po tem dejanju jo močnejše utrdi v ljubezni do njega. Tako je milost združitve z Ženinom sestra Favstina prvič prejela leta 1925, ko je ji bilo dvajset let. (št. 770)

Jezus naredi v njenem življenju korak naprej, saj ji naznani: »S teboj se želim poročiti.« (št. 912) Jezus se tako želi združiti s



sestro Favstino v »mistični poroki«. V svojem *Dnevniku* z dne 18. 3. 1937 sestra Favstina piše o tej veliki milosti: »Spoznavam notranjo poroko duše z Bogom, ki se navzven ne vidi – [to] je čisto notranje dejanje duše z Bogom. Ta milost me je pritegnila v sam žar Božje ljubezni, spoznala sem njegovo Trojstvo in absolutno enost njegove biti. Ta milost se razlikuje od vseh milosti, je tako visoko duhovna, da moj pomanjkljivi opis o njej ne more izraziti niti sence vsega tega.« (št. 1020) Favstina je potegnjena v samo središče božjega delovanja – v njegovo ljubezen. Zaveda se absolutne enosti Boga v treh osebah. Ta milost združenja je duhovno tako visoka, da je Favstina ne more v polnosti opisati. Mistična poroka je torej milost izrednega pomena. Sv. Tereza Avilska in sv. Janez od Križa dajeta izraz »mistična poroka« tistemu mističnemu združenju duše z Bogom, ki je najbolj vzvišeno stanje duše v tem življenju. (Knight 2012)

Istega dne Favstina zapiše še o učinkih, ki jo je mistična poroka imela nanjo:

»Imam zelo veliko željo, da bi se skrila. Hotela bi tako živeti, kakor da bi me sploh ne bilo. Čutim čudovit notranji nagib, da bi se še globlje skrila, da bi le Jezusovo Srce vedelo zame. Želim biti prav tiho Jezusovo bivališče, da bi se mogel v njem odpočiti. Ne dopustim ničesar, kar bi lahko mojega Ljubega zbudilo. Skritost mi daje možnost neprestanega zedinjenja z edinim mojim Ljubim. Z ustvarjenimi bitji se toliko srečujem, koliko je to všeč mojemu Ljubemu. Moje srce je vzljubilo Gospoda z vso močjo ljubezni in druge ljubezni ne poznam, saj se je moja duša že na začetku potopila v Gospoda kot v moj edini zaklad.« (Kowalska 2001, št. 1021)

## Enost in enakost Svete Trojice

Do podobnih trinitaričnih zaključkov kakor sv. Avguštin pride tudi sv. Favstina. V začetku leta 1937 doživi prav posebno združenje s Sveto Trojico, pri katerem spozna, da so tri božje osebe, a en Bog:

»V nekem trenutku je božja navzočnost prežela vse moje bitje. Moj razum je postal čudovito razsvetljen v spoznanju njegovega bitja. [Bog] mi je dopustil, da sem spoznala njegovo notranje življenje. V duhu sem videla tri Božje osebe, toda njih bistvo je eno. On je sam, eden, edini, toda v treh osebah. Nobena od njih ni ne večja ne manjša, ne v lepoti ne v svetosti ni razlike, ker so eno. Eno, popolnoma eno so. Njegova ljubezen me je prenesla v to spoznanje in me združila s seboj. Ko sem bila združena z eno [Božjo osebo], sem bila prav tako združena z drugo in tretjo [Božjo osebo]; če se tako združimo z eno osebo, se združimo še z drugima dvema – prav tako kot s prvo. Njihova volja je ena, Bog je eden, čeprav so v njem tri osebe. Ko se človeku podarja ena od treh oseb, tedaj je v moči ene volje združena s tremi osebami in prepojena s srečo, ki izvira iz presvete Trojice; s to srečo se hranijo svetniki. Sreča, ki vre iz presvete Trojice, osrečuje vse, kar je ustvarjeno; tu izvira življenje, ki vse oživlja in vsemu daje življenje in od njega sprejema svoj izvor. V teh trenutkih je moja duša spoznala tako veliko Božjo radost, da jo težko izrazim.« (št. 911)

Sveta Trojica se prvič na tako intimen in globok način razodene sestri Favstini, ki je pravzaprav potegnjena v notranje življenje Trojice. Kadar je združena z eno izmed njenih oseb, je združena z vsako izmed njih. V tem združenju še bolj jasno spoznava in doživlja njihovo enost in različnost. Favstina

spoznava, da so enega bistva in da med njimi – glede na veličino, lepoto, svetost ali voljo – ni razlike. Posebno spoznanje o Sveti Trojici prejme nekoč pri sveti maši:

»Naslednjega dne je pri sveti maši pred povzdigovanjem ta duh začel peti besede: ‚Svet, svet, svet.‘ Njegov glas je bil kakor glas tisočerih; ne da se opisati. Tedaj se je moj duh zedinil z Bogom in v trenutku sem uzrla nepojmljivo veličino in svetost Boga, hkrati pa spoznala ničnost, kakršna sem sama po sebi. Bolj jasno kot kadar koli prej sem spoznala tri Božje osebe: Očeta, Sina in Svetega Duha. Njihova bitnost pa je eno, kot tudi enakost in veličastvo. Moja duša se druži [s] temi tremi, a z besedami tega ne znam izraziti. Vendar duša to dobro razume. Kdor koli je združen z eno od teh treh oseb, je s tem združen z vso sveto Trojico, ker je njihova enota nedeljiva. To videnje, pravzaprav spoznanje, je mojo dušo preplavilo z nepojmljivo srečo zato, ker je Bog tako velik. Kar sem zdaj napisala, nisem videla s svojimi očmi kakor prej, temveč čisto notranje, čisto duhovno, neodvisno od čutil. To je trajalo do konca svete maše. Sedaj se mi to pogosto dogaja, in ne le v kapeli, temveč tudi pri delu in takrat, ko to najmanj pričakujem.« (št. 472)

Favstini so v opisanem duhovnem videnju razodete mnoge stvari o naravi Svete Trojice. V videnju spozna, da je Trojica v svojem bistvu ena (en Bog), da je enaka v vseh pogledih – nobena izmed oseb v Trojici ni večja ali manjša. Spozna, da kadar se ji razodeva ena izmed oseb Trojice, se ji hkrati razodeva celotna Trojica. Tako v tem videnju Favstina bolj spozna vsako izmed oseb Svete Trojice, saj prepoznava njihovo bistvo. Njena spoznanja o naravi Svete Trojice sovpadajo z naukom Cerkve.

Sestro Favstino Bog razsvetli glede božjih lastnosti, saj jih ji da spoznati:

»V adventu se je v moji duši zbudilo veliko hrepenenje po Bogu. Moj duh je z vso močjo svojega bistva hrepenel po Bogu. V tem času mi je Gospod podelil velika razsvetljenja v spoznavanju njegovih lastnosti. Prva lastnost, ki mi jo je Gospod dal spoznati, je njegova svetost. ... Svetost Boga je razlita na božjo Cerkev in na vsako osebo, ki v njej živi – vendar ne v enaki meri. So duše, ki so popolnoma pobožanstvene, a so tudi duše, ki komajda živijo. Drugo spoznanje, ki mi ga je podelil Gospod – to je njegova pravičnost. Njegova pravičnost je tako velika in prodorna, da sega v bistvo stvari in vse pred njim obstaja v goli resnici in nič brez nje ne more obstajati. Tretja lastnost je ljubezen in usmiljenje. Spoznala sem, da je največja Božja lastnost ljubezen in usmiljenje. Ta povezuje ustvarjeno bitje s Stvarnikom. Najbolj vzvišeno ljubezen in neskončno usmiljenje spoznavam v učlovečenju Besede, v njegovem odrešenju. Spoznala sem, da je to največja lastnost v Bogu.« (št. 180)

Favstina spozna božjo lastnost svetosti, pravičnosti in ljubezni oz. usmiljenja. Iz prvega opisa svetosti vidimo, da svetosti ni vsak deležen v isti meri (nekdo več, drugi manj). Iz tega sledi, da morajo tudi druge božje lastnosti imeti neke vrste stopnje. Največja izmed lastnosti pa je ljubezen oz. usmiljenje, iz katere pravzaprav izhajajo vse druge. Jezusa Kristusa Favstina prepozna kot najvišji izraz te lastnosti, saj je odrešil človeštvo.

## Sklep

V pričujočem delu smo obravnavali življenje sv. Avguština, sv. Marije od Učlovečenja in sv. Favstine Kowalske. Osredotočili smo se na njihovo doživljanje Svete Trojice in na učinke teh doživetij/spoznanj, ki so se kazala v njihovi duhovnosti in v odnosih do soljudi. Zagotovo je med omenjenimi avtorji sv. Avguštin tisti, ki v največji oz. najnatančnejši meri opisuje odnose znotraj Svete Trojice. Iz njegovih zapisov spoznamo, da je vsaka izmed oseb Svete Trojice ljubezen, saj je sestavljena iz nje, še posebej pa velja, da je Sveti Duh ljubezen. O enakosti Svetega Duha do Očeta in Sina nam pričuje tudi sv. Marija od Učlovečenja, saj prihaja do spoznanja, da odnos med Očetom in Sinom proizvede Svetega Duha, ki je ljubezen. To Marijino dožemanje se ne razlikuje od Avguštinovega, saj ne zanika nezamenljive vrednosti Svetega Duha kot ljubezni, ampak nas vodi k njenemu izvoru. Sveti Duh kot ljubezen je torej ljubezenska vez med Očetom in Sinom. Sveta Favstina Kowalska pa nam preko svojega okušanja Boga prihaja naproti z nekoliko širšim pogledom, saj zanjo predstavlja ljubezen celotna Sveta Trojica.

Prihajamo do zaključka, da je vsaka izmed oseb Svete Trojice naravnana druga na drugo, vse osebe so torej v stalnem odnosu. Spoznamo tudi, da ne obstaja trenutek, ko ne bi bile v medsebojnem odnosu, ko ne bi živele v ljubezni. Prepoznavanje Svete Trojice kot ene in enake nam (vernikom) vzbuja čudenje in hrepenenje po poglobljanju odnosa z njo. Spoznanje enosti in enakosti Trojice omenjene avtorje potegne globlje v skrivnost trinitarnega delovanja, kar ima za posledico spremembo njihovega lastnega življenja. Tako nam kažejo, da druženje z eno izmed oseb Trojice postane druženje s celotno Trojico. Poleg tega njihova osebna spoznanja prinašajo dra-

gocene koščke v mozaik učenja Cerkve o Sveti Trojici ter nam pomagajo na novo ovrednotiti nauk o Sveti Trojici in življenje iz njega. Zagotovo nam imajo vsi avtorji veliko povedati o odnosu z Bogom ter o odnosu, ki naj bi ga vsakdo izmed nas imel do ljudi. Naši človeški odnosi naj bi namreč vedno zrcalili odnose, ki se dogajajo znotraj Svete Trojice. Takega »zrcaljenja odnosov« pa smo kot ljudje zmožni samo, če smo s Sveto Trojico v odnosu, če smo s Trojico povezani. Iz odnosa s Presežnim namreč cvetijo karizme, ki »so v službi ljubezni, ki gradi Cerkev« (1 Kor 12). (KKC 1993, tč. 2003)

Duhovna širina omenjenih avtorjev tako postaja svetel zgled našim verskim skupnostim in vsem ljudem dobre volje pri utrjevanju verske identitete in pri izgrajevanju kakovostnejših medsebojnih odnosov. Avtorji nam lahko pomagajo pri izostritvi identitete vernika in pri graditvi bolj pristnih medsebojnih odnosov, za katere se zdi, da so v zadnjem času znatno nazadovali. Pri tej zahtevni nalogi verniki nismo sami, saj lahko računamo na pomoč ostalih članov Cerkve in na pomoč Svetega Duha, ki jo vodi.

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1.02 pregledni znanstveni članek

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## **Izvoljeni ali prekleti? Med zavračanjem in sprejemanjem: katoliška Cerkev na Slovenskem in Judje<sup>1</sup>**

**Izveček:** Prispevek v uvodnem delu prinaša pregledno obravnavo zapletenih odnosov med katoliško Cerkvijo in Judi skozi stoletja ter »vzrokov« za iskanje judovske drugačnosti. V nadaljevanju je prikazana široka paleta odnosov Slovencev do Judov: od odklanjanja oz. nerazumevanja Judov oz. antisemitizma pri nas do judovskega prilagajanja oz. njihovega prestopanja v katoliško vero v prvi polovici 20. stoletja ter poskusov reševanja Judov s strani visokih predstavnikov Cerkve v t. i. Ljubljanski pokrajini (škof G. Rožman) in na Goriškem (škof C. Margotti) med holokavstom.

**Ključne besede:** katoliška Cerkev in Judje, preganjanje Judov, reševanje Judov, prestopi Judov, antisemitizem

### **Elected or Cursed? Between Refusal and Acceptance: Catholic Church in Slovenia and the Jews**

**Abstract:** In the introductory part this article provides a synthesis of the complex relations between the Catholic Church

1 Članek je nastal v okviru raziskovalnega programa št. P6-0380, ki ga je sofinancirala Javna agencija za raziskovalno dejavnost Republike Slovenije iz državnega proračuna.

and the Jews through the centuries and the “causes” for the Church’s perception of the Jewish difference. The following part shows a wide range of relations between the Slovenes and Jews: from refusal or misunderstanding of the Jews, i.e. anti-Semitism in our country, to the Jewish adjustment or conversion to the Catholic faith in the first half of the 20th century. The attempts to rescue Jews by the high representatives of the Catholic Church in the so-called Ljubljana Province (Bishop G. Rožman) and the region of Gorizia/Gorica (Bishop C. Margotti) during the Holocaust are also presented. **Key words:** Catholic Church and Jews, persecution of Jews, rescuing Jews, conversions of Jews, antisemitism

## Uvod

V prispevku avtor obravnava nekaj vidikov kompleksnega odnosa med katoliško Cerkvijo in Judi, predvsem v okviru slovenske Cerkve oz. slovenskega prostora. V prvem delu so pregledno prikazani vzroki za odklanjanje judovstva skozi krščansko zgodovino, v drugem delu prispevka pa so obdelani nekateri vidiki antisemitizma na Slovenskem, prestopi Judov v katoliško vero v Ljubljani v prvi polovici 20. stoletja in poskusi reševanja Judov s strani predstavnikov Cerkve na primeru ljubljanske škofije in goriške nadškofije.

## Izvor zavračanja Judov

Predsodki in sovraštvo do Judov so prisotni že stoletja. Dolgo obdobje so namreč živeli kot nekakšen *corpus separatum*, razseljeni med različnimi (evropskimi) narodi in razpršeni po njihovih nacionalnih ozemljih, a kljub temu so Judje ostajali zvesti pripadniki svoje skupnosti. Najstarejši je vsekakor t. i.

verski antisemitizem, ki je sovpadal s krščanskimi verskimi (teološko pojasnjenimi) prepričanji o Judih kot morilcih Boga in je hkrati v Judih videl pripadnike edine drugoverske skupnosti v srednjeveški Evropi. Do zdaj se je temu prepričanju uradno odrekla edinole katoliška Cerkev na drugem vatikanskem koncilu. V pravoslavnih Cerkvah omenjeno prepričanje še vedno velja, saj bi ga lahko spremenil oz. odpravil samo ekumenski koncil, ki pa se ni zbral že od leta 787. V judovski kolektivni spomin so se vtisnili časi, ko so bili Judje žrtve teološko utemeljenega antisemitizma. Slednjega moramo vsekakor razlikovati od rasističnega antisemitizma, ki se je razvil v 19. stoletju in dosegel vrhunec v nacistični ideologiji, ki je vodila v zločin brez primere – holokavst, tj. od države organizirano, vodeno in financirano pobijanje okrog šestih milijonov Judov. (Hertzberg 1968; Chanes 2000; Avsenik Nabergoj 2016)

Z zgodovinskega vidika zavračanje Judov temelji na veri, na postopnem prehodu verskih tujcev v rasne tujce, zavračanju judovske konkurence v različnih poklicih, razumevanju Judov kot kapitalistov oz. izkoriščevalcev, ideološkem anti-modernizmu in protiliberalnim gibanjem. Nove ideologije, ki so nastale v obdobju sekularizacije, modernizacije in hitrih družbenih sprememb, so prevzele antisemitizem. Tako so liberalci napadali Jude zaradi njihove domnevne netolerance in izoliranega partikularizma. Z razvojem delavskega gibanja so jih socialisti obsojali kot nosilce kapitalističnega izkoriščanja. Karl Marx (1818–1883), sicer tudi sam judovskega rodu, je objavil odmeven in kontroverzen »Prispevek k judovskemu vprašanju«, v katerem je Jude napadal predvsem zaradi njihovega vztrajanja na verskih pozicijah in odnosa do kapitala. Nacionalisti in šoviniisti so v Judih videli tujce semitskega izvora. Konservativci so Jude obtoževali, da so

stalen vir nemirov in revolucionarnih teženj v družbi. Že srednjeveška družba je kazala močno dvoličen odnos do Judov. Cesar, visoko plemstvo in visoki cerkveni predstavniki so si prizadevali Jude privabiti v mesta. Prinašali so namreč napredek in skrbeli za kroženje denarja ter s tem dobiček. To je velikokrat vodilo do spora z drugimi sloji prebivalstva, predvsem z meščanstvom in nižjo duhovščino, prav med njimi pa je treba iskati izrazito močan krščanski antisemitizem takratnega obdobja. Judje v skladu s takratnim pojmovanjem niso smeli posedovati zemlje, niso smeli zaposlovati krščanskih služabnikov in se vključevati v cehe. Prav tako jim je bilo prepovedano poročanje s kristjani. (Chanes 2000)

Antisemitski pogromi so se razbohotili predvsem v Nemčiji v 14. stoletju, zlasti po veliki epidemiji kuge, za katero so okrivili prav Jude. Umikali so se in bežali v vzhodno Evropo, na ozemlje papeške države in območje Beneške republike. (Podbersič 2017, 58) Besedo antisemitizem je leta 1879 prvi uporabil nemški novinar in publicist Friedrich Wilhelm Adolph Marr (1819–1904). Ta je tudi sicer veljal za antisemita in pisca strupenih protijudovskih prispevkov. Beseda označuje sovraštvo do Judov na osnovi vere, rase in narodne pripadnosti. Diskriminacija do Judov je precej starejša od rasnih teorij. Že v prvem stoletju, v obdobju rimskega imperija, so bili Judje pogosto preganjani, saj se kot monoteisti niso hoteli priključiti takratnim politeističnim verskim in kulturnim praksam.

Že pred stoletji so Jude občasno nasilno pokristjanjevali in tudi drugače preganjali, kar pa naj za zgodovinske slovenske dežele – v primerjavi z deželami severno od Alp – ne bi veljalo. Toda to ne drži povsem. Znani pokol se je zgodil leta 1338 v Volšperku (Wolfsbergu) na Koroškem, kjer je bilo ubitih

več kot 70 Judov. Leta 1404 sta sledila pogroma nad Judi v mestih Breže (Friesach) na Koroškem in na Ptuju, ki sta sodili pod oblast salzburških nadškofov. Kakor piše Valvazor, je bil leta 1408 v Ljubljani obglavljen Jud zaradi spolnih odnosov s kristjanko. (Jelinčič Boeta 2009, 78, 149; Hajdinjak 2012, 81)

### **Cerkev in Judje**

Katoliška Cerkev je že od papeža Gregorja Velikega (590–604) vzdrževala bolj ali manj hladen odnos do Judov, hkrati pa jih ni preganjala kot heretikov. Njihova verska tradicija je bila namreč starejša od krščanske, od nje niso nikdar odpadli oz. je izdali. Tudi srednjeveška Cerkev je pogosto izkazovala dvojni odnos do Judov. Po eni strani jih je štela kot priče Jezusovega življenja in Mojzesove potomce, po drugi pa jih je preganjala. Izvor preganjanja je treba iskati v krščanskem pojmovanju, da je Bog zavrgel Jude zaradi njihovega vztrajnega zavračanja Jezusa kot odrešenika in njihove »pomoči« pri njegovem križanju. Judje v skladu s takratnim pojmovanjem niso smeli posedovati zemlje, niso smeli zaposlovati krščanskih služabnikov in se vključevati v cehe. Prav tako jim je bilo prepovedano poročanje s kristjani. (De Felice 1993, 259–266; Schlemmer in Woller 2005, 179)

Ob koncu drugega vatikanskega koncila (1965) je bila sprejeta koncilna izjava *Nostra Aetate*, ki je priznavala judovske korenine krščanstva in omogočila sistematičen dialog med katoliško Cerkvijo in judovstvom. Oktobra 2015 je papež Frančišek pozdravil predstavnike Judov na obisku v Vatikanu z naslednjimi besedami: »Brezbrižnost in nasprotovanje sta se spremenila v sodelovanje in dobrohotnost.« Pravzaprav je papež Frančišek zgolj nadaljeval pot, ki jo je začrtal že sv.

Janez Pavel II., ko je leta 1986 kot prvi papež obiskal rimsko sinagogo in jih nagovoril z besedami: »Vi ste naši starejši bratje in sestre v veri.« Cerkev je odstopila od večstoletnega nerazumevanja in zavračanja Judov ter začela poudarjati neločljivo vez, ki povezuje judovstvo in krščanstvo.

### **Judje in denarni posli**

V srednjem veku so oblasti Jude s številnimi predpisi omejevale pri lastništvu zemlje. Prav tako so jim predpisovali poklice, s katerimi so se lahko ukvarjali. Tisto, kar je bilo Judom dovoljeno početi, je bilo kristjanom prepovedano, največkrat pa je bilo povezano z denarjem in denarnimi posli. Z nastankom getov v 12. in 13. stoletju sta se pojavila tudi fizično omejevanje judovskega prebivalstva in njihovo ločevanje od kristjanov. Čeprav jih poznamo kot spretnne finančnike, so začeli Judje na tem področju pridobivati vpliv šele takrat, ko je bilo kristjanom v 14. stoletju izrecno prepovedano jemanje obresti. Na splošno so se kristjani v poznem srednjem veku otepali bančnih dejavnosti, saj je cerkvena oblast zagovarjala načelo evangelista Luke (Lk 6,35): »Vi pa ljubite svoje sovražnike. Delajte dobro in posojajte, ne da bi za to kaj pričakovali. In vaše plačilo bo veliko in boste sinovi Najvišjega, kajti on je dober tudi do nehvaležnih in hudobnih.« Katoliška Cerkev je to načelo uzakonila na dveh koncilih, drugem lateranskem koncilu v Rimu leta 1139 in pokrajinskem koncilu v francoskem mestecu Vienne leta 1311, kjer so oderuštvo tudi obsodili. To določilo pa ni veljalo za Jude, saj ti niso bili kristjani. Sicer so ponekod že v antiki obsojali posojanje za obresti, kar zasledimo pri Platonu in Aristotelu. Izposojeni denar je bil pogosto potreben za razvoj gospodarstva. Zato so si krščanski vladarji in plemiči, ki so

denar potrebovali za svoje razkošno življenje, vojne pohode in izboljšanje varnosti, ter trgovci, obrtniki in celo cerkveni dostojanstveniki pogosto denar izposojali pri Judih. Pri tem so morali plačevati tudi obresti, ki pa naj ne bi bile vedno oderuške. Nekateri zgodovinarji, predvsem judovski, trdijo, da so te obresti do leta 1415 dosegle največ 22 odstotkov, potem so jih zmanjšali na največ 15 odstotkov. (Bauer 1977, 21; Chanes 2000; Chanes 2004) Ohranjeni arhivski dokumenti, tudi iz naših krajev, pa kažejo, da temu ni bilo vedno tako in so bile obresti lahko višje. (Waltritsch 1983, 24)

### **Antisemitizem na Slovenskem**

Slovensko nasprotovanje Judom oz. antisemitizem je bil del širšega srednjeevropskega odnosa do Judov, ki se je oblikoval kot nekakšen skupek idej in stereotipov, ki je zgodovinsko usedlino predsodkov združeval s sodobnostjo. Že pregled slovenskih ljudskih pesmi jasno kaže, da se je negativna podoba Judov med ljudmi prijela precej močneje kakor na primer negativna podoba Turkov, ki so stoletja ropali in pobijali prebivalce na mejah habsburškega imperija. Pri tem je šlo za nestrpnost do drugačnosti, ki se je pojavljala v celotnem evropskem prostoru in je bila v 19. stoletju pogosto v zvezi z vzponom narodnih gibanj in vstopom širših množic v politiko. Antisemitizem v deželah s slovenskim prebivalstvom znotraj avstro-ogrske monarhije lahko torej razumemo kot posledico različnih vplivov in družbenih razmer. Svarila v časopisnih člankih pred judovskim naseljevanjem in širjenjem vpliva Judov ob koncu 19. stoletja pričajo o obstoju številnih predsodkov in negativnem odnosu do Judov.

Na Slovenskem so se različne »teorije judovske zarote« uveljavile z nastopom modernizacije družbe ob koncu 19. stoletja. »Teorije zarote« so bile vgrajene v izhodišče nastajanja sodobne politične misli na Slovenskem in so kot koncept politične mobilizacije delovale podobno, kakor v političnem življenju delujejo še danes. Sicer so Slovenci antisemitizem prevzemali od drugod, predvsem iz kulturnih središč srednje Evrope. Na »slovenskem primeru« lahko spremljamo prepletanje vrste antisemitskih vplivov, pri katerih je imela stigmatizirana podoba judovstva pomembno vlogo znotraj ideologij vseh političnih taborov. Antisemitizem je ob koncu 19. in v prvi polovici 20. stoletja sicer značilen za vse tri glavne politične tabore na Slovenskem: pripadnike slovenskega političnega katolicizma, slovenske liberalce in socialdemokrate. V idejah slovenskega liberalizma in političnega katolicizma nastopa Jud sprva kot sovražnik slovenstva – kot zaveznik nemštva in Nemcev na Slovenskem. Posledica demokratizacije v habsburški monarhiji ob koncu 19. stoletja se je na Slovenskem odražala v napredovanju slovenskega političnega katolicizma in absolutni politični prevladi katoliškega političnega tabora. Ta prevlada je trajala vse do druge svetovne vojne. Antisemitizem je predstavljal konstitutivni element ideologije slovenskega političnega katolicizma in se je zelo hitro razširjal. (Pelikan 2015, 59–62)

Antisemitizem ob koncu 19. stoletja je bil za katoliško Cerkev na Slovenskem pomemben element za oblikovanje in propagiranje lastnih ideoloških izhodišč. Spopad z liberalizmom je bil tako predstavljen tudi kot spopad z judovstvom, s tem pa se je hkrati vzpostavljala apokaliptični boj med dobrim in zlom. V spominski literaturi in drugih zapisih iz druge polovice 19. stoletja, tja do prve svetovne vojne, pogosto zasle-



dimo zanimanje za Jude in njihov načina življenja. O tem so pisali Josip Stritar, Josip Jurčič, Fran Podgornik, Fran Šuklje, Josip Apih, Josip Vošnjak, Henrik Tuma, Janez Trdina, Anton Aškerc in Janez Evangelist Krek. Na slednjega in njegov anti-semitizem je pomembno vplival dunajski župan Karl Lueger. Privlačila ga je njegova govorniška in politična spretnost. Krek je v Judih videl spletkarje, dobičkarje, skrunilce dekliške nedolžnosti in izkoriščevalce. (Pelikan 1997, 117–131; Griesser Pečar 2017, 102–106)

Slovenski izobraženci so se z Judi pogosto srečevali med študijem na Dunaju ali v Pragi ter na svojih potovanjih po monarhiji in širom Evrope. Sredi druge polovice 19. stoletja so začeli tudi slovenski časopisi pisati o judovskih željah po naselitvi na Bližnjem vzhodu. Jude je v Palestino poleg mnogih drugih avtorjev pošiljal tudi Josip Vošnjak v svojih spominih: »Tačas sem postal antisemit in ostal dosihmal, prepričan, da so semitje prava pokora za vse narode in vredni, da bi se vsi poslali nazaj v Palestino.« (Vošnjak 1982, 44) Izraze antisemitizma najdemo tudi pri ključnih ideologih slovenskega krščansko-socialnega gibanja (A. Mahnič, J. E. Krek, A. Ušeničnik), ki so se napajali iz širših avstrijskih idejnih tokov. (Pelikan 1997; Podbersič 2017) V tem pogledu je bil zelo jasen katoliški filozof dr. Aleš Ušeničnik, ki je leta 1918 izjavil: »Ruski revoluciji načeljujejo internacionalni judje, ki so izvečine brezverci, vsekakor pa smrtni sovražniki krščanstva. Wilson, pravijo, da je framason, in masonom je ideal Mazzinijeva 'republika narodov' brez Boga. Zato je mogoče, da ima pri teh možeh tudi samoodločba narodov protikrščanski idejni votek.« (Pelikan 1997, 125) Slovenske izkušnje z Judi in njihov odnos do antisemitizma bi lahko strnili v preprost izrek nemškega zgodovinarja Wolfganga Benza: »Nevednost je mati predsodkov.« (Benz 2000, 51)

## **Prestopi Judov v Ljubljani**

Statistični prikazi judovskega prebivalstva v habsburški monarhiji in Kraljevini SHS/Jugoslaviji so bili sestavljeni na podlagi popisov judovskih vernikov, zato je bilo dejansko število judovskega prebivalstva pri nas vedno nekoliko večje. Med Jude bi bilo tako treba prišteti tudi številne posameznike, ki so iz judovske vere izstopili zaradi asimilacije, poklicne kariere, družbenega vzpona in porok z nejudovskimi zakonci. Zato lahko rečemo, da je bilo dejansko, skupno število judovskega prebivalstva na ozemlju današnje Slovenije pred drugo svetovno vojno veliko večje od uradnih statistik. (Pančur 2011)

Omenjenim dejstvom je treba prišteti težave glede veljavnosti porok med kristjani in osebami, ki niso pripadale krščanski veri. Na Slovenskem je to do druge svetovne vojne določal 64. paragraf občega državljskega zakonika. Tako je tudi za poroke med kristjani in Judi veljal zadržek verske različnosti. Avstrijski zakon o medkonfesionalnih odnosih z dne 25. maja 1868 je namreč olajšal sklepanje mešanih zakonskih zvez samo med pripadniki različnih krščanskih Cerkva. Če je denimo katoličan hotel skleniti zakonsko zvezo z Judom, je moral najprej dobiti dovoljenje od države in katoliške Cerkve, sicer poroka ni bila mogoča. Za razliko od Ogrske v avstrijski polovici monarhije ni bila uvedena obvezna civilna poroka, temveč je obstajal samo institut civilne poroke v sili. Tako posameznikom ni bila omogočena poroka mimo verskih in državnih oblasti. Na Slovenskem ni bilo veliko primerov mešanih porok. Pogosteje je posameznik preprosto izstopil iz judovske verske skupnosti. Te osebe, ki so z izstopom ostale brez vere, so poslej imele pred seboj dve možnosti. Lahko so preprosto ostali brezverci in se kot takšni tudi poročali. Še

več pa je bilo primerov, da so nato vstopili v kakšno drugo versko skupnost. Tudi v teh primerih je zanje še vedno veljal avstrijski zakon z dne 25. maja 1868 o medkonfesionalnih odnosih. (Cvirn 2005; Cvirn 2006; Pančur 2011)

Med ljubljanskimi Judi je že od leta 1938 opaziti povečano zanimanje za prestop v katoliško vero. Veliko Judov na Kranjskem in Štajerskem je prihajalo z ozemelj Avstrije in Češke, ki so se najprej znašle pod nemškim udarom. Kar nekaj teh Judov se je odločilo, da bo izstopilo iz judovske verske skupnosti. Lahko domnevamo, da so posamezniki upali, da se bodo zaradi naraščajočega antisemitizma po Evropi s tem dejanjem uspeli rešiti ali si vsaj izboljšali možnosti za preživetje. Ob začetku druge svetovne vojne spomladi leta 1941 je tudi na ozemlju takratne Dravske banovine nastopil zadnji val izstopov iz judovske vere. Italijanski okupatorji v zasedeni Ljubljanski pokrajini so namreč nekaj časa še tolerirali izstope Judov oz. njihovo krščevanje. Znani ljubljanski trgovec Otto Lorant in njegova žena Edith sta dala 5. junija 1941 krstiti svojo šestletno hčerko Katarino Marijo. Že sedem dni kasneje se je v katoliško vero spreobrnil direktor Akcijske družbe za kemično industrijo Edvard Bader. (Arhiv župnije Marijinega Oznanjenja (frančiškani) v Ljubljani, Matica za konvertite) O tem bi moral še pred prestopom obvestiti tudi mestne oblasti, vendar je šele nekaj dni kasneje (16. julija 1941) obvestil ljubljansko mestno poglavarstvo, da izstopa iz judovske verske skupnosti.

Kot kaže, so se ti prestopi dogajali v izredni naglici. Vse te osebe so namreč imele jugoslovansko državljanstvo in so že kar nekaj časa prebivale v Ljubljani. Zakonca Lorant sta verjetno hotela izkoristiti priložnost, ko njuna hčerka še ni bila stara 7 let. Glede na takrat še vedno veljavno avstrijsko

zakonodajo ji med sedmim in štirinajstim letom vere ne bi smela več spreminjati. Očitno so se ljubljanski Judje upravičeno bali, da jih bodo italijanski okupatorji internirali v italijanska taborišča, kakor so storili s tujimi Judi. Že 8. novembra 1941 je namreč prvi transport odpeljal Jude iz Ljubljane v južnoitalijansko taborišče Ferramonte di Tarsia.

V tabeli so prikazani vsi prestopi ljubljanskih Judov v 20. stoletju; iz datumov prestopa so jasno opazna »kritična« leta. (Arhiv župnije Marijinega Oznanjenja (franciškani) v Ljubljani, Matica za konvertite)

<b>Ime in priimek</b>	<b>Poklic</b>	<b>Leto rojstva</b>	<b>Datum spreobrnitve</b>
Oskar Ebenspanger	trgovec	1879	3. 10. 1905
Oton Ganz	bančni uradnik	1884	11. 6. 1913
Pavel Pollak	trgovec	1873	18. 12. 1913
Marcel Labor	zdravnik v voj. bol.	1890	23. 12. 1914
Elza Labor	žena zgornjega	1890	23. 12. 1914
Janez Rosenberg	stotnik 97. pešpolka	1862	9. 1. 1915
Peter Pollak	trgovec	1909	1. 7. 1920
Marija Pollak	hči trgovca	1910	1. 7. 1920
Jožef Fried	tehnik	1901	21. 9. 1926
Hugo Vajk	inženir	1894	21. 4. 1928
Miroslav Stark	učenec	1924	2. 6. 1932
Ladislav Pollak	trgovski potnik	1902	11. 1. 1934
Lukacs Andrej / Lobstein	zastopnik informacijskega zavoda	1893	28. 5. 1934

Gizela Schlesinger 1. vdova Becker 2. vdova König	podpolkovnikova žena	1864	21. 8. 1934
Margareta Becker Fleischmann	zasebnica	1885	21. 8. 1934
Alles Rudolf Percy	trgovec	1895	4. 5. 1938
Pollak Alice	gospodinja	1897	4. 5. 1938
Alles Erika	dijakinja	1923	4. 5. 1938
Jožef Frankl	trgovec	1886	10. 10. 1938
Alice Frankl, roj. Stern	žena zgornjega	1895	10. 10. 1938
Frankl Friderik Miroslav	dijak, sin zgornjega	1923	10. 10. 1938
Szekely Zoltan Ignacij	stavbni inženir	1887	27. 10. 1938
Marija Steiner Höllwarth	soproga trgovca	1899	4. 11. 1938
Viktorija Stern, roj. Vetter	soproga bančnega uradnika	1901	11. 11. 1938
Helena Stern	učenka	1928	11. 11. 1938
Eva Stern	učenka	1930	11. 11. 1938
Jožef Bassan	zasebnik	1888	21. 11. 1938
Adela Pollak, roj. Wertheimer	zasebnica	1881	14. 3. 1939
Luisa Ana Diren- bach, roj. Pick	gospodinja	1899	27. 4. 1939
Friderik Viljem Direnbach	učenec	1925	27. 4. 1939

Herbert Peter Direnbach	učenec	1926	27. 4. 1939
Janina Punčuh, roj. Glocer	soproga vicekonzula	1905	17. 11. 1939
Ljudmila Pollak, roj. Stwertka	zasebnica	1870	29. 4. 1940
Katarina Marija Lorant	otrok, starša: Otto Lorant in Edith Weiss	1935	5. 6. 1941
Franc Dietrichstein	zdravnik	1892	7. 6. 1941
Edvard Bader	tovarnar	1889	12. 7. 1941
Rihard Justitz	trgovec	1911	15. 7. 1941
Ruža Pollak, roj. Velczer	zasebnica	1893	7. 8. 1941
Viljem Golik	industrialec, Dunaj	1893	14. 8. 1941
Vera Golik, roj. Gostl	žena zgornjega	1899	14. 8. 1941
Aleksander Golik	gimnazijski maturant	1923	14. 8. 1941
Štefan Golik		1931	14. 8. 1941
Sigmund Peter Mauer	urar	1890	18. 8. 1941
Leopold Eisenstätter	slikar	1900	19. 8. 1941
Artur Anton Silberstein	tovarnar	1880	16. 10. 1941
Banjai Josip	trgovec	1903	15. 8. 1941
Banjai Blanka	žena zgornjega	1908	15. 8. 1941

Stern Vera	uradnica	1905	15. 8. 1941
Lidija Marija Steinberg	absolventka medicine	1916	27. 10. 1941
Bernhard Rosenfeld	kemik	1872	7. 10. 1940
Klara Rosenfeld, roj. Donnath	žena zgornjega	1884	7. 10. 1940
Ciril Weiss		1911	4. 11. 1941

### Škof Rožman in reševanje Judov

Po okupaciji Jugoslavije leta 1941 so se na slovenskih tleh razmere poslabšale tudi za Jude. Judovsko vero je na ozemlju predvojne Dravske banovine izpovedovalo manj kakor tisoč vernikov, od tega večina v Prekmurju. Jude je najbolj preganjal nemški okupator na svojem zasedenem ozemlju na Štajerskem in Gorenjskem, medtem ko so italijanski in madžarski okupatorji zavzeli milejše stališče, predvsem do Judov, ki so že pred drugo svetovno vojno živeli na okupiranem območju. Precej slabše se je godilo judovskim beguncem od drugod, predvsem z območij Neodvisne države Hrvaške (NDH), ki so iskali zatočišče pred nacističnim in ustaškim nasiljem; tam se je namreč nad njimi v polnem teku izvajal načrtni genocid. Obstajalo je veliko načinov, kako je Judom uspelo zapustiti ozemlje NDH: od legalnega pridobivanja prepustnic do njihovega ilegalnega nakupa, ki so se večinoma glasile na tuje ime, cena pa se je navadno izsiljevalsko dvigala. Pogosto so preganjeni Judje iskali tudi intervencije raznih nejudovskih oseb – tako iz vrst oblasti kakor tudi članov katoliške Cerkve. Kraljevina Italija je judo-

vske begunce internirala v zbirna taborišča ali jih nameščala v hotele in druge zgradbe, ki jih je določila za ta namen. Italijanski zaščitniški odnos do Judov na ozemlju Kraljevine Italije in drugih okupiranih ozemljih je bil v skladu s fašistično ideologijo, ki je Judom sicer jemala človekove pravice, vendar proti njim ni ravnala v smeri fizičnega uničevanja. (Goldstein 2004, 48–49; Podbersič 2016, 155)

Ljubljanski škof dr. Gregorij Rožman si je že od začetka okupacije leta 1941 prizadeval za pomoč preganjanim Judom. Tega nikoli ni javno razglašal. Leta 1969 je v zvezi s tem kanonik dr. J. Kraljič izjavil sledeče: »Znal je molčati on, znalo smo molčati mi.« (Pust 2003, 106) Kakor pričajo različni ohranjeni arhivski dokumenti, tako v Ljubljani (Nadškofijski arhiv, Arhiv Republike Slovenije) kot tudi v Rimu (Centralni državni arhiv), je pri posredovanju za judovske begunce, posameznike in cele družine pomagal tudi takratni ljubljanski škof dr. Gregorij Rožman. Dobro je bil obveščen o zločinih ustašev nad judovskim prebivalstvom, ki so se začeli že kmalu po razpadu Kraljevine Jugoslavije in vzpostavitvi NDH aprila 1941. Poleg tega je škof Rožman kot izobražen teolog gojil spoštovanje do judovskega ljudstva, kar se konec koncev kaže tudi v njegovih pridigah. (Žakelj 1970, 336–340)

V Nadškofijskem arhivu v Ljubljani so ohranjene prošnje številnih Judov, ki so se za pomoč obrnili na škofa Rožmana. Tako je dne 18. decembra 1941 na vatikanskem državnem tajništvu posredoval za Leopolda Eisenstädterja, ki so ga italijanske oblasti zaprle, ker so mislile, da je judovskega rodu. (NŠAL, Zapuščina škofa dr. Gregorija Rožmana, Prezidialni arhiv, št. 107) Pri reševanju škof Rožman ni gledal na svoje



lastne koristi, po svojih močeh je reševal skupine, družine in posameznike, ki so trpeli samo zato, ker so bili Judje. Zavzel se je zanje in prosil pomoči pri Visokem komisarju v Ljubljanski pokrajini in predstavnikih Svetega sedeža v Vatikanu. Vsekakor je škof Rožman za Jude naredil več, kakor je danes javno znano oz. smo to zmožni javno priznati. Pri pomoči preganjanim Judom sta se v Ljubljani izkazala tudi brata, frančiškana p. Angelik in p. Roman Tominec. (Griesser Pečar 2009, 53; Podbersič 2016, 54–55)

### **Cerkev in reševanje Judov v Gorici**

O pogledu goriške krajevne katoliške Cerkve na to temno obdobje je zelo malo ohranjenih dokumentov. Judje so po začetku uveljavljanja protijudovske zakonodaje v Italiji jeseni 1938 iskali različne poti, kako bi se čim bolj prilagodili novim razmeram. Mnogi so izstopali iz judovskih skupnosti. V obdobju med avgustom 1938 in januarjem 1939 je iz judovske skupnosti v Gorici izstopilo 9 oseb. Rasne omejitve iz leta 1938 niso zadevale otrok iz mešanih zakonskih zvez, vendar so morali starši rojene po 1. oktobru 1938 krstiti v desetih dneh. Zato so posamezniki poskušali doseči ponovno datiranje svojih krstnih listov. Verjeli so, da se bodo tako nekako izognili preganjanju, še posebej pa so polagali upanje v Sveti sedež, ki naj bi se zavzel zanje. Otroci, katerih oba izmed staršev sta bila judovska in so bili krščeni pred oktobrom 1938, niso bili samodejno izvzeti iz antisemitske zakonodaje. Katoliška Cerkev je pokazala določeno pripravljenost za ponovno datacijo krstnega lista in marsikdo je to želel izkoristiti. Sicer se je v tistem času v Italiji odvijalo približno šest tisoč prestopov v katoliško vero, vanje pa so

bili vključeni tako tisti iz mešanih zakonskih zvez kakor tudi pravi Judje. (De Felice 1993, 334; Cedarmas 1999, 177–182)

V obdobju 1900–1943 je goriško judovsko skupnost preverjeno zapustilo 43 oseb. Šlo je bodisi za izstop iz skupnosti bodisi za prestop v krščanstvo. Manj kot polovica (16) se jih je zgodila do leta 1937, vsi preostali (27) pa po tem letu. Poleg tega je treba poudariti, da vsi sploh niso bili člani judovske skupnosti, saj so izvirali iz mešanih zakonskih zvez oz. je šlo za ožje sorodnike vojaških oseb, ki so službovale v Gorici. Tako je dr. Umberto Levi predsedniku judovske skupnosti v Gorici avgusta 1938 pisno sporočil, da je že marca izstopil iz judovstva in sprejel katoliško vero. (Cedarmas 1999, 183–184) Del goriške Cerkve se je vključil v akcijo reševanja Judov že pred kapitulacijo Italije. Tako so goriške uršulinke septembra 1942 nudile zatočišče Judinji iz Vidma. Žal njena poznejša usoda ni znana. (AMOG, Annali, busta 212, dopis 15. septembra 1942) Prav tako je Giovanni Fabris, predstojnik salezijancev v Gorici, nudil zatočišče dunajskemu Judu Karlu Hynecku. (Spangher 1995, 25–26)

Po Gorici so se še pred novembrskimi aretacijami slišale vesti, ki jih je razširjala učiteljica Rina Luzzatto, sicer članica judovske skupnosti. Po govoricah naj bi si nadškof Carlo Margotti zelo prizadeval za obvarovanje Judov v mestu. (Spangher 1995, 26) Mesec dni po novembrskih aretacijah leta 1943 je nadškofijski ordinariat v Gorici na goriškega prefekta grofa Marina Paceja naslovil prošnjo v imenu pravičnosti in človekoljubnosti. V goriški nadškofiji so želeli vplivati vsaj na to, da bi italijanske oblasti iz aretacije izvzele naslednje Judinje: Emmo Michelstaedter, Malvino Golberti, Liso Luzzatto, Prospero Bolaffio, Paolo Luzzatto, Edvigo Jona

in Margherito Gentili. Šlo je za starejše od sedemdeset let in bolne osebe, ki so bile izvzete že z ministrskim ukazom, ki je bil poslan v Gorico na začetku decembra 1943. (ASG, Regia Prefettura di Gorizia, Ufficio di Gabinetto, busta G/104 bis, fasc. 17.6.3., Provvedimenti relativi agli Ebrei 1944–1945. Vario. Dopis 22. decembra 1943)

Žal je bila intervencija neuspešna, kajti Nemci so večino omenjenih oseb že aretirali. Iz pisma lahko sklepamo, da goriški nadškof Carlo Margotti dejansko ni vedel za usodo aretiranih goriških Judov. Ob pismu iz goriške nadškofije so bili namreč ti Judje že pobiti v taboriščih. Prav tako je treba upoštevati njegovo naivnost, da oblasti Italijanske socialne republike (Repubblica Sociale Italiana – RSI) sploh lahko vplivajo na nemško zasedbo in odnos Nemcev do Judov. Nekoliko pozneje, 15. februarja 1944, je prišlo v nadškofijski ordinariat v Gorici pismo iz Vatikana. Alessandro Evreino, škof iz rimske kurije, je nadškofa Margottija v vljudnem pismu spraševal o usodi ljudi, odpeljanih iz Gorice konec novembra 1943. Pismu je očitno priložil tudi seznam z imeni posameznikov, ki pa v arhivu ni ohranjen. (ACAG, Archivio della Cancelleria, Curia Arcivescovile di Gorizia, cartella 1158/C, 2, anno 1944)

Glede verske pripadnosti in judovstva je zelo povedna tudi usoda Juda Bruna Levija iz rasno mešane družine, ki je bil rojen v Trstu leta 1907. Njegova mati Linda Micol, po veri katoličanka, ob Brunovem rojstvu še ni bila poročena z Judom Manliom Levijem. Zato je bil sin vpisan v register kot katoličan. Tri mesece pozneje so se starši poročili in Bruno je pridobil priimek Levi. Bruno se je zaposlil v vodstvu prevozniškega podjetja Ribi v Gorici. Vpisal se je tudi v fašistično stranko (PNF), toda decembra 1938 ga je pokrajinski tajnik

Mario Macola izključil iz stranke, ker je pripadal judovski rasi. To je postalo odločilno jeseni 1943, ko je nemška vojska aretirala številne goriške Jude in jih poslala v koncentracijska taborišča. Tudi Bruna Levija so aretirali že 18. septembra 1943, takoj po nemškem vkorakanju v Gorico, in ga zaprli v sodni zapor v ulici Barzellini. Niso ga deportirali, temveč so ga po skoraj štiridesetih dneh izpustili. Sicer so ga Nemci podrobno zasliševali, izmazal pa se je s ponarejenimi dokumenti, ki mu jih je priskrbela žena Alma Parini in naj bi dokazovali, da je Bruno arijskega porekla, ker naj bi Manlio Levi ne bil njegov pravi oče. Pojasnilo za njegovo izpustitev lahko opazimo tudi v njegovem urejenem statusu in družinskih listinah. Zaradi protijudovske zakonodaje, ki so jo od leta 1938 izvajale tudi italijanske oblasti, je Bruno Levi marca prestopil v katoliško vero in se še enkrat poročil po katoliškem obredu. Že pred tem je bil namreč poročen po judovskem obredu. Hkrati s tem se je skupaj s hčerko Giorgio tudi krstil. Ponarejene listine so ga sicer obvarovale pred deportacijo v nacistično taborišče, ne pa pred zasegom vsega imetja v korist RSI aprila 1944. (Chiarion 2009, 30–31)

### **Zaključek**

Katoliška Cerkev je dolga stoletja imela Jude za »morilce Gospoda« oz. glavne krivce za smrt Jezusa Kristusa. Zato naj bi si zaslužili prezir in tudi preganjanje. Hkrati jim je bila ponujena možnost »odrešitve« s prestopom v krščanstvo. To stališče je Cerkev skorajda nespremenjeno obdržala vse do drugega vatikanskega koncila – ali, kakor se je izrazil znani moralni teolog in frančiškan bl. Angelo Carletti di Chivasso (1411–1495) iz Piemonta: »Biti Jud je zločin, ki pa ga kristjan ne sme kaznovati.« (Pisanty 2006, 73–75) Vsekakor je katoliška

Cerkev za Jude pri nas med drugo svetovno vojno naredila več, kakor je danes splošno znano oz. smo to zmožni javno priznati. Verz iz Talmuda, ki je tudi vodilo pri imenovanju pravičnikov med narodi, pravi: »Kdor reši eno življenje, reši cel svet.«

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1.02 pregledni znanstveni članek

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## **Economic Intelligence in the Slovenian Environment**

**Abstract:** In a post-Cold War environment, countries live in a state of permanent confrontation. Political alliances are more and more fragile, and while countries have to compete every day on the global market in order to survive, only those with a structured system can prevail. Economic intelligence is the most advanced political and economic theory of state management, which also offers the framework for private-public cooperation. In defining economic intelligence and analyzing some examples of structured foreign systems, this article aims to show that world countries in a globalized context can be competitive and safe only by adopting an economic intelligence strategy. Within such a scenario Slovenia, despite contemplating the defense of national economic interests through the Law on Slovenian Intelligence and Security Agency, has no comprehensive strategy to defend or promote its economic interests by a structured economic intelligence system. Policy makers could take into consideration the French example of good

practice choosing the national security authority as the body delegated to shape an appropriate strategy.

**Key words:** economic intelligence, economic development, security, UVTP, secret services

## **Gospodarska obveščevalna dejavnost v slovenskem prostoru**

**Izveček:** Mednarodno okolje se je od konca hladne vojne močno spremenilo; globalizacija trgov sili države v stalno gospodarsko konfrontacijo, v kateri prevladujejo le tiste, ki so v zadnjih letih oblikovale primeren sistem za izmenjavo informacij med javnim in zasebnim sektorjem. Gospodarska obveščevalna dejavnost je teorija državnega upravljanja, ki predstavlja najprimernejši okvir za zasebno-javno sodelovanje v gospodarstvu. Namen članka je definirati pojem gospodarske obveščevalne dejavnosti in z analizo nekaterih tujih primerov dokazati, da so lahko države konkurenčne in varne le, če sprejmejo primerno gospodarsko obveščevalno strategijo. Znotraj takšnega scenarija – kljub predvideni zaščiti gospodarskih interesov v Zakonu o Slovenski obveščevalno-varnostni agenciji – Slovenija nima celovite strategije za obrambo oz. razvoj lastnih gospodarskih interesov preko strukturiranega sistema gospodarske obveščevalne dejavnosti. Oblikovalci politike bi lahko sledili primeru Francije in državnemu varnostnemu organu omogočili oblikovanje najprimernejše strategije.

**Ključne besede:** gospodarska obveščevalna dejavnost, gospodarski razvoj, varnost, UVTP, tajne službe

## Introduction

Due to the bipolar balance of power influencing international relations between 1945 and 1989, the world was characterized by a geopolitical stability and clear military alliances, with countries having rather limited margins of political and economic freedom. Today, after the end of the Cold War, we are facing a situation of a new type of anarchy based on geo-economic confrontation: global competition among states to achieve the best possible outcome in terms of profit, development and wealth. In these new economic clashes, the stability of the old political alliances has been undermined and, because of the geo-economic war, governments are required to become guarantors of social stability. This role needs to be based on a strategic vision which fosters economic growth and development. (Gaiser 2017)

Within such a framework, countries which for years have been at the center of criticism, and whose operation, under the load of liberal philosophy, has been reduced to a minimum, return to take on a role of primary importance. (2015) They return to being active co-protagonists of the economy, destined to catalyze and implement strategies of reform that allow the country-systems to remain competitive. The policymakers' goal today is to find the right means of collaboration between state and entrepreneurial systems, as well as implementing the right policies of support of national production – a necessity which develops from the fact that information today has become the most valuable resource. (Črnčec 2009) The research and strategic management of information is an economically relevant and complicated art, which is why companies are forced to implement their

own structures of business intelligence; the efficiency of this could be increased by an appropriate national cooperative system, in which, as much defensively as offensively, companies of national security must play a decisive role. The state as a service provider, instead of existing for itself, is forced to transform its bureaucracy into an efficient market support system in order to offer to private and public owned companies the most competitive services. (Treverton 2001) The international success of an enterprise is the success of the hosting country. A country that is not able to be competitive is destined to succumb to others or become non-influential on the world scene. International competition has increased remarkably. For this reason, country-systems need a more sophisticated, precise and organized means to remain credible, attractive to investments, structurally stable and able to make sound economic choices. We are living in a period that is aware of the fact that territorial conquests and direct control of parts of the globe are, in addition to being politically difficult to accept on the part of democratic public opinions, economically expensive. (Luttwak 1993)

To be in possession of a good “machine of economic war”, both in its active form (penetration of other markets and competitive advantages) and passive form (defense of one’s own national interest), sustained by a credible state structure, is an absolute priority. Within this international environment during the last twenty years, a more sophisticated method of economic warfare has been developed: economic intelligence. It dictates the need for cooperation between the public and private sectors, a need which may have been felt in the past, but whose implementation has been only on a comparatively minor scale. This research

demonstrates that the most important countries in the world have already shaped their own system of active collaboration and information sharing with market-based companies in order to achieve higher levels of competition on the globalized market, while Slovenia is still passive and could follow the French example of good practice appointing the national security authority as the leading institution in shaping an economic security strategy.

## **Economic Intelligence**

### *Definition*

During the 1990s, Edward Luttwak launched the idea that military wars would soon become a memory of the past, substituted by economic wars. In one of his main works, *The Endangered American Dream* (1993), he highlights the fact that, with the pacification of international exchanges, military threats and alliances have lost their importance. Economic priorities are no longer concealed, and move into the foreground. In the future it will be fear of economic consequences that will regulate commercial contestations, and certainly political interventions will be motivated by strategic purposes. (Halby 2003) According to Luttwak's geo-economic thought, the time of wars waged for conquest of territories and diplomatic influence has passed. The central objective must be to increase highly qualified work in the leading industries and in services of high added value, with the goal of conquering or preserving an envied position at the heart of the world economy. The invested capital of a country is equivalent to firepower; subsidies for the

development of products correspond to progressions in artillery, while the penetration of markets with the help of the state substitutes the bases and military garrisons displayed abroad and even diplomatic influence.

When the state intervenes and directs, influences or promotes economic choices, we find ourselves in the field of geo-economics. All of this is not a new phenomenon unknown to past generations. Throughout the development of history, international subjects have always played an active role in the economy. The tangible difference in comparison to today's world is that of the intensity or means of determining action. Before, it was the economy which was at service to political power, where now the roles have been reversed. Nowadays, a period in which military conflicts are really becoming *ultima ratio regum*, the terrain of international competition is moving increasingly towards the economic sector, and the contemporary world of economics cannot be analyzed only from the point of view of classic market theories. The classic economic theories on international exchanges do not reflect all the aspects of economic international relations, where one can often find the echo of the tactics and strategies of Sun Tzu and Macchiavelli in decision-making, and such decisions often depend in an important way on factors not of the market. (Csurgai 2011, 23) In order to survive, the country sees itself as constrained to compete in a highly sophisticated environment and because of this transforms itself, according to the definition of Gyula Csurgai, into a strategic state, whose task it is to persevere or increase its own privileged position in the economic and international political world through the creation of a geo-economic framework of success. (2009)

The strategic state is one of the keys to contemporary economics and has the vital task of adequately developing the concept of economic intelligence so as to maximize the capacities of every actor to acquire market shares. The task of economic intelligence is to strategically manage information that allows the country to control, anticipate, and manage the evolution of various markets, giving life to political choices, both offensive and defensive. The more the interests of a country are extended, the more the strategy must have a global breadth. Economic intelligence consists of gathering and processing information relevant to the economic sector with the intention of making operational choices. Its activities are aimed towards obtaining information, surveillance of competitors, protection of strategic information, and capitalizing on this knowledge in order to influence, determine and control the global economic environment. It is a power tool for countries, in which the private and public spheres are intertwined and communicating. The economic challenge decreases the spaces available to military war, but the end goal, that of accumulating power and wellbeing, remains unchanged. According to Jean and Savona (2011), economic intelligence is a discipline which, by studying the cycle of information necessary for companies and countries to carry out correct development choices, improves the cognitive and decisive abilities applied to the complexity of the competitive global context. Its structures are nothing other than the means by which the public and private sectors can collaborate efficiently for the common wellbeing, during a historical period in which, separate, they would be destined to perish. In this way, the entrepreneurial sector maintains its vitality while the state rediscovers a new legitimizing mission.

*Economic intelligence worldwide*

The fluidity of international relations requires nations to be capable of facing global competition by organizing themselves in such a way as to guarantee the best results for themselves in terms of earnings, development and wellbeing. The gathering and strategic management of information is a complex art with economic relevance. Because of this, companies are forced to establish their own business intelligence units. The efficiency of such units can be improved by appropriate cooperation at the state level, where national security agencies must adopt a decisive role in terms of both protecting and gathering information. Growth strategies and an efficient exchange of information between the public and private sectors have led to a better management of the economy. Market imperfections and a hypercompetitive international environment force states to actively intervene in the economy in order to optimize the use of the human capital, technological developments and resources of a country. In this way, a state achieves three vitally important objectives: it increases the nation's growth and wealth, achieves stability by having legitimized itself, and accrues power.

Leaving aside those countries that have an economic intelligence system based on a longstanding tradition of informal information sharing between economic, political and intelligence bodies, such as, for example, Germany and Japan, and taking into account only those countries which have officially established a legal framework for private-public collaboration, we cannot avoid to refer to USA, France and United Kingdom as very well working systems. They have



been designed since the beginning in a structured way, respecting national specificities, and, being today well-established, they present unavoidable benchmarks.

The USA is therefore an international actor which possesses a global approach to its own strategy of power and economic supremacy. After the defeat of communism, Bill Clinton was the first politician to demand that state bodies actively cooperate in offering support to the nation's economic system. In 1993, the National Economic Council (NEC) was established, which is the heart of economic politics and chaired by the President of the USA himself. This organization was proposed in order to coordinate and control the implementation of presidential directives, and represented the point of conjunction with companies' business intelligence units. Together with the NEC, the National Security Council (NSC) analyzes issues related to economic and industrial counter-espionage by also taking advantage of their collaboration with the National Counter-Intelligence Centre, an organization instituted by the FBI, the CIA and the Department of Defense to cooperate with corporations in such a way as to anticipate or hinder any type of economic espionage on the part of foreign companies. On the field is the Advocacy Centre, a department within the Department of Commerce to have the task of following and supporting the expansion of US companies around the world.

Remaining in the Anglo-Saxon world, United Kingdom – where a full-scale law on the secret services, the British Intelligence Services Act, was only produced in 1994, despite the longstanding national intelligence tradition – represents a much more pragmatic approach. According to the official

wording, the activities of the Secret Intelligence Service and GCHQ had the goal of preserving the interests of economic wellbeing in the United Kingdom (Article 1). Economic intelligence, or rather economic wellbeing, became an official priority, defined by the law. The services guarantee their support to companies' needs, and the success of the British Intelligence Community is defined every year on the basis of the results obtained in favor of the national economy. MI5 depends on the Home Office, and MI6 and GCHQ on the Foreign Office, to receive directives on the priorities and objectives of the Joint Intelligence Committee (JIC), formed by the undersecretaries of the interested departments responding to the Prime Minister. The JIC has the task of defining the goals of the activities, that is, of drafting the "shopping list", as well as forwarding information to interested companies. (Gaiser 2016) According to the most accurate estimates, at least 60 % of the funds of MI6 were already committed to that sector by the end of the 1990s. (Marcon and Moinet 1999, 7)

In 1994 a report of the Commissariat général du Plan, edited by Henri Martre, came to light, and over time became the milestone for the reform of economic intelligence in France. (Gagliano 2014) According to report outputs in 1995, a "functional subject" in contact with all the entrepreneurial sectors and state administrations was defined and named: CCSE – Comité pour la Compétitivité et la Sécurité Economique. It was given tasks comparable to those of the American National Economic Council. The General Secretariat for Defense and National Security (SGDSN), the institution coordinating the government's security policies, which incorporates the Inter-ministerial Intelligence Committee (CIR, Comité Interministériel du Renseignement), offered the CCSE logistic and

administrative support. The SGDSN acts as a perfect information sharing platform. It allows the CCSE to be promptly supplied with important data, thanks to the CIR presence.

### **Economic intelligence in Slovenia**

Slovenia can be mentioned as a typical example of a country which, even though it has limited territorial dimensions, still has a good consular and diplomatic network and noteworthy intelligence – both military and civil – services, even within the limits of its dimensions, with deep historical traditions and an economic structure that could easily benefit from a coordinated and systematic action of economic intelligence. This action, however, would be difficult to achieve in a coordinated manner.

Immediately after its independence Slovenia could claim a rich web of commercial and political contacts in the world, thanks to the capillary presence of Slovenijales, a company which, even if specializing in the production of lumber derivatives and engineering, could be compared during the Yugoslavian era to the Japanese JETRO in terms of function and importance. The inevitable economic restructuring, and the departure of the state from the corporation, resulted in its downsizing to only Slovenia's internal market, and the country had to wait for the constitution of the Javna agencija za podjetnistvo in tuje investicije (Public Agency of the Republic of Slovenia for Entrepreneurship and Foreign Investments), which occurred in 2005, to regain a presence in the world that was parallel to that of the diplomatic and consular headquarters. The agency, transformed in 2013 into SPIRIT Slovenia following a very critical audit revision

of its efficiency carried out by the Slovenian Court of Audit (Računsko sodišče 2013), had the goals of supporting the internationalization of Slovenian companies and attracting foreign investments into the country. Currently, SPIRIT Slovenia is framed within the Ministry of Economic Development and Technology. As a state-run agency it collaborates actively with all governmental departments in the promotion of the country abroad, by maintaining a special relationship with the Department of Commercial Diplomacy (part of the Ministry of Foreign Affairs), with which it prepares delegations during visits abroad. Nevertheless, the Slovenian Court of Audit has highlighted multiple times that the Ministry of Economics, the Ministry of Foreign Affairs and the Agency do not collaborate sufficiently for the internationalization of national enterprises, and that their annual work programs do not sufficiently specify the minimum set goals. According to the Court, the results that have been obtained thus far have not justified the financial investment guaranteed by the state budget. (2009)

Slovenia was in an economic identity crisis, with a public deficit that has increased by 130 % in the five year period from 2008–2013 and an unemployment rate higher than the European average. (OECD 2015) It cannot easily carry out choices of revitalization or repositioning on the international markets, despite the excellence that it possesses in niche sectors such as medicine, pharmaceuticals, energy and lumber. After having struggled with the negative legacy of the Communist intelligence heritage, Slovenia developed a small, new, modern intelligence system, coordinated by the National Security Council. (Prezelj 2016) The Security Information Service (Varnostno-informativna služba), working within the Ministry of the Interior, became an independent

governmental agency named SOVA in 1993. This transition strengthened the Prime Minister and the government's role. According to Brejc, the intention of the political leadership of SOVA was to have a small, effective, and trained professional intelligence agency which would be able to collect intelligence information abroad. Transplanting any of the European intelligence models (e.g. the Austrian, German, British, Hungarian, etc.) to the case of Slovenia was not considered at the time due to the persuasion that Slovenia, as a small state, could not afford a large intelligence agency with global goals. (Brejc 1994, 171) The Law of 1999, amended in 2006, which delineated the competences of the national intelligence agency SOVA, foresaw in Article 2 that it must carry out its own activities, both offensive and defensive, in support of the economic interests of the country. Nevertheless, the Agency is currently required to supply its information only to the Prime Minister and possibly to competent Ministers. An effective connection between the entrepreneurial system and the use of economic interests is lacking. In fact, Slovenia possesses the structures suitable for economic intelligence of good quality, but up to now has not known how to bring them together into a single system.

### **Slovenia's potential in creating a new approach to national economic security**

The role of the French SGDN that represent the National Security Authority is managed to a lesser extent in Slovenia by the Office of the Government of the Republic of Slovenia for the Protection of Classified Information (UVTP, Urad Republike Slovenije za varovanje tajnih podatkov). The Office was established in 2002 with a decision of the Government

in order to meet the requested EU and NATO standards. Thanks to the acquired knowledge and experiences, UVTP could actively become in the near future the body entrusted with the shaping of a new, much more appropriate and transparent intelligence system. The Slovenian government could extend the current competences of UVTP and enable it to actively participate in finding the possibility to formulate an overall economic security strategy as well as the way to implement it successfully coordinating the cooperation between the public and private sector. At a time when foreign countries with stable economic systems and geo-economic visions ground their own stability and development on pursuing an efficient economic intelligence strategy, Slovenia needs the cooperation between public and private in order to strengthen the efficiency of its economic environment. The establishment of the most appropriate information exchange system among the key economic actors is indispensable for: the further development of the economy and the protection of its interests, the strengthening of the presence of Slovenian entrepreneurship worldwide and the reduction of threats to its interests on foreign markets, the increase of attractiveness of the country's investment environment, the strengthening of the geo-economic projection of the Slovenian national interest around the world, increasing the employment rate, improving the collection of information from foreign environments, better planning of state's tax and legal efficiency, and increasing general welfare. Risks to which is exposed an unprotected economic environment by foreign economic intelligence systems operating on institutionalized data exchange procedures between the public and private sectors can lead to a reduction of general welfare, a significant fall in revenues to the state budget and, consequently, to social tensions or even to the destabiliza-

tion of the international political security of the Republic of Slovenia.

The final report, Report Martre, and the activities carried out with the support of the French government by the Commissariat du Plan in the period 1991–1994 could represent for UVTP a reference example of good practice. Within the contemporary international geopolitical scenario, only a real commitment on formulating and disseminating a national concept of a participatory security or security system can contribute to greater solidarity and stability of the Slovenian society. Given the current, legally assigned, scope of work UVTP is the most appropriate body for pointing out to a generally accepted and coordinated contemporary participation of civil society, security authorities and the government of the Republic of Slovenia. As a national security authority, the Office works interconnected with several different systems and, consequently, it could better than any other institution explore or propose updated solutions for an overall country's socio-economic security and stability.

## **Conclusion**

Economic intelligence is a collective and offensive measure, formed by the coordinated actions of research, treatment, diffusion and protection of information, obtained legally or through legalized systems of state activities, in as much as access to secret information becomes lawful at the moment in which it is authorized. All of this presupposes an organization of networks and specific instruments to preserve or increase the geo-economic power of a state and its sphere of influence. The national systems must guarantee an environ-

ment suitable for the success of their own enterprises, both public and private, and the goal of the state's economic intelligence is also to change the rules of the game of world competition, adapting the markets to their own needs and creating the conditions for their success even in inferior circumstances.

Slovenia is a market-based economy with still a strong state presence, especially in banking and the industrial system. It is by Constitution (Article 2) a social state. This means that public sector activities will be always oriented towards maximizing general wellbeing. Within this scenario it is the decision-makers' duty to restructure the country's economic framework and to propose a new development strategy in the near future. Following the examples of the most qualified countries, the Slovenian government should find a workable solution for coordinating the intelligence services with the needs of the economic system. Its economic interests are geographically limited. Economic politics could find greater opportunities if it was decided to establish a full-scale strategy of economic intelligence. The government should give life to a specific institutional framework in which it could conflate, in an official way, information obtained by the Slovenian Intelligence and Security Agency (SOVA) with that obtained by the economic and banking system and by the SID Bank, responsible for the financing and insuring exports. Within this framework, we consider that the Office of the Government of the Republic of Slovenia for the Protection of Classified Information could be the most appropriate organ for shaping and proposing new solutions. According to the current situation, the above mentioned office has access to all levels of Slovenian society and can provide a comprehensive answer for coordinated protection of the



national economy in the context of a wider participatory security approach.

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## **The Reform of the Port System Authorities in Italy**

**Abstract:** Recently the Italian Government has adopted a new regulation of the Italian Port Authorities under the law no. 124 of 7 August 2015 in order to implement the European Union's transport policy as well as to improve the strategic maritime logistic sectors and attracting investments. The 58 Italian ports have been organized into 15 new Port System Authorities (PSA) with the cooperation by the National Coordination Conference under the supervision of the Ministry of Infrastructures and Transport. The achievement of the aforementioned objectives was pursued by the Government through four key points: the introduction of strategic decision-making centers, administrative reorganization, bureaucratic simplification, and the promotion of other actions for logistics and ports. The tasks of the new Port System Authorities, which represent the nodes of the TEN-T Corridors, a logistics network integrating maritime, road and air transports, are: a) guidance, planning, coordination, and control of port operations and services, concessionary activities and other commercial and industrial activities carried out in ports and territorial districts as well as ordinance powers in safety and hygiene at work; b) ordinary

and extraordinary maintenance of the common parts in the port area, including that for the maintenance of the seabed; c) entrustment and control of activities aimed at supplying services of general interest to port users for valuable consideration, with the exception of port operations and services strictly connected to said operations; d) coordination of administrative activities carried out by public bodies and bodies within the ports and in the state-owned maritime areas included in the territorial district of the Authority; e) the exclusive administration of the areas and assets of the maritime state property included in their own districts; f) promotion of the forms of connection with the port and inland logistics systems.

**Key words:** Port System Authorities (PSA), National Co-ordination Conference, maritime cluster, President PSA, Customs Agency, Management Committee of Port System Authorities, TEN-T, logistic integrated system

### **Reforma sistema pristaniške uprave v Italiji**

**Izvleček:** Italijanska vlada je nedavno sprejela novo uredbo o sistemu pristaniške uprave v Italiji, ki je del zakona št. 124 z dne 7. avgusta 2015, da bi na tak način uveljavila usmeritve transportne politike Evropske unije in obenem izboljšala strateško pomemben sektor pomorske logistike ter privabila nove vlagatelje. Oseminpetdeset italijanskih pristanišč je bilo preoblikovanih v petnajst novih enot sistema pristaniške uprave (PSA), organiziranih v sodelovanju z Nacionalno konferenco za koordinacijo pod nadzorom Ministrstva za infrastrukturo in promet. Omenjene cilje je vlada uresničila preko štirih ključnih točk: uvedbe centrov za

strateško odločanje, administrativne reorganizacije, poenostavitve uradniških postopkov in promocije drugih ukrepov na področju logistike in pristanišč. Naloge novega sistema pristaniške uprave, ki predstavljajo jedro koridorjev TEN-T, logistične mreže, v katero je vključen pomorski, cestni in zračni promet, so naslednje: 1. usmerjanje, načrtovanje, koordinacija in nadzor nad pristaniškimi dejavnostmi in storitvami, koncesioniranimi dejavnostmi ter drugimi poslovnimi in industrijskimi dejavnostmi v pristaniščih in na kopnem, pa tudi uredbena oblast na področju varnosti in higijene pri delu; 2. redno in izredno vzdrževanje skupnih površin na območju pristanišč vključno z vzdrževanjem morskega dna; 3. pristojnost in nadzor nad dejavnostmi za izvajanje storitev javnega pomena za uporabnike pristanišč z izjemo pristaniških dejavnosti in storitev, neposredno povezanih z omenjenimi dejavnostmi; 4. koordinacija administrativnih postopkov, ki jih izvajajo javni organi in organi znotraj pristanišč ter na morskih območjih v državni lasti, vključenih v posamezno teritorialno pristaniško upravo; 5. izključno upravljanje območij in virov morske državne lastnine, vključene v posamezno enoto; 6. promocija oblik povezovanja med pristaniškimi in kopenskimi logističnimi sistemi.

**Ključne besede:** sistem pristaniške uprave (PSA), Nacionalna konferenca za koordinacijo, pomorski grozd, predsednik PSA, carinska uprava, Upravni odbor sistema pristaniške uprave, TEN-T, logistično integrirani sistem

## Introduction

Recently the Italian Government has adopted a new regulation of the Italian Port Authorities under the law no. 124 of 7

August 2015 (*Gazzetta ufficiale* 2015, 1–49) in order to implement the European Union’s transport policy (Neller 2018, 456; Tonner 2007, 138) as well as to improve the strategic maritime logistic sectors and attracting investments. (Louis 2006, 3) By virtue of this delegated law, in fact, the Government was given the power to adopt legislative decrees aimed at the reorganization of public administrations, including also non-economic public bodies, like the Port Authorities. (Maresca 2001, 55) More precisely, pursuant to art. 8, co. 1, lett. f), the object of the aforementioned delegation to the Government is also the “reorganization, rationalization and simplification of the regulations concerning the port authorities pursuant to law of January 28, 1994, no. 84, with particular reference to the number, identification of system authorities and to governance taking into account the role of the regions and local authorities and the simplification and unification of customs and administrative procedures concerning ports.”

In this regard, the Explanatory Report to the above mentioned legislative decree highlights that the aim pursued by the provision in question, in accordance with the aforementioned principles and directive criteria established by the delegated legislator, is “to improve the competitiveness of the system port and logistics, to facilitate the growth of transport and goods as well as the promotion of intermodality in freight traffic, also in relation to the rationalization, reorganization and consolidation of existing Port Authorities.” The aim is not to privatize the ports but to improve the public administration of the Port System Authorities. (Prosser 2005, 22; Tongzone 2005, 410; Iudica 2018, 468)

## **Purpose of the reform**

The achievement of the aforementioned objectives was pursued by the Government through four key points: the introduction of strategic decision-making centers, administrative reorganization, bureaucratic simplification, and the promotion of other actions for logistics and ports. From the first point of view, the legislative decree under review foresees a reorganization of Italian ports aimed at transforming “the current fragmented and disjointed framework into a modern and efficient national system for organizing and governing ports and logistics”. In particular, as highlighted by the aforementioned Explanatory Report, the decree under review identifies the single-stop dimension typical of the city port model conceived by the legislator in the early nineties. This concerns the government bodies of Italian ports, one of the main factors on which to intervene, having over time this structure produced an inefficient allocation of resources and investments. In fact, the pre-existing situation of 76 ports of economic, commercial or industrial significance, half managed by 24 Port Authorities and the other half by the Maritime Authority or the Regions, has certified the absence of an integrated strategic governance of development and a geo-economic collocation attributable to a “national vision”. All aspects of the reform intend to establish strategic decision-making centers which work in cooperation represented by the new Port System Authorities: they represent the nodes of the TEN-T Corridors, a logistics network integrating maritime, road and air transports. (Costa 2014, 24)

More specifically, the art. 5 of the provision in question provides for a radical amendment to art. 6 of the Law 84/1994



aimed at reorganizing the above described structure of the Italian ports by setting up (Pericu 2005, 317; Radicati di Brozolo 2007, 527), instead of the current Port Authorities and the Port Territorial Offices, 15 new Port System Authorities to which 54 ports of national importance will report. These 15 new Port System Authorities are identified by the annex A of the provision in question and they do not affect the faculty of the Regions to request the inclusion of ports of regional importance within the port system headed by the territorially competent Port System Authority. Each Port System Authority will be located in the core port – to be identified, pursuant to the Regulation of the European Union no. 1315/2013 (Official Journal 2013, 1–128), in the port that has the greatest strategic importance among the ports falling within the competence system of each Authority. This will not affect the possibility for the Minister of Infrastructure and Transport to identify, on a reasoned proposal from the region or regions whose territory is affected by the Port System Authority, the headquarters of the latter at a different port that was the site of the previous Port Authorities suppressed and replaced by the new Port System Authority .

The Port System Authorities assigned tasks are: a) guidance, planning, coordination, and control of port operations and services, concessionary activities and other commercial and industrial activities carried out in ports and territorial districts as well as ordinance powers also in safety and hygiene at work; b) ordinary and extraordinary maintenance of the common parts in the port area, including that for the maintenance of the seabed; c) entrustment and control of activities aimed at supplying services of general interest to port users for valuable consideration, with the exception of port operations and services strictly connected to said

operations; d) coordination of administrative activities carried out by public bodies and bodies within the ports and in the state-owned maritime areas included in the territorial district of the Authority; e) the exclusive administration of the areas and assets of the maritime state property included in their own districts; f) promotion of forms of connection with the port and inland logistics systems.

The Port System Authorities are configured as non-economic public bodies of national relevance with special regulations, endowed with administrative, organizational, regulatory, budgetary and financial autonomy, who will take over “the Port Authorities ceased in the ownership and possession of the assets and in all the ongoing relationships, including those working”.

### **Characteristics of the reorganization**

The reorganization of the current structure of Italian ports is then completed through the introduction of peripheral offices constituted by the territorial port offices, alongside the strategic decision-making centers described above. Article 6 of the decree in question provides, in fact, the introduction of the art. 6-bis Law 84/1994, by virtue of which, within the territorial districts of the Port System Authorities (PSA) comprising two or more port calls, a port call center will be established at each port that is already the headquarters of the suppressed Port Authority, with the exception of the port where the PSA is located. The port call centers are, therefore, configured as territorial offices of the Port System Authorities which are entrusted with functions: a) preliminary investigation, for the purpose of adopting the delibera-

tions for which the PSA is responsible; b) of proposal, with reference to matters of local importance falling, however, in the competence of the PSA; c) administrative, in relation to matters of non-strategic importance, to the coordination of port operations, to minor works of ordinary maintenance of the port; d) supervision and control under the direction of the PSA. These functions will be exercised by the port call centers using the structures of the discontinued Port Authority. (Tonoletti 2008, 296)

In terms of administrative reorganization, the legislative decree under review outlines a governance model of the Port System Authority, which, although characterized by four bodies, similarly to the port Authority's governance model, should be more streamlined, given the net reduction in the number of members of the Management Committees with respect to the Port Committees that they will replace. More precisely, under the art. 7 Law 84/1994, as amended by art. 7 of the provision in question, the bodies of the Port System Authority are: a) the President; b) the Management Committee; c) the general secretary; d) the Board of Auditors. The emoluments of these bodies are charged to the budget of the Port System Authority and are determined by the Management Committee within the maximum limits established by a specific decree of the Minister of Infrastructure and Transport.

According to the reformed art. 8 of Law 84/1994, the President is appointed by the Minister of Infrastructure and Transport, in agreement with the President or the Presidents of the regions concerned. And he is chosen among subjects with proven experience and professional qualification in the sectors of the transport economy and port, taking into ac-

count the applicability of the rules dictated in the matter of incompatibility, accumulation of jobs and offices pursuant to art. 53 Legislative Decree 165/2001 and Legislative Decree 39/2013. The President remains in office for 4 years, with the possibility of being reappointed only once, he is the legal representative of the institution and exercises all the powers of ordinary and extraordinary administration, with the exception of those reserved to other bodies, as well as all the functions expressly assigned to him, such as: presiding over the Management Committee, to propose the appointment of the General Secretary, to appoint, having heard the Management Committee, the managers of the port call centers, to submit to the Management Committee the operational plan, the regulatory plan of port system and the patterns of resolutions regarding the budget and the final account, to coordinate the activities carried out in the port by the public administrations, as well as to control and coordinate the activities subject to authorization and concession and the port services with the right to convene a special conference of services with the participation of representatives of public administrations, of the concessionaries and owners of the services concerned in order to examine and resolve issues of interest to the port. The President also reports annually on the activity carried out in relation to the Minister of Infrastructure and Transport.

Otherwise, the Management Committee, pursuant to art. 9 Law 84/1994, as amended by the legislative decree under discussion, is composed of: the President of the Port System Authority, who presides over it and whose vote prevails if the Committee is composed or is in any case resolved in an even number of components; by a member designated by the Region or by the Regions whose territory falls, even

partially, in the territorial district of the Port System Authority; by a member appointed by the Mayor of each of the metropolitan cities whose territory falls within the territorial district of the Port System Authority (Citrigno 2003, 46); by a member appointed by the Mayor of each of the Municipalities of the former Port Authority office included in the territorial constituency of the Port System Authority, with the exception of the municipalities capital of the metropolitan cities; by a representative of the Maritime Authority, to whom, however, the right to vote is attributed exclusively in the relative matters of competence. The members of the Management Committee, like the President, hold office for 4 years, without prejudice to their forfeiture if a new President is appointed.

The Management Committee is assigned numerous functions that are listed in detail in the new art. 9 Law 84/1994, such as: the adoption of the regulatory system of the port system; the approval of the three-year operational plan concerning the development strategies of port and logistic activities; the approval of the budget, the variation notes and the final account; the preparation, at the proposal of the President, of the administration and accounting regulations of the Port System Authority, which must then be approved by decree of the Minister of Infrastructure and Transport together with the Minister of Economy and Finance; as well as the approval of the annual report on the activity of the Port System Authority prepared by the President and to be presented to the Minister of Infrastructure and Transport. The Management Committee meets every two months and, in any case, upon convocation by the President and/or when requested by a third of its members. For the purposes of validating the sessions, the presence of half plus one of

the members is required and the resolutions are passed by a majority of those present. The General Secretary actually replaces the previous Secretariat and absorbs its tasks and functions. Under the art. 10 of Law 84/1994, as amended by the provision in question, he is appointed by the Management Committee, on the proposal of the President of the Port System Authority, from experts with proven professional qualifications in the sector of ports and in administrative and accounting matters. Like the President, the Secretary General holds office for 4 years with the possibility of being renewed only once; however, he can be removed from office by resolution of the Management Committee, based on a justified proposal by the President.

The functions specifically identified in art. 10, co. 4, Law 84/1994, as amended by the legislative decree in question, including those to provide for the necessary formalities for the operation of the Port System Authority, are: to handle the preliminary investigation of the deeds of competence of the President and the Committee of management; to take care of relationships for the purpose of coordinating the respective activities with state, regional and local government administrations; to oversee the implementation of the directives of the President and the Management Committee, as well as to draw up the port regulatory plan. He is also in charge of the technical-operational secretariat which he uses for the purpose of performing the aforementioned functions and which is composed of suppressed Port Authority staff.

With regard to the Board of Auditors, the new art. 11 of the Law 84/1994 establishes that it is composed of 3 effective members and 2 substitutes chosen from among those registered in the register of statutory auditors or between

persons in possession of specific professional skills and appointed by the Minister of Infrastructure and Transport, who is responsible for the appointment of chairman of the Board (Xerri Salamone 1998, 56), of another effective member and a substitute member, as well as of the Ministry of the Economy and Finance, which is responsible for appointing an effective member and an alternate member. The members of the Board of Auditors shall hold office for 4 years with the possibility of being reappointed only once; the same are assigned “all the tasks required by the current regulations regarding the function of auditor” , and, in particular, the functions of verifying the regular keeping of books and accounting records, of performing quarterly cash audits, of drafting the reports within its competence, of reporting periodically to the Minister of Infrastructure and Transport, as well as to attend the meetings of the Management Committee; otherwise, it is forbidden for members of the Board of Auditors to participate, in any form, in activities related to the responsibilities of the PSA or other bodies that perform tasks, in any way connected to the activities of PSA. In order to perform these functions, the Board of Auditors is convened by the President of the Board whenever he believes it is necessary and/or upon request of the members of the Board, as well as, in any case, at least once a quarter.

### **Coordination and partnerships**

Finally, next to the above-described bodies of the Port System Authority, the decree under review also provides for the establishment of partnership tables for the sea resource and a national coordination table for the Port System Authorities aimed at guaranteeing, respectively, the dialogue

of the aforementioned PSA bodies with the economic and social subjects operating in the ports and the unity and coherence of the national strategy.

More specifically, the art. 12 of the legislative decree hereby provides for the introduction of the art. 11-bis Law 84/1994, on the basis of which at each Port System Authority a Sea resource partnership table will be set up consisting of the President of the PSA, the commander of the port or the ports that are part of the port system to headed by the PSA, as well as by representatives of all employers' associations and trade union representatives of the categories operating in the port. This body is assigned consultative functions of economic and social partnership, partially coinciding with the functions previously attributed to the Advisory Commissions which, in fact, will be replaced by the body in question. More specifically, the advisory functions attributed to the Sea Resource Partnership Table concern the adoption of the port system regulatory plan and the three-year operational plan, the determination of the levels of services rendered within the PSA port system, the work organization in port and also the approval of the budget and final balance. Moreover, if more core ports than Port Authorities meet in the port system under the responsibility of a single PSA, the Maritime Cluster Table will be set up at each of them.

The same art. 12 of the decree in question also provides for the introduction of the art. 11-ter Law 84/1994 which establishes the establishment of the National Coordinating Table of the Port System Authorities which will be composed of the Presidents of the PSA and coordinated by a subject to be appointed by decree of the President of the Council of Ministers, upon proposal of the Ministry infrastructure



and transport, with proven experience and professional qualification in the transport and port economy sectors. This body is responsible for coordinating and harmonizing, at the national level, the choices that concern large-scale infrastructure investments, urban planning in the port area, as well as the strategies for implementing the policies of the maritime domain and marketing and promotion of the system national port on international markets.

The objective of bureaucratic simplification is pursued by the provision under review by setting up a Single Administrative Desk (SUA) and the implementation of the current Single Customs Desk, which will absorb the functions of the various and numerous subjects currently competent to carry out administrative procedures related to the port system in order to lower customs clearance and administrative times. In particular, the *de quo* legislative decree envisages provides, first of all, for the establishment, at each Port System Authority, of a SUA which will perform a front office function with respect to all the subjects appointed to operate in port for all administrative and authorization procedures not related to commercial and industrial activities carried out of the port. Secondly, the provision in question establishes the implementation of the current Single Customs Desk through the attribution to the Customs Agency also of the competences for all the obligations connected to the entry and exit of goods in and from the national territory and of the coordination function, as well as on the procedures deriving from the application of the union rules already attributed in the head of the aforesaid Desk, also on those arranged by other administrations or state bodies, with the exception of those arranged by the Judicial Authority and those carried out by the competent bodies for state security. (Gallo 2010,

88) In the light of the extension of the powers attributed to the Customs Agency to the aforementioned controls, the aforementioned Desk will be renamed into the Single Customs Desk and the Controls.

Furthermore, in order to reduce the excessively time-consuming timing of customs clearance procedures, the legislative decree under review establishes that the aforementioned controls coordinated by the Customs Agency through the aforementioned branch must be carried out simultaneously, in the same place and in compliance with particularly deadlines stringent. Finally, for the same purpose, provisions are laid down to simplify the administrative requirements concerning the arrivals and departures of ships falling within the scope of the Legislative Decree 196/2005, implementation of Directive (EC) 2002/59. In this regard, it is established, in fact, that ships operating in the customs territory of the European Union, when they do not come from a port located outside the Union or from a free zone, do not call or go there, the IMO FAL forms required by Directive 2010/65/EU are exempt concerning declarations of ship's stores, crew's personal effects, the list of passengers and dangerous goods on board.

## **Conclusion**

In conclusion, therefore, it is clear that the changes introduced by the legislative decree in question, in implementation of the principles and directive criteria set by the delegating legislator, are aimed at remedying the continuing absence of a stringent national strategy, aimed at developing the port system as a whole through the development of

an integrated strategic governance for the strengthening of the Italian port system attributable to a “national vision” that allows a greater effectiveness of the allocation of resources and investments. This reform of the Italian port system is, in fact, closely linked to other actions aimed at improving the competitiveness of Italian ports in the international arena, such as, first of all, public investments aimed at improving the depth of the seabed of Italian ports and the connections of the last mile between the latter and interports, airports, logistics and distribution platforms. In this regard, in fact, it was highlighted that, on the one hand, the Italian port system can benefit from the renewed centrality of the Mediterranean Sea in global maritime traffic as a result of the recent doubling of the Suez Canal; on the other hand, however, Italian ports have to cope with increased competition from the large ports of Northern Europe but also from North Africa, the south-eastern area of the Mediterranean, and the need to provide for structural changes necessary to cope with the naval gigantism, as well as attracting investments from the large industrial partnerships that, to date, control most of the world’s commercial traffic.

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1.03 kratki znanstveni prispevek

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## **The Directive 2009/16/EC on Port State Control: Establishing Common Criteria against Substandard Shipping**

**Abstract:** As provided by the Resolution IMO A.787 and A.882 Port State Control (PSC) represents the complex of control and inspection powers exercised by the state on foreign ships in the port to ensure the compliance with the safety standards and regulations by the relevant provisions of the international conventions. Recently the Directive 2009/16/EC of the European Parliament has established new rules to prevent maritime accidents, with reference to environmental damage, to the protection of staff, passengers and others as well as to the identification of procedures to reduce the accidents' consequences. In particular, the Directive has introduced a second line of defense against substandard shipping imposing that the monitoring of compliance with the international standards for safety, pollution prevention and on-board living and working conditions should also be ensured by the port state and not only by the ship's flag state.

**Key words:** Port State Control, flag state, pollution prevention, compliance of ships, inspections, substandard shipping

## **Direktiva 2009/16/EC o državnem nadzoru pristanišč: vzpostavitev splošnih meril proti neustreznemu vzdrževanju ladij**

**Izvleček:** Izhajajoč iz resolucij IMO A.787 in A.882 predstavlja državni nadzor pristanišč (PSC) skupek nadzornih in inšpekcijskih pristojnosti, ki jih država izvaja v odnosu do tujih ladij v njenih pristaniščih, da bi zagotovila skladnost z varnostnimi standardi in uredbami, ki jih narekujejo mednarodne konvencije. Direktiva Evropskega parlamenta 2009/16/EC je nedavno vzpostavila nova pravila za preprečevanje nesreč na morju z ozirom na škodo, povzročeno okolju, zaščito osebja, potnikov in drugih oseb ter identifikacijo postopkov za blaženje posledic, ki jih povzročajo nesreče. Direktiva je uvedla predvsem dodatno zaščito proti neustreznemu vzdrževanju ladij: določa, da je za spremljanje skladnosti z mednarodnimi standardi glede varnosti, preprečevanja onesnaževanja in življenja na krovu ladij ter delovnih pogojev odgovorna tudi država, v kateri se nahaja posamezno pristanišče, in ne le matična država, pri kateri je ladja registrirana.

**Ključne besede:** državni nadzor pristanišč, matična država, preprečevanje onesnaževanja, ustreznost ladij, inšpekcije, neustrezno vzdrževanje ladij

As provided by the Resolution IMO A.787 and A.882 Port State Control (PSC) represents the complex of control and inspection powers exercised by the state on foreign ships in the port to ensure the compliance with the safety standards and regulations by the relevant provisions of the international conventions. (Celle 2007, 712) Historically, the Port State Control was born in the United Kingdom at the end of the nineteenth century in order to guarantee a minimum

safety standard for foreign ships plying the British ports. (Churchill 1999, 96; Douglas 1993, 60) But it is only at the end of the 1970s that in Europe, also on the basis of serious maritime accidents, such as the disastrous environmental damage caused by the ship Amoco Cadiz, the common will of the states to equip themselves with the tool of Port State Control is born to improve the safety of the navigation. (O'Connell 1984, 338) After a first international conference in 1980, it will be necessary to wait until 1 July 1982 for the Memorandum of Understanding (MOU) on Port State Control to take effect. MOU was initially applied only in the following countries: Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Netherlands, Norway, Portugal, Spain, Sweden, and United Kingdom. Actually, there are 9 regional agreements on Port State Control and it has 195 member countries.

The Directive 2009/16/EC of the European Parliament, on the basis of the previous EU legislation, including the Directive 95/21/CE of 19 June 1995, amended several times (Montebello 2006, 95), has clearly established that the responsibility for monitoring pollution prevention and on-board living and working conditions primarily lies on the ship's flag State. The Directive 2009/16/EC has the merit to try, on the one hand, to prevent maritime accidents, both with reference to environmental damage, to the protection of personnel, and, on the other hand, to identify procedures to reduce the consequences once the accidents have occurred. (Mancuso 2006, 148; Ehlers 2008, 120; Kasoulides 1993, 86) However, due to a serious failure of a number of flag states to implement and enforce international standards, the Directive 2009/16/EC has provided a second line of defense against substandard shipping. It imposes that the monitoring of compliance with



the international standards for safety, pollution prevention and on-board living and working conditions should also be ensured by the port state and not only by the flag state of the ship. (Carbone 2010, 170; Maresca 2001, 146)

We need to consider also that Directive 2009/16/EC is a part of the Third Maritime Safety Package adopted by the European Parliament in 2009, which included also the following directives: Directive 2009/15/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations; Directive 2009/17/EC establishing a community vessel traffic monitoring and information system; Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector; Directive 2009/20/EC on the insurance of shipowners for maritime claims; Directive 2009/21/EC on compliance with flag state requirements. The European Port State Control regime is based on the idea of targeted inspections, which ensures that ships have to be inspected at the ports of the European Union's states as provided by the Directive 2009/16/EC. The key elements of the European Port State Control regime are: the harmonized approach to inspections and detentions, the annual inspection commitment of the European states, the targeting of ships for inspection based on a ship risk profile, the company performance, and the record keeping and information sharing on substandard shipping and maritime incidents. Each member state shall inspect all priority ships periodically as provided by the article 5 of the Directive 2009/16/EC.

It is important to consider that the number of inspections changes every year and is calculated on the basis of the aver-

age number of inspections carried out in the previous three years. In particular, the targeting of the ships for inspection depends on generic factors and on historical factors. The generic factors include: the type and age of the ship, the performance of the flag state, the performance of the recognized organizations and the performance of the company responsible for the International Safety Management Certification (ISM) . While the historical factors include the number of deficiencies found in the past and the number of detentions imposed. It is also necessary to consider that the ships' control depends on their risk level: the high-risk ships (HRS) must be checked every five months at least, the standard risk ships (SRS) need a check at least every 10 or 12 months, while the low risk ships (LRS) must be checked every 24 or 36 months. As far as the company performance is concerned, it depends on three factors: the number of ships in the fleet, the number of detentions, and the number of ISM or non-ISM deficiencies recorded at each inspection. It is important to consider that ISM deficiencies are considered five times more serious than non-ISM deficiencies. Further, as provided by art. 27 of the Directive 2009/16/EC, the Commission shall establish and regularly publish on a public website the information relating to companies whose performance has been considered as low and very low for a period of three months or more.

A foreign ship can be inspected limitless times during a year in case it occurs in collisions, illegal discharge, unsafe maneuvering, class suspended or withdrawn and when it is not found in the database. The initial inspection consists of a visit on board in order to: check the relevant certificates and documents, verify the general conditions and the hygiene of the ship, check whether any deficiencies detected by an

authority in a previous inspection are been corrected within the time specified in the former inspection report. When the ships are older than 12 years and their condition or crew members are substandard there is the necessity of a more detailed inspection. As provided by art. 16 of the Directive, a member state shall ensure that it will be refused access to its ports to all those ships included in the black list or having been detained more than twice in the last 36 months, and to all those ships flying the flag of a state falling into the grey list because of the numbers of detentions of its ships.

Moreover, the Directive provides (art. 18) about the possibilities for a subject to present a complaint which generally produces an inspection. More exactly, all complaints shall be subject to a rapid initial assessment by the competent authority. This assessment shall make it possible to determine whether a complaint is justified. Should that be the case, the competent authority shall take the necessary action on the complaint, in particular, ensuring that anyone directly concerned by that complaint can make their views known. Where the competent authority deems the complaint to be manifestly unfounded, it shall inform the complainant of its decision and of the reasons therefore. The identity of the complainant shall not be revealed to the master or the shipowner. The inspector shall ensure confidentiality during any interviews of crew members. As provided by article 19, after the inspection the competent authority shall be satisfied that any deficiencies revealed by the inspection must be rectified in accordance with the conventions. In case of deficiencies which are clearly hazardous to safety, health or the environment, the competent authority of the port state has the power to stop the activity of the ship till the deficiencies will be rectified. The detention order or

stoppage of an operation shall not be lifted until the hazard is removed.

If the inspection reveals that the ship is not equipped with a functioning voyage data recorder, when use of such recorder is compulsory in accordance with Directive 2002/59/EC, the competent authority shall ensure that the ship is detained. If such deficiency cannot be readily rectified in the port of detention, the competent authority may either allow the ship to proceed to the appropriate repair yard nearest to the port of detention where it may be readily rectified or require the deficiency to be rectified within a maximum period of 30 days, as provided for in the guidelines developed by the Paris MOU. For these purposes, the procedures laid down in Article 21 shall apply. In exceptional circumstances, where the overall condition of a ship is obviously substandard, the competent authority may suspend the inspection of that ship until the responsible parties take the necessary steps to ensure that it complies with the relevant requirements of the conventions. It is important to notice that various authors consider the possibility of a state to stop the activity of a ship presenting any noncompliance also in the hypothetical case that the state has not joined the Paris MOU or the aforementioned Directive. (Scovazzi 2000, 228; La Fayette 1996, 22)

In the event of detention, the competent authority shall immediately inform the flag state administration or, when this is not possible, the consul or, in his absence, the nearest diplomatic representative of that state. If a ship is unduly detained or delayed, the owner or operator shall be entitled to compensation for any loss or damage suffered. In order to alleviate port congestion (Schiano di Pepe 2007, 136), a competent authority may allow a detained ship to be moved

to another area of the port if it is safe to do so. However, the risk of port congestion shall not be considered when deciding on a detention or on a release from detention. Port authorities shall cooperate with the competent authority with a view to facilitating the accommodation of detained ships. The port authorities shall be informed at the earliest convenience when a detention order is issued.

Finally, it is important to consider that the owner or operator of a ship or his representative in the member state shall have a right to appeal against detention or refusal of access by the competent authority. An appeal shall not cause the detention or refusal of access to be suspended. Member states shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.

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**(zaslužni papež Benedikt XVI.,  
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