EBS REVIEW

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Recovering from Crisis, Organisational Change and Development

Mari Kooskora, Ruth Alas

Dear Readers,

In this issue we are continuing the discussion of change and organisational development.

We can argue that changes can take place in different forms; there can be minor adjustments, significant improvements or even total reconstructions; however, all these activities need careful planning, implementation and evaluation, all need good change management.

Significant organisational changes happen when organisations choose to make changes in their strategy, add or remove some fields of activity or even change the way they operate. Organisational changes may be related to different life cycles, and in order to develop, organisations often must undergo significant change at various points in their existence.

One of the reasons for the need for change in our organisations is the recent crisis we had to face. Today, we hope we are in the middle of the recovery process, but unfortunately it is not yet clear how long this will take and how successful we will be. However, it is clear that in most fields we need to make change and start seeing and doing things in a slightly different way to what we are used to.

Constant and careful attention to change management helps organisations overcome difficulties and recover and develop further. Although we may admit that change management is never easy, changes can be stressful and destructive, especially when they are either mistaken or mismanaged, every change can be taken as an opportunity. Changes push people out of their comfort zones, force them to rethink and re-evaluate things and re-invent and reconstruct themselves and their organisations. And all this leads to development at the personal, organisational or even societal level.

In this issue of EBS Review you will find almost all authors discussing the topic of change in some form – changes taking place in organisations, professional activities, theoretical approaches and orientations.

The first article discusses the topic of company crisis. The authors **Elisa Giacosa and Alberto Mazzoleni** in their article 'The behaviour of companies facing a crisis: recent Italian experience' analyse the firm's behaviour when facing a crisis in two different moments – before the crisis happens and in the recovery phase. They first verify whether the crisis has been predicted or has arisen unexpectedly; in addition, the typical signs of a crisis are examined. With regards to the recovery phase, the firm's behaviour in overcoming a crisis is observed. The authors verify whether external advisors are involved in managing the crisis and find a correlation between effective management information systems and the capacity to take decisions in favour of recovery. Finally, attention is given to the duration of the recovery project's formalization, as well as to the reasons that may prolong this activity of formalisation.

The next paper by **Rainer Loidl and Marie-Therese Sagl** is titled as 'Reconstructing organisational and professional changes in the field of social work'. This is a case study on women's aid organisations in Austria and applies evolution theory to explain the changes

in organisations in the field of social work. They answer the questions: What do the theoretical approaches of Weick, Aldrich, Freeman, Hannan, Woywode and Kieser deliver to explain the organisational and professional tensions in practice? The authors attempt to show how professional principles seize overall trends and influence organisational orientation, organisation design and development, quality and human resource management and other aspects. Three cases in the field of women's aid organizations in Austria are analysed.

'The role of Human Resource Manager: Change agent vs. Business partner?' by **Luca Quaratino, Daniele Boldizzoni** aims to contribute to discussions of the role of HRM in Italy. In particular, it tries to understand the progress of companies operating in Italy in the process of transition from an "administrative approach" to new and more challenging roles, particularly those of change agent and business partner. The findings indicate that it is possible to point out that if the role of change agent in the last decade has reduced its diffusion from a strictly quantitative point of view, at the same time today it seems to be much sounder. As a matter of fact it is characterized by the adoption of rather coherent HRM objectives, strategies and practices based on the idea of valuing human capital – according to Ulrich's model, a long-term orientation to people.

'The Balanced Scorecard: the evolution of the concept and its effects on change in organisational management' by **Helena Isabel Barroso Saraiva** presents a history of the concept the Balanced Scorecard, from its appearance to present day, showing that its evolution is closely related to the fact that the concept has always had practical application. This article aims to establish a relationship between the applications of the instrument and the evolution of the Balanced Scorecard concept; it also seeks to demonstrate that this concept has induced changes in the way that

organisational management at the global level has evolved in recent years, due to innovations and to its wide spread use around the world.

The Balance Scorecard is also the topic of the next paper, where **Maritana Sedosheva** tackles two research questions: (1) how does the Balanced Scorecard (BSC) contribute to organisational performance, and (2) does it represent a new method of military resources management by applying a unique e-Budget platform? The author believes that the rapid development in the field of measurement methods and techniques that has taken place over recent years offers new opportunities for designers of measurement systems through the use of virtual instruments; for example, balanced scorecards.

The results show that the Balanced Scorecard application using the 'utility function' will allow the Estonian Defence Forces to overcome important barriers to implementing strategy via the interrelation of military planning and budgeting processes. Moreover, the Balance Scorecard focuses on monitoring some easy-to-measure indicators that provide a traditional view of military spending.

Finally, **Urmas Arumäe** argues that in the course of recent legal history, one of the most important achievements of jurisprudence in individual rights is considered to be the development of the legal person and the attendant regulatory amendments. His paper 'Territorial Communities and the Institution of the Legal Person' focuses on the functional mechanism of territorial communities and the institution of the legal person. According to the author, a legal person is an organisation created / formed by people that is recognised by the legal order, which, in order to fulfil its goals, participates in legal utilization as a subject possessing total passive legal capacity. The author maintains that in established law,

the legal regulation of the institution of the legal person does not correspond to the needs of legal utilization in the context of territorial communities and generally recognized principles of law.

Dear readers, we hope that this brief introduction to the topics of the current EBS Review sparks your interest in the topics and articles presented in this issue. As usual all the articles go through a time consuming process of review and evaluation, and the authors often have to rewrite and submit their papers several times before our distinguished editors are satisfied with the results. We consider the topics covered to be important and hope, dear readers, that you can find something interesting to discover.

As you might notice there are also some changes made to our own journal. In order to better cope with the current situation we have changed our publishing partner and now we have a new designer and lay-out. We would also like to extend a warm welcome to our new editorial board member Grant Michelson from Audencia Nantes School of Management in France and believe that he will help us in the selection of the best papers we can bring to you. We sincerely hope that you take these changes positively and remain our loyal readers.

We would also like to express our gratitude to the authors, editors and partners, indeed to everybody who has helped us prepare this issue for our readers.

On behalf of the editorial board

Mari Kooskora and Ruth Alas

The Behaviour of Companies Facing a Crisis:
The Recent Italian Experience

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Abstract

The objective of this study is to investigate situations of company crisis in Italy in two different periods.

First, we analysed the firm's behaviour when facing a crisis. In particular, we verified whether the crisis had been predicted or had arisen unexpectedly; in addition, the typical signs of a crisis were examined.

With reference to the recovery phase, the firm's behaviour in overcoming a crisis was observed. In particular, we verified whether external advisors were involved in managing the crisis; furthermore, correlation was found between an effective management information system and the capacity for taking decisions in favour of the recovery. Finally, attention was given to the duration of the recovery project's formalisation, as well as to the reasons that may have prolonged this activity of formalisation.

The analysis did not focus on behavioural differences between companies according to:

- he various sectors to which they belong;
- the amount of debt restructured;
- whether or not they were listed on the stock exchange.

Previous Literature

Literature on the subject of company crisis has been developed according to the perspective of prevision, management and resolution (Foster, 1980: 217; Burton, 1993: 2; Rosenthal and Pijnenburg, 1991: 3; Green, 1992: 67; Roux-Dufort, 2007: 105; Coombs, 2006: 2; Deming, 2000; Norberg, 2011: 133; Sabovic, Miletic and Sabovic, 2010: 614).

International literature on company crises in particular has been developed since the 1970s, when crises were characterised by external turbulence in industrialised systems (Connor, 1987: 14; Canziani, 1986: 20). With particular reference to Anglophone studies, they were modest under a conceptual profile, as well as rather derivative of the experience accumulated in concrete cases. The causes of crisis were identified, in addition to the most suitable intervention models for resolving them (Brooks, 1964; Deeson, 1972; Ross and Kami, 1973; Argenti, 1983; Taylor, 1982). Starting from the beginning of the 1990s, the causes of crisis were examined in a more in-depth manner, adding causes attributable to environmental factors to internal causes (Taylor, 1980; Slatter, 1984; Meyers, 1986).

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It is possible to identify some approaches to analysing the crisis phenomenon:

a) Classic Approach (Burns and Stalker, 1961; Altman, 1968; Altman, 1983; Schendel and Patton, 1976; Bibeault, 1982; Slatter, 1984): crisis is "an inevitable but necessary evil" for ensuring the natural selection of companies in the competitive context (Chisholm and Burns, 2010: 2; Danovi and Indizio, 2008: 7). In terms of the theory of natural selection, crisis leads to the expulsion of inefficient companies from the competitive context; it produces a consequent reallocation of resources towards the most profitable businesses. The crisis phenomenon becomes inevitable, but also qualifying for the companies that overcome the crisis (Guatri, 1986: 9; Piciocchi, 2003: 3);

b) Transitional Approach (Peters and Waterman, 1982; Mintzberg, 1987; Mintzberg, 1994; Normann and Ramirez, 1995): every company, whether the strongest or the weakest, must consider itself as 'perennially' in crisis. Continual research and innovation activity become obligatory choices, as does the renewal of the company's productive mix (Danovi and Indizio, 2008: 9; Bastia, 1996: 19). It is ultimately beneficial for the company to operate with the risk of crisis; in addition, the company should be prepared for a possible turnaround process (Slatter and Lovett, 2004: 5; Guatri, 1995: 59);

c) Entity-Based Approach (Tichy and Ulrich, 1984; Slatter et al., 2005): the crisis is considered not so much the result of a radical change in company, but rather as the result of a deterioration of its 'vitality' (Mitroff, 1991; Mitroff and Pearson, 1993). The manifestation of the crisis follows a period of the accumulation of negative elements that, after a latent period, are revealed thanks to a provoking event (Tichy and Ulrich, 1984).

To sum up these three, the Classic Approach considers crisis as a phenomenon that affects inefficient companies, ensuring natural selection in the competitive context. By contrast, in the Transitional Approach, crises affect every company, both the weaker and the more solid; every firm has to live with the risk of the crisis. In the Entity-Based Approach, crisis is due to the deterioration of the firm's 'vitality'", and thus could involve all companies;

d) The new approach towards crises: in recent years, studies are characterised by a new approach towards crises, which have become frequent and are no longer rare events in the life cycle of a company. In our opinion, this orientation may best be defined as the 'normalisation' of company crises. That is to say that a crisis is no longer considered an occasional and extraordinary moment in the life cycle of a company (Alas and Gao, 2010), but a normal event caused by the deterioration of a firm's 'vitality'. According to this approach, the life cycle of a company is characterised by alternating phases of success and failure (Slatter and Lovett, 2004: 2; Gao and Alas, 2010: 9; Habermas, 1973: 11; Cazdyn, 2007: 647). The passage from a positive phase to a negative one is accompanied by signs that are capable of revealing the approach of a negative situation; these 'warning symptoms' (Slatter and Lovett, 2004: 14; Sloma, 2000: 139; Heath, 1998: 6) manifest themselves tenuously at first, and then become increasingly intense. Sometimes, they can also irreversibly compromise the typical equilibrium of the company and endanger its very survival (Slatter and Lovett, 2004: 9; Guatri, 1995: 15). The intermediate phase between the situation of success and of failure is also defined as a phase of 'decline' (Slatter and Lovett, 2004: 14). Decline can be understood as a situation in which the company does not create value from its economic capital, but destroys it; therefore, a company is in a decline if it loses value over time (Guatri, 1995: 106).

This 'normalisation' approach to company crises is taken as the basis for this research, as it interprets the peculiarities of the crisis phenomenon currently with us.

The negative phases that characterise the life cycle of the company can present themselves according to different modalities (Guatri, 1995: 15):

a) Cyclical: they take place according to a periodic rhythm. Positive phases are followed by negative phases, to which the company must react or risk being eliminated from the competitive context. The company is used to this alternation; it is necessary to be prepared in advance to deal with periods of failure. Following these cyclical negative phases, there can be either a suspension of business activity or a return to normality;

b) Structural: the causes of the failure remain hidden for a long time, appearing suddenly and unexpectedly. A negative structural phase can produce a decline in the company. This decline can lead to:

   - the adoption of a turnaround process (Sloma, 2000; Slatter and Lovett, 2004; Bibeault, 1982: 81; Whitney, 1999; Lenahan, 2006; Shuchman and White, 1995; Schrager, 2003), characterised by a group of

interventions put in place during the decline phase, but before recognition of the crisis;

   - turning into a crisis when the decline has reached a certain level of intensity (Heath, 1998: 10). The crisis can lead to the company closing its activities or, by means of a recovery project, lead it back to development. In turn, the recovery process can lead to a turnaround, which happens once the basic economic-financial conditions have been re-established.

The turnaround strategy can be put into place at two different moments in the company's life: in response to a decline (turnaround from a decline) or after having re-established basic economic-financial conditions following a crisis (turnaround from a crisis). Given the differences in the initial circumstances, the diversity of the two turnaround processes refer above all to aspects of the negotiation with stakeholders and to the potential for the success of the operation (Guatri, 1995: 156).

This path is schematised below (see Figure 1).

The approach used to identify the causes of the crisis follows different outlines (Bibeault, 1999: 36; Bradley, 1978; Zuckerman, 1979; Guatri, 1986: 13; Sciarelli, 1995: 15; Passeri, 2009: 109):
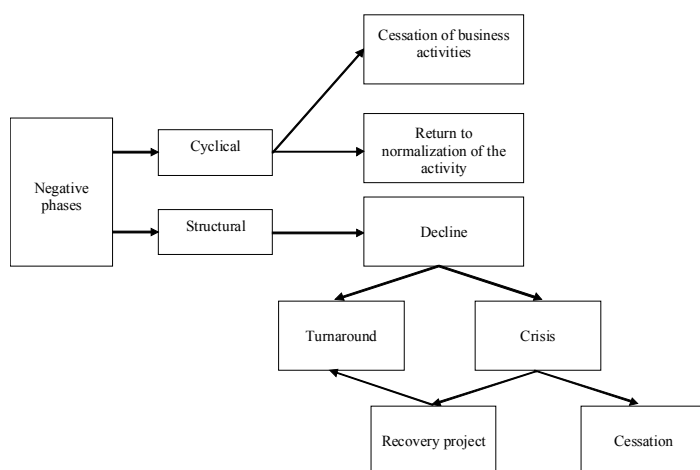

Figure 1: The path of development of negative phases
Source: adaptation from Guatri, 1995: 17

a) The subjective approach: the causes of a crisis may be from the behaviour and inefficiencies of the leaders of the company, whose elimination may resolve the situation (Guatri, 1985: 13):

- first, blame is given to 'bad management' (Bibeault, 1999: 36) or 'poor management' (Slatter and Lovett, 1999: 21), which is seen as the cause of all the company's problems. The management level of the company is almost always involved, either directly or indirectly, in a crisis and in its successive recovery (Bradley, 1978; Zuckerman, 1979; Coda, 1983). Some examples of these problems are: an inadequate management structure, inefficient control of financial matters, poor management of resources, a scarcity of distributive policies, an inaccurate investment policy and organisational incapacity;

- second, blame is given to the entrepreneur, who must give impetus to new combinations or business innovation in order to create new stimuli and directions (Bastia, 1996: 12);

- workers employed in the company may also be blamed: employees working in various areas at every level must be sufficiently prepared, trained and motivated (Mitroff, 2005);

- finally, other stakeholders may also represent a contributory cause of the crisis: for example, banks, suppliers, unions, creditors in general, which may be reluctant in wanting to accept strategies for saving the company;

b) The objective approach: the crisis derives from events that escape the governance of the management, generally connected to the dynamism and variability of the environment. Generally, the causes of the crisis arise from the macroeconomic environment or sector.

Regarding the two preceding approaches (the subjective approach and the objective approach), the literature distinguishes the following types of crises in terms of their origins (Alas, Gao and Vanhala, 2009: 2; Gao and Alas, 2010: 9; Sciarelli, 1995: 17):

1) crisis situations with an internal origin: the determining cause is represented by strategic and organisational errors of the company's top management and, more generally, of third parties operating in the company;

2) crisis situations with an external origin: in this situation, the influence of factors beyond the control of the company's top management is dominant. Regarding crises with an external derivation, it is possible to make the following distinctions:

- crises deriving from macroeconomic factors: these refer to the economic, political and social situation of one or more countries;

- crises deriving from sectorial factors: these refer to the economic, political and social situation of the sector to which the company belongs.

After recognising a state of crisis, the management has to decide on the best strategy to overcome the crisis. This is quite a difficult decision, because it has repercussions on the profit, loss and financial situation, in addition to the negative effects of the liquidation procedure on the surrounding environment (Sciarelli, 1995: 54). The decision may have negative effects on the stakeholders, including employees, and on the environment: thus it is necessary to manage the crisis situation according to the company's ethical values (Kooskora, 2011: 12). Furthermore, the decision is also difficult from a rational point of view, due to the involvement of the entrepreneur with his 'creature' (the company), which results in the risk of a lack of objectivity (Passeri, 2009: 138). The company's top management is faced with two options:

opting for its sale en bloc or for the liquidation of the separate parts of its assets. The sale en bloc constitutes a 'relative suspension' of the company's activity, since it involves the sale of the company to a third party, but not a dissolution of its functional unity. Liquidation, on the contrary, breaks up the company system and leads to 'absolute suspension' of the firm's activity;

b) dealing with the crisis by undertaking a recovery process for the company: the objective of the recovery is to reconstitute the financial equilibrium of the company and the effectiveness of the actions of top management. Therefore, the intervention is not based on results achieved on a short-term basis, but rather on equilibrium established to last over time. Generally, a recovery process is seen as a 'traumatic' event in the life cycle, because past behaviour and values are replaced by new attitudes, goals and values (Sutton, 2002: 109; Arendt, 1977: 174; Chisholm and Burns, 2010: 2; Bastia, 1996: 101). The opportunity offered by the recovery process must also be carefully assessed in light of the greater costs to be taken on in comparison to the liquidation procedure: in addition to the cost of the preventive analysis and of laying out the recovery project, it is also necessary to sustain the burdens for modifying the production factors (Sciarelli, 1995: 60; Passeri, 2009: 140). In addition to the costs, it is necessary to evaluate the effects of the recovery process on the business risk in the short and medium-to-long term: the short-term effects consist of the need to cover the cost of the recovery process; the medium-to-long-term effects require a forecast of the economic cost for the successive fiscal years.

Hypotheses Development

In order to meet the study's aims with the companies in the sample, the research focused on the following core research questions:

- RQ1: Was the crisis phenomenon foreseen or did it arise unexpectedly? What were the most evident symptoms of the crisis?

-       RQ2: Was the traditional 'normality-decline-crisis' passage shortened, with a lack of the decline phase?

RQ3: Were there external advisors involved in handling the crisis?

RQ4: Was there a correlation between an effective management information system and the capacity for taking decisions in favour of the recovery?

RQ5: How much time did it take to formalise the recovery project? Which category of stakeholders made the recovery most problematic?

Data and Research Methodology

The sample is composed of 98 Italian private companies, which developed a recovery process between 2009 and 2010. The data was made available by the Unicredit Group, the first banking institution in Italy to have instituted an internal division dedicated to the restructuring of its claims positions. The Unicredit Group acted as creditor in the recovery projects.

The sample is articulated as follows:

most of the companies are not listed on the Italian Stock Exchange (86%) (see Table I);

Table 1:   The sample: listed and unlisted companies

	Unlisted on Italian Stock Exchange	%
No.	84	86

Source: personal elaboration

the companies belong to various sectors. The most-represented sectors are those of industrial products and services and of financial holding (see Table II);

Table 2: The sample: the economic sectors of the companies

	No.	%
Fashion	5	5.1
Leather goods	2	2.0
Eyewear	2	2.0
Jewellery	1	1.0
Cosmetics	2	2.0
Travel and leisure	3	3.1
Boats	3	3.1
Food products	2	2.0
Household goods	8	8.2
Office products	1	1.00
Farming products	2	2.0
Farming machinery	2	2.0
Chemical products	2	2.0
Automotive and parts	4	4.1
Industrial machinery and plant design	4	4.1
Industrial products and services	11	11.2
Constructions	7	7.1
Real estate	9	9.2
Energy	2	2.0
Aeronautics	1	1.0
Airport services	1	1.0
Distribution	5	5.1
Communication services	1	1.0
Telecommunications	7	7.1
Financial holding	11	11.6
No.	98	100

Source: personal elaboration

the total amount of bank debt restructured varies significantly from case to case. Over half of the firms effected debt restructuring of an amount between 100 and 500 million euro. Instead around a quarter of them have a restructured debt of an amount less than 100 million euro (see Table III).

Table 3: The sample: the amount of bank debts restructured (ml/euro)

	No.	%
Over 4,000	1	1.0
From 1,501 to 4,000	5	5.1
From 501 to 1,500	14	14.3
From 100 to 500	53	54.1
Less than 100	25	25.5
No.	98	100

Source: personal elaboration

the sample includes both small-to-medium and large-sized firms. For the sake of our investigation, however, this distinction is of little relevance: the amount of debt restructured by each company is much more pertinent.

The current state of the recovery projects in the sample is as follows:

- 27 recovery projects are regularly implemented;

- 7 projects have been forced into operation due to unexpected events (generally, the injection of third-party capital);

- 6 projects resulted in bankruptcy proceedings;

- 58 projects are currently in a phase of redevelopment because they have not respected the objectives of the project (see Table IV).

Table 4: The current state of the recovery projects in the sample

State of the project	Forced implementation due to unexpected events	Voluntary implementation	In redevelopment	In bankruptcy proceedings	Total
No.	7	27	58	6	98

Source: personal elaboration

Several levels of analysis were used in the methodology. As a first step, existing literature, both national and international, was analysed.

Successively, the data necessary for research questions from RQ1 to RQ3 was drawn from the content of the 98 recovery projects made available by Unicredit Bank. There were no

interviews with the companies of the sample. The analysis of the literature and of the 98 recovery projects allowed us to develop definitive results regarding research questions RQ1 to RQ3.

With reference to research questions RQ4 and RQ5, the analysis of the literature and of the 98 recovery projects produced some initial reflections and provisory results held to be relevant. These provisory results were tested through surveys: the heads of the restructuring departments of four financial advisors were interviewed (Mediobanca, Lazard, Banca Leonardo and Rothschild), which followed about 41% of the companies in the sample, a total of four interviews covering forty cases. The remaining financial advisors who followed the other companies in the sample were not available to respond to the interview within the time necessary to conclude the research. The interviews with the financial advisors focused on RQ4 and RQ5. The provisory results, along with the results of the interviews, then allowed us to formulate definitive results about RQ4 and RQ5. These interviews had a structured format, aimed at acquiring some standardised information:

the correlation between an effective management information system and the capacity for making decisions that favoured the recovery;

the duration of the formalisation of the recovery project.

The targets of reference of the four financial advisors is illustrated below (see Table V):

all the advisors generally deal with debt restructurings of over 100 million euro;

their clientele belong to various economic sectors. All the advisors work in industrial and financial holding sectors. Each one then focuses on other areas.

Table 5: Interventions and target of the financial advisors

	Banca Leonardo	Lazard	Mediobanca	Rothschild.	Total
No. of interventions carried out on the sample	13	14	5	8	40 (41%)
Sectors of the clientele	Financial holding, Industrial, Real estate	Financial holding, Industrial, Services, Cosmetics, Fashion, Jewellery, Distribution	Financial holding, Industrial, Fashion	Financial holding, Industrial, Services, Real estate, Fashion, Distribution	
Bank debt restructured of every client	more than 100 million euro	more than 100 million euro	more than 100 million euro	more than 100 million euro	

Source: personal elaboration

The approach used in this research is inspired by the grounded theory (Glaser and Strauss, 1967; Corbetta, 2005). Observation and theorisation, according to this theory, proceed side by side, engaged in a circular process:

- the theory is formalised in successive stages through the analysis of the information acquired;

- the theory continuously influences the methods of data collection through codification activity typical of the model.

No quantitative information exists related to the number of companies in Italy that had recourse to a recovery project in the period considered. Nonetheless, it is possible to consider the correlated empirical data as sufficiently representative in terms of

numerousness, project complexity and amount of debt restructured. In this respect, a brief description of the state of Italy's economy in the period considered may be useful, since it significantly influenced the firms' activities. It should be noted, however, that there may not always be a direct correlation between the state of the Italian economy and the financial situation of Italian companies; indeed, a company performance might also be influenced by the economic situation of other countries with which it does business.

Between 2007 and 2010, one witnessed a change in the shares of world production in the manufacturing sector (Confindustria, 2011): Asian countries reached a 38% share of the world's production (in 2000 the figure was 29%, while in 2007 it was around 30%). Italy, on the contrary, went from the fifth to seventh place in the world, dropping from 4.5% in 2007 to 3.4% in 2010 of the total value of the world's industrial production. In a European context, Italy is second to Germany (see Table VI).

Table 6: Share of world production in the manufacturing sector (%)

Country	2000	2007	2010
China	8.3	14.1	21.7
United States	24.8	18.2	15.6
Japan	15.8	9.0	9.1
Germany	6.6	7.5	6.0
India	1.8	2.9	3.7
South Korea	3.1	3.9	3.5
Italy	4.1	4.5	3.4
Brazil	2.0	2.6	3.2
France	4.0	3.9	3.0
United Kingdom	3.5	3.0	2.0

Source: Confindustria, 2011

In the production area, Italy recorded a difficult recovery for many economic sectors (Confindustria, 2011). The sectors that were hit hardest by the crisis were the following: automotive, textile, electronic equipment, metal production, industrial machinery and equipment, leather goods. Among the sectors that were less affected by the crisis were the following: food, pharmaceuticals and paper mills. A look at worldwide manufacturing exports is also useful in outlining the condition

of the Italian economy (Confindustria, 2011). Italy mainly exports to countries belonging to the European Union (56.8%), followed by European countries not belonging to the European Union (11.9%) and East Asia (7.1%). If we compare Italy to other exporter countries, we see that Italy is only the leader in exports to European countries not belonging to the European Union, North Africa and the Middle East (see Table VII).

Table 7: Weight on manufacturing exports 2010 (%)

Destination	China	United States	Japan	France	South Korea	Germany	*Italy*
European Union	23.4	18.2	11.3	60.6	11.5	62.2	*56.8*
Non-European Union	4.0	2.7	2.1	7.1	3.5	10.4	*11.9*
North Africa	1.1	0.7	0.4	3.7	1.3	1.0	*4.1*
Other African countries	3.1	1.3	1.2	2.9	2.1	1.2	*1.6*
North America	23.9	20.8	17.2	6.7	11.6	7.6	*6.8*
South/Central America	6.5	25.8	5.8	2.5	7.8	2.4	*3.2*
Middle East	4.5	4.0	3.5	4.0	4.9	2.9	*5.4*
Central Asia	5.3	2.0	1.7	1.1	3.5	1.4	*1.8*
East Asia	26.4	22.6	53.9	9.7	50.8	9.7	*7.1*

Source: Confindustria, 2011

Results of the Research

In response to RQ1 – Was the crisis phenomenon foreseen or did it arise unexpectedly? What were the most evident symptoms of the crisis? – the data pertaining to the response was drawn from the analysis of the content of the 98 recovery plans made available by Unicredit Bank.

The crisis had been foreseen in only 56% of cases (see Table VIII). We believe that this number is relatively low due to several reasons. First, the traditional instruments for forecasting a company crisis, mostly based on historical analysis, have seen their effectiveness reduced significantly because of the instability of the economic context. It is also worth pointing out that there is no data available on the number of companies that adopt

systems of crisis prediction. Second, the crisis arose unexpectedly with a shortening of the traditional 'normality-decline-crisis situation', which made predicting them more difficult.

The timing factor has assumed a determining role in the management of the crisis. Untimely recognition of the symptoms or a lack of willingness in recognising the state of crisis (or minimising it) impoverishes the company resources and upsets its equilibrium, often resulting in an irreversible situation. Late recognition of these symptoms often derives from the management's erroneous perception of the situation due to errors of data collection and of communication. The greater the divergence between the emergence of the crisis and its recognition, the greater the urgency of putting appropriate corrective measures into place.

Table 8: Foreseeing the crisis

	Crisis was foreseen	Crisis was not foreseen	Total
No.	55	43	98
%	56.1%	43.9%	100%

Source: personal elaboration

The main symptoms of crisis were the following: the presence of financial tensions, both in the short as well as in the medium/long term, found in all companies in the sample; the loss of stakeholder trust, also perceived in

all companies; the worsening of the economic situation, seen in 62% of the cases and a reduction in turnover, seen in 52% of the cases (see Table IX).

Table 9: Symptoms of the crisis phenomenon (multiple choice question)

	Financial tensions	Loss of stakeholders' trust	Worsening of economic situation	Reduction of turnover	Total
No.	98	98	61	51	98
%	100%	100%	62.2%	52.0%	

Source: personal elaboration

With regard to RQ2 – Was the traditional 'normality-decline-crisis' passage shortened, with a lack of the decline phase? – the data pertaining to the response was drawn from the analysis of the content of the 98 recovery plans made available by Unicredit Bank.

Over half the companies (54%) noted a shortening of the passage from a normal situation to one of crisis. The traditional passage of the company from a situation of normality to one of crisis, by way of a decline stage, has become shorter. Often, the duration of the decline phase was reduced, or even absent completely (see Table X).

It must, however, be pointed out that some of these firms may not have recognised the symptoms of decline, and thus found themselves in an apparently sudden crisis situation. The capacity for recognising a phase of decline presupposes the existence of information which not all companies possess or are capable of analysing (for example, their market share, their clients' profitability and the degree of technological innovation of the products).

Table 10: Shortening of the traditional 'normality-decline-crisis' passage

	Yes	No	Total
No.	53	45	98
%	54%	46%	100%

Source: personal elaboration

In response to RQ3 — Were there external advisors involved in handling the crisis? — the data pertaining to the response was drawn from the analysis of the content of the 98 recovery plans made available by Unicredit Bank.

One sees widespread use of external advisors (91.8%) (see Table XI). It is only in a few cases that one does not see the use of advisors (small companies for which the advisor was an unsustainable cost or those that felt they had the internal resources to carry out such an activity) or in which the advisor took on the role to then abandon it later on. The majority of cases in which no recourse was made to an external advisor ended in bankruptcy.

These external professionals are highly skilled in specific areas (financial, industrial and legal advisors) and support the company in working out the project and its initial set-up, to then often end their collaboration at that point. Their focus is the realisation of the recovery project and its timely execution.

Table 11: Involvement of external advisors

	Yes	No	Total
No.	90	8	98
%	91.8%	8.2%	100%

Source: personal elaboration

In response to RQ4 – Was there a correlation between an effective management information system and the capacity for taking decisions in favour of the recovery? – the data pertaining to the response was drawn both from the analysis of the content of the 98 recovery plans made available by Unicredit Bank and from the interviews with the financial advisors.

Such a correlation is high for the majority of the companies in the sample (74.5%) (see Table XII). One may deduce from this that the

more developed the management information system, the faster the problems to be resolved are identified and the turnaround strategies are formalised. This is valid both in the phases of identifying the crisis and when taking the decisions necessary for the turnaround.

It is probable that the companies for which this correlation is low or non-existent have not invested in adopting an effective management information system. Alternatively, the company may have adopted a management information system, but lacks the culture to properly utilise and interpret the information derived from it.

Table 12: Correlation between management information system and capacity for taking decisions that favour the company's recovery

	High	Low	Inexistent	Total
No.	73	20	5	98
%	74.5%	20.4%	5.1%	100%

Source: personal elaboration

In response to RQ5 – How much time did it take to formalise the recovery project? Which category of stakeholders made the recovery most problematic? – the data pertaining to the response was drawn both from the analysis of the content of the 98 recovery plans made available by Unicredit Bank and from the interviews with the financial advisors.

The majority of the recovery projects were formalised within six months (55.1%) (see Table XIII). The projects that were formalised in a time period of twelve months (29.6%) were the ones with major issues: with these the demands made to the banking systems and the providers were quite heavy. The projects with a formalisation period of around three months were those related to small companies with fewer problems to resolve or in situations in which the number of interlocutors was very low.

The length of the formalisation process is influenced by a series of factors: the size and age of the company; the seriousness and the characteristics of the crisis; the timetables needed for the procurement of the resources to invest in the recovery.

Table 13: Duration of the formalisation of the recovery project

	3 months	6 months	12 months	Total
No.	15	54	29	98
%	15.3	55.1	29.6	100%

Source: personal elaboration

The categories of stakeholders that made the recovery most problematic were the tax and welfare administrations (40.8% of cases). First, these entities do not have any internal representatives dedicated to interacting with companies in crisis; second, in Italy, the possibility of obtaining a division in instalments of payments owed to these administrations only exists if the company has opted for insolvency proceedings.

As far as the suppliers are concerned (30.6%), the most common problem found was connected with a division of the debts owed, that is, a large number of suppliers. This made it necessary to talk with a significant number of interlocutors.

In the case of the banks (28.6%), the most common problems are due to deferred payments of debts and, at the same time, to the concession of new financing (see Table XIV).

Table 14: Categories of stakeholders that made the recovery most problematic

	Tax administration and welfare administration	Providers	Banks	Total
No.	40	30	28	98
%	40.8%	30.6%	28.6%	100%

Source: personal elaboration

Conclusions and Limitations of the Study

One witnesses a profound change in the characteristics of the company crisis, which becomes frequent and is no longer a rare event in the life of the company. We define this new approach to company crises as a 'normalisation' of the crisis phenomenon. Consequently, approaches to crises are changing radically, moving from a (past) situation in which crisis was deemed extraordinary to the (current) situation in which a crisis is a normal event in the company's life.

The traditional passage from a situation of normality to one of decline and then to crisis is shortened: the decline phase is often of a reduced duration, or even absent altogether. The crisis was predicted in only around half of the companies in the sample. This highlights the ineffectiveness of crisis prediction instruments, due above all to the changeability of the economic situation in which the companies do business.

The time available for every decision and action is a fundamental element upon which the effectiveness of intervention may depend. In reference to the time factor, we mean the lapse of time available to maintain the firm's continuity, so that the crisis does not become irrecoverable. The other essential element is represented by the resources available to invest: if the resources are not available at the time and in the ways needed, it becomes necessary to review the objectives and the strategy of the recovery process.

Nearly all the companies in the sample employed financial advisors; they collaborated with the management in handling the crisis. This was due both to the complexity of the problems to be resolved by the company and to the changeability and difficulty of the economic context; furthermore, in our opinion, the management's inadequate preparation often aggravated the need to turn to external consultants.

In the majority of cases, the presence of an effective management information system facilitates the decision-making process aimed at the recovery of the company. It allows for the production of data and information in a necessary manner and the time to identify problems and define the correct strategies to pursue.

The possible implications of this research are inferable from the conclusions stated above. In particular, we believe that the current period of downturn and recession characterising the world economy will change approaches to crises in companies. Consequently, it is necessary for companies to develop a new mind-set, focused on crisis prediction. At the same time, the process of the 'normalisation' of company crises calls for a systematic approach to the problem, which makes use of standardised instruments such as the recovery project.

It is possible to identify some limitations to the study. The empirical data includes only cases from a definite geographic area (Italy) and from a brief period (2009–10); in addition, it would be interesting to compare the Italian experience with that of other countries. It would also be of interest to distinguish companies' behaviour when facing a crisis according to the sector to which they belong and the amount of debt restructured.

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Reconstructing Organisational and Professional Changes in the Field of Social Work
A Case Study of Women's Aid Organisations in Austria

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Abstract

From a sociological perspective, we see professions and organisations as intertwined, but changes in professional ethics and managerial practice are separate from organisational logics. Generally "professionalisation" is seen as having positive effects, that is, it stimulates organisations. Conversely, professional ethics and guiding principles can hamper institutional change. In our case study, which is in the field of social not-for-profit organisations, we investigate organisational change and its relationship with the professions of its members.

The empirical basis is a case study of women's aid organisations in Austria. For empirical purposes we took three cases: a women's shelter, a women's service centre and a helpline for those seeking protection from violence. We collected annual reports, bylaws and documentary evidence and carried out problem-centred interviews with managers, social workers and clients.

The organisations we analysed have faced isomorphic tendencies from gender movements, from social work standards and from business administration. All three organisations were forced to give up their basis democratic leadership but other characteristics, such as the ideological philosophy of the new women's movement, remain unchanged.

By applying evolution theory – drawing on the work of Weick, Aldrich, Freeman, Hannan, Woywode and Kieser mainly – we aim to explain changes in organisations operating in the field of social work. We look at what these theoretical approaches deliver in terms of explaining organisational and professional tensions. In particular, we attempt to show how professional principles seize overall trends

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and influence, for example, the organisation's orientation, design and development, quality and management of human resources.

Keywords: organisation change, social services, social work, professionalisation, institutional theory, case study research

Organisations are fundamental elements of modern societies and the basic vehicles through which collective action occurs (Aldrich, 2003: 5). As such, organisation theory allows societal conditions to be observed through organisational spectacles. One may ask which societal changes we can observe through the lens of organisations and organisational changes. Our contribution plays only a subordinate role in the dominant issues in organisational theory, such as organisational change and transformation, the emergence of new populations of organisations, the influence of and boundaries to external conditions, and the role of entrepreneurs or others (Aldrich and Ruef, 2006: 179). Instead, it focuses on rather less discussed issues: the relationship between organisation and profession, and the role of professions and professionalisation in organisational development, change and transformation.

Specifically, the article emphasises professional and organisational changes in the field of social work (as a profession) and social services (as an organisation), in terms of how professional values, ethics and codes affect organisational structures, strategies and management practice. We discuss the sectoral conditions that frame these types of organisations, and look at professional issues in social work, the profession mainly employed in women's aid services and in many other social services. We apply evolution theory to present the three cases and our important findings.

Our three examples are women's aid services in Graz, Austria: Frauenhaus (a women's shelter), Frauenservice (women's services) and Tara (a counselling service). We examine changes in these organisations, based on nine interviews, reports issued by the organisations, statutes, etc. (Sagl, 2008). All three were established in the context of the "new women's movement" in Austria in the 1980s. They are still seen as "grassroots" organisations in the field of women's aid services.

Institutional Forms and Developments in Social Service Organisations

Many approaches are used to classify organisations. When addressing institutional forms of organisational purposes and goals, one widely used and prominent distinction is between profits and non-profits. Non-profit implies that these organisations do not make a profit. However, the original meaning of not-for-profit has been misunderstood (Badelt, 2002b: 6). The widely used but very inadequate "profit" terminology wrongly presumes non-profit organisations would not create a "surplus" or value added; we thus prefer to distinguish between commercial and non-commercial organisations. Nonetheless, over the last three decades most organisations in the institutional field of social services, including women's aid services, have been seen as belonging to the Third Sector (Zimmer, 1996: 84).

Three elements that shape social services (and non-commercial organisations in general) are used to characterise them. Formal organisation is kept to a minimum, they are private non-governmental organisations with private interests – although they are financed (completely or partly) by governmental bodies – and their goal is not commercial profit (Badelt, 2002b: 8f; Zimmer, 1996: 2). The economic and social meaning of these organisations is enormous, though (Heitzmann, 2001: 153). The whole Third Sector has become increasingly interesting – in terms of policy, the economy and academia – over the last few

years, reflecting the explosion in the number of organisations in this field and their expanding importance for societies and social welfare (Heitzmann, 2001: 21). The existence and emergence of this sector can be explained by two models. First, the not-for-profit sector, also called the Third Sector, is described as a third institutional form that is both equal to and between "market" and "state" (Wex, 2004: 95ff). Second, this "intermediary area" assumes there are four sectors in society: the not-for-profit sector, the market sector, the state sector and the informal sector. The not-for-profit sector, which includes social services, would then have the function of mediator or moderating agent (Evers, 1990: 189ff; Blindenbacher, 1997: 54).

The best known and one of the oldest theories to explain the formation of not-for-profit organisations (NPOs) is that of market failure and state failure. This assumes that everything in society is regulated by supply and demand. However, the central "power: is with the consumer, who creates the demand. Not all existing (needed) goods in a society can be traded as "simple" assets, so problems arise. If this phenomenon (market failure) arises, the state must step in to regulate the allocation of goods and to ensure the effective and efficient application of resources. If this cannot be guaranteed, it leads to state failure. The main reason for the formation of NPOs thus lies in the lack of supply. Individuals with a common interest in goods and services thus join forces to organise their interests and satisfy needs that are not satisfied elsewhere (Eberl, 1997: 134). It is very important that this population of organisations is formed according to specific social interests and that it follows its own patterns of regulation and organisation, which must be distinct from commercial business or governmental authorities.

In the 1980s and 1990s, NPOs were formed as incorporated associations, at least in Austria, Germany and other European countries. This trend has changed over the last few years, as many former associations have changed their legal status into (not-for-profit) limited companies. The three women's aid organisations investigated were still associations when this research was carried out. However, in 1997, approximately 65 percent of the organisations were formed as clubs within the total NPO sector in Austria; more accurate and precise figures were not available (Heitzmann, 2001: 186). In terms of federal law on associations (Bundesgesetz über Vereine – Vereinsgesetz 2002 (VerG), BGBl. I 2004/10 i.d.g.F.), it is important that the members are volunteers, that statues exist, that there is a consortium of at least two people and that its idealistic purpose has no commercial profit element. Funding of NPOs diverges strongly, depending on their activities and objectives; it is composed of public funding, capital and earned interest and donations (Zimmer, 1996: 114). Social sponsoring and fund raising are newer sources of financing for NPOs and social services. In the domain of social services, funding still runs primarily through direct service contracts between governmental authorities and social service organisations, or through public subsidies.

All human service organisations, but especially those in the social service sector, are heavily challenged by socio-demographic and societal changes. The long-lasting working premises of the welfare state are becoming more and more obsolete. The society, policy-makers, academics and professions involved ask for – or are forced to find – new institutional forms between the dichotomy of state and market. These can be described as, for example, "social enterprises" or "hybrid organisations". Organisations in the field have to legitimise their claim for public funding for service quality, performance, effectiveness and efficiency. We found that changes and developments in the

social services sector are driven by internal and external, organisational, professional, social-demographic, economic, social, political and legal factors.

Since the middle of the 1990s, most professional and vocational organisations in the field of human services have expanded dramatically (Rauschenbach and Schilling, 1995: 324f). This development is the result of the observable loss of meaning of voluntary work on the one hand and the more pluralised, differentiated and individualised needs of people on the other. The starting point of such a development can be seen in the decreasing significance of tradition alongside an increase in individualisation, which characterises modern western societies (Habermas, 1973). However, the pressure for social service organisations to reform arises not only from external changes in general framework conditions but also from modified normative, prescriptive and legal conditions. On a transnational level, the regulations and judgments of the European Court of Justice open markets for merchandise and services on a cross-national and a cross-cultural level (European Commission, 1989; Olk and Rauschenbach and Sachße, 1995; Tuckman, 2000). Within the European Union, national laws allow tasks that were formerly offered by the state to be handed over to free non-governmental and privately run institutions (for Austria see Dimmel, 2005).

Owing to modern information and communication technologies and the mass media, as well as to higher expectations and better education, target groups and clients of social service organisations seem to be more informed and mature when it comes to their living conditions, rights and duties (Pfadenhauer, 2003a: 175; Kulosa, 2003: 10). The client's expectations about an organisation's performance can be seen as a significant change in their living conditions, which increases the pressure for these

organisations to become legitimate (Merchel and Schrapper, 1996: 8f).

Organisations that provide social, individual and personal-related services also find themselves faced with diminishing financial resources, owing to empty public treasuries. These organisations are in competition for public means that are barely growing and they face the challenge of developing alternative funding strategies (Klingebiel, 1999; Weisbrod, 2000). Moreover, public administrations have to legitimise themselves and therefore seek to control and manage funds and the consequent success. This leads to the development of quality requirements, target and performance agreements and performance measurement systems (Anheier, 2000; Schilling, 2002). These challenges are the generally observed sectoral developments and conditions under which social service organisations in Austria – and in most industrialised European countries – work and deliver their services. Besides the sectoral developments of economisation, quality and performance orientation, privatisation and outsourcing, or service fragmentation, we observe professional trends, including case management, community-based management and life-world and life-circle orientation.

Social service organisations are part of the organisational community (Aldrich and Ruef, 2006) in the institutional field of NPOs and they have a particular status and role in society. They identify social needs and take care of people who are structurally excluded from society or who are not capable of integrating into society. Social services are concerned with those lives that come apart at the seams. Social work is the professional counterpart to social services at an institutional level. Social work supports children and young people, elderly and sick people, the homeless, poor or disabled people, delinquent people, migrants, and all other marginal groups of our society. The profession of social work has

a double mandate. This means organisations in the field of social work and social services have two tasks: social control and public-oriented tasks (system aspect) and individual and client-oriented tasks (life-world aspect) (Blindenbacher, 1997: 34).

Professionalism in Social Services and Social Work

Theory on profession characterises a profession according to the following elements: a body of knowledge and skills that is officially recognised as one based on abstract concepts and theories and which requires the exercise of considerable discretion; an occupationally controlled division of labour; an occupationally controlled labour market that requires training credentials for entry and career mobility; an occupationally controlled training programme that produces those credentials, provides the schooling that is associated with "higher learning", is segregated from the ordinary labour market and opens up opportunities to develop this new knowledge; and an ideology that serves some transcendent value and asserts greater devotion to doing good work for reasons other than economic reward (Freidson, 2001: 180).

This definition shows that a profession is mostly concerned with controlling power, identifying problems within the profession, the division of labour, establishing training programmes and setting standards relating to quality of work, efficiency and effectiveness (Langer and Schröer, 2011: 11). Schütze argues that the "incompleteness" of most professions in human service organisations is justified because not all of the prerequisites can be met by those occupational groups (Schütze, 1992). This applies particularly to social service organisations and the social work arena. They systematically lack the practices of diagnosis and intervention, they do not have a single constituting scientific discipline and they

depend heavily on other professionals, such as like lawyers, medics and business managers.

Within the discussion about the various theories of profession, we can differentiate between a thesis of professionalisation and a thesis of de-professionalisation when it comes to organisational and operational requirements, management and management tools. The thesis of professionalisation proceeds with the assumption that using a management tool helps an occupational group to achieve a certain position or gain certain rights (Pfadenhauer, 2003b; Heite, 2008; Langer and Schröer, 2011); however, the thesis of de-professionalisation (Schimank, 2005) supposes the opposite. Both theses assume that the key element of a profession is the defining power over the quality of work and goods and the service performance. The thesis of de-professionalization mostly sees the other professions as being responsible for the relevant definitions by characterising working processes, standards, quality and performance measures; e.g. business administration instead of social work (Olk, 1986). As a synthesis, Evetts has developed two alternative concepts of professionalisation within human service organisations: occupational professionalism and organisational professionalism (Evetts, 2011). Whereas occupational professionalism refers to traditional professional action, organisational professionalism draws attention to the processes of management and control. Evetts ascertains that there are two different occupational logics connected to each of the concepts. Organisational professionalism replaces occupational ethics and values with organisational, bureaucratic, hierarchical or managerial concepts of control, the constituent's trust with management objectives, occupational efficiency with cost ratios, and financial rationality as well as occupational self-control with accountability (Langer and Schröer, 2011). Evetts's key argument is that different organisational

settings demand diverse aspects of professional action.

The Organisation's Role in the Professionalisation of Social Services and Social Work

The social service organisations analysed for this case study of women's aid organisations operate within the classic fields of social work, such as fighting poverty and long-term unemployment, caring for disabled people and those with psychosocial handicaps, and dealing with homelessness and youth welfare. However, their focus is on women's issues and the provision of services especially for women. An examination of the historical development of the profession of social work shows that the predicates of the "undamaged identity" or "complete profession" are denied to social work. Because of this "semi-professional status" (Pfaffenberger, 2001) social work is discussed in terms of its function in society, the disciplinary localisation of social work and its professional knowledge, as well as the control and assessment of achieving goal. Long discussions about profession and the discipline of social work followed and still continue (Olk, 1986; Bommes and Scherr, 2000; Kleve, 2000; Harmsen, 2004; Müller, 2006).

We assume that forming an identity is driven by the profession's ability to show that its actions are reliable, proper and appropriate (Heite, 2008: 172). One way, but not the only way, for a profession to present these characteristics in public is by utilising adequate "organisational techniques". This means that the organisation, organisational practice and management build a framework on which to create an identity. From this perspective, management and organisational practice generally follow the purpose of creating a professional identity for the different occupational groups involved.

The social work profession fights for recognition and strives to present its services and performances as unique; they cannot be substituted for or performed by other professions or actors (Honneth, 2003). According to this argument, social service organisations follow expectations about the management and quality and performance issues as well. Inventing (or reinventing) accepted management practices can be reformulated as a professionalisation strategy – argued as "organisational professionalism" rather than as "occupational professionalism".

One line of reasoning is that management modes represent a possibility to classify the performance of social work for public discourse on professional recognition and to supplement it with weighty arguments. The services and effects of social work are constructed, articulated, collectively shared, accepted, and authentically recognised as being professional by acknowledging "performance" and its congruent forms of valuation and evaluation methods (Heite, 2008: 172). If social service organisations fail to represent their own levels of performance and effectiveness, organisational and professional legitimacy and consequently recognition are questioned and finally disallowed (Grunwald, 2001). Management modes serve recognised language codes in order to represent social work activities in the argumentative logic of quality and performance, effectiveness and efficiency (Nadai and Sommerfeld, 2005; Pfadenhauer, 2003b). From the point of view of profession theory, the ability to represent reliability and efficiency constitutes one of the most powerful means of demonstrating one's own professionalism. To fulfil specified requests, organisational practice and management in social service organisations have to set up the crucially required link to welfare and the public interest (Pfadenhauer, 2003a; Jäger and Hug, 2011).

Further, accepted and appropriate management modes lead to changes in both perceptions of and assessments of services, and in outcomes within and outside the organisation. Actually, professionalisation consists of two actions. First, it tends towards the profession-specific fulfilment of requirements in the occupation role (Dreitzel, 1962) that is concerned with the solution of practical problems in the course of its life (Oevermann, 1996). Second, it relates to the adequate representation of performance to relevant stakeholders (Pfadenhauer, 2003b: 82). In terms of organisational practice and management modes, this means that the relevant stakeholder groups consider and understand that this organisation is capable of satisfying the demand for adequate solutions when it comes to effectiveness, efficiency, and the transparent representation of its performance. Obviously, an organisation will at first strive to establish management modes as a recognised methodology to represent its performance and effects. However, management modes and tools are also applied for strategic purposes, which imply exact knowledge about performance and outcome being most relevant for the stakeholders. It is obvious that higher representation competences and resources for identification (occupational professionalism) do not directly lead to higher levels of service and performance (organisational professionalism). It might therefore be assumed that organisations have selfish reasons for designing and applying management modes and tools; some even propose making these reasons transparent in applications (CabinettOffice, 2009: 20).

Organisational Change and Evolution Theory as a Framework for Investigation

Change in organisations is one of the most important topics in organisation theory (Endruweit, 2004: 258) and it is ubiquitous in organisational practice. In this paper we do not discuss the nature of change that much. We only consider whether changes in organisations are defined as "organisation change" if they lead to another type of organisation (Endruweit, 2004: 259), or whether changes in organisational variables, such as organisational services, programmes, applied technologies or structures, are objectives of organisational changes (Abraham and Büschges, 2004: 254). Furthermore, we do not see regular "changes" (such as fluctuations in employee numbers) as organisational change, and we do not work on the distinction made between organisational change and organisational transformation.

However, the objectives of organisational change in our investigation are: i) the actors, their attitudes and ideological positions shaping organisational philosophy, ii) the dominant goal-setting and realisation patterns of interests, and iii) changes in division of labour and in hierarchy and management modes, autonomy and authority, and iv) formal and informal constitution.

In terms of organisation theory, we focus on evolutionary organisation theory, which focuses on organisations in their environmental contexts. This is the theoretical model of how an organisation adapts to its environment and it looks at the processes of variation, selection and retention in organisations. Other approaches to organisation change emphasise organisational life stages or organisational learning (Von Eckardstein and Zauner, 2002: 551ff.). The evolution approach is inspired by the theory of ecologic evolution; this sees changes in the organisation as processes of confrontation with the environment and the results of trial, assessment and selection (Kieser, 2003: 31; Schreyögg, 1999: 322f.). It is often assumed that the intention of the creators influences alteration processes and organisational change and development (Kieser and Woywode, 2002: 253). In contrast,

representatives of evolution theory do not always see change as intentional, but maintain that the power of the intention to influence change is limited because organisations are complex social entities that cannot be pictured in simple lines of planned intervention and calculated effects. The success and survival of organisational practice depends much more on a set of conditions that cannot be overseen by planners (Hayek, 1980: 27 cit. in: Kieser and Woywode, 2002: 253). Evolution theorists see the results of organisational processes as uncertain and ambiguous and treat the future very much as an open question (Aldrich, 2003: 33). The environment has the status of the selecting entity, and organisational success is seen as adaptation and in terms of "connectivity" to the environment.

In the area of economics and in organisation theory, several approaches have been developed: evolutionary economics (macro-level), population ecology (meso level), and intra-organisational decision- making (micro-level) (Kieser and Woywode, 2002: 255 ff.; Wolf, 2005: 296 ff.). For our purposes, we draw on the concepts of population ecology and intra-organisational decision-making processes.

The Three Organisations in the Case Study

Our investigation is based on case study research, a technique that has been used for research and teaching, and in practical application and development in many disciplines for many decades. This traditional method dates back to the nineteenth century and is associated with Le Play, Mead, Whyte, Lévi-Strauss and many others (Scholz and Tietje, 2002). In the social sciences, the study of cases is applied for complex, contextualised problems. Case study research may be both descriptive and explanatory (Yin, 1994: 15) and it is often used as a pragmatic research

tool to help the complexity of a given problem to be thoroughly understood. Although there is some scepticism, case study research is considered to be an appropriate approach to real, complex, current problems that cannot be treated simply by one of the known quantitative methods of analysis (Scholz & Tietje, 2002: 5).

Case study research covers excellent pieces on social science. This provides groundbreaking insights, and helps to advance the knowledge and understanding of social entities. See, for example, "Die Arbeitslosen von Marienthal" (Lazarsfeld, Jahoda and Zeisel, 1933) or "Middletown" – as a study of modern American Culture (Lynd and Lynd, 2004: 25 [1929]) in the 1920s and 1930s. Case studies are often used for teaching as well as research. Case study research is linked to theory and thesis development in particular (George and Bennett, 2005).

How can we classify and relate our case study research to the case study field? As the literature on case study research shows, we distinguish between a variety of dimensions and classifications (Scholz and Tietje, 2002: 10). Our case study covers three cases and is therefore multiple case study research. The main reason for using multiple cases (Lynd and Lynd, 2004: 55ff) is to generate valuable insights into and reliable knowledge about complex phenomena. As we are using the three cases mainly to describe and explain the changes and interdependences of organisational dimensions, we follow a rather holistic, intrinsic, explorative type of case study. We also focus on a life cycle passage of the organisations and on their environmental contexts, and we utilise qualitative research methods and short vignettes, including structured and theory-based interviews and document analysis. For the theoretical discussion we combine a within-case analysis (George and Bennett, 2005: 151) and a structured, focused comparison of multiple

cases (ibid: 67). Note that multiple or cross-case study is used to investigate transformation processes (Yin, 2003: 144ff). For social research in general and for case study research in particular triangulation is important (Stake, 1995: 107ff); in our research, the "in-between" form of triangulation is applied.

Even though the case study method looks back at a long tradition and contains many impressive examples, from a methodological point of view, generalisation (one earlier criterion of scientific work) is limited, as it depends on the type of case study research. In intrinsic case study research, the limitation of generalisation counts more than it does in other types (Gomm, Hammersley and Foster, 2000). However, the multiple case study method we use takes a holistic approach in order to generate intensive and complex results, and it aims to present a structured reconstruction of action and organisational patterns (Lamnek, 1995: 6).

The three cases fall in the specific population of women-driven and women-oriented services in the field of education and health, and protection against violence. The women's shelter represents an organisation founded and established during the beginnings of the women's movement. The other two cases have weaker connections to this movement. Although the service organisation is oriented towards providing a health service for women, Tara (an information and counselling service for women and girls) combines health services and protection against violence; it lies between the other two in terms of ideology.

Six topic-centred interviews are carried out with managers, board members and employees, two with clients and one with an expert from the regional organisation field of the women's organisation. The analysis exists in the fully transcibed interviews as well in documents obtained from the organisations, comprising annual reports, the organisation's manuals, association constitution papers, information booklets and other available material on the organisation and its history. The analysis first looks at each individual case. We compare the three cases in the second step. The case study approach follows an interpretative logical model.

Frauenhaus (A Women's Shelter)

The women's shelter offers housing and support to women who experience violence in any form (physical, psychological, sexual or economic) in their relationships. Care and counselling of the women are provided on an outpatient or residential basis. A crisis telephone hotline is available 24 hours a day, every day. One particular characteristic of the women's shelter is the special arrangements for protecting the women. The Frauenhaus was established and has been run as an association, the Verein Frauenhäuser Steiermark – Verein für Soforthilfe für bedrohte und misshandelte Frauen und deren Kinder.

The Frauenhaus was founded at a time of historical societal change in ideologies and in the handling of relationship of between men and women. The impetus for its creation was driven by both social and political factors. In 1975, after the successful campaign for the legalisation of abortion, the political fight against violence against women began. This led to the foundation of the Frauenhäuser in Austria (Behr, 2003: 50). The Frauenhaus in Graz was established in 1981; since then, over 21,000 women have been supported (Rohregger, 2005: 60; based on our projections for the years from 2001 to 2011). Only in 1996 was a management structure installed and a manager appointed (Frauenhäuser Steiermark – service management, 2006: 1). Meanwhile, the service was divided into two units, one for women and one for children, each with a professional service coordinator.

The Frauenhaus has 23 employees, most working part time (i.e. the equivalent of 12.9 full-time employees); they come from different psychosocial professions, but most of them are social workers.

Frauenservice (An Organisation Providing Services for Women)

The association called Frauenservice Graz was established by professionals in 1984. It was originally named Verein Frauenberatung und Selbsthilfe (a counselling and self-help association for women). The founders saw themselves as part of the autonomous women's movement in Austria (Verein Frauenservice, Organisationshandbuch 2005: 21). Over the years, the Frauenservice expanded its services and today it has five main units, comprising a counselling service, an education unit, a unit for reintegration into the labour market, "Stadtteilcafé palaver connected" (which provides a café, an office, training, events, exhibitions, information and counselling) and a gender mainstreaming office; it is also involved in other projects (Verein Frauenservice, Informationsbroschüre, no year: 5). A head manager has been in charge since 1992. Today, Verein Frauenservice Graz (a service association for women) has six units, each coordinated by one service manager. This has 37 employees (the equivalent of 25.8 full-time employees). The management team sets basic values and principles and steers the decision-making processes. Meanwhile, terms and conditions provide a clear structure for the organisation's processes. Interestingly, top management is pictured in the centre of the organisation, rather than at the top. Management is seen as coordinating rather than controlling.

Tara (An Information and Counselling Centre for Women and Girls)

Tara is a centre that provides information and counselling to women and girls (aged over 16) who have experienced sexual abuse and violence (Frauennotruf, Tätigkeitsbericht 2001: 2). The centre defines itself as a client-centred and partially feminist organisation. Sexual abuse of women and violence against women are not seen as individual problems but as the structural discrimination of women in society. In the 1980s, a women's group wanted to establish an emergency number for sexually abused women in Graz. This led to the foundation of the Grazer Frauennotruf (an emergency helpline for women) in 1984. In the early years, it became clear that most of the abused women did not look for help or they would come to the centre for counselling immediately after the abuse. Consequently, the 24-hour hotline was limited and fixed hours for counselling were introduced. In the first few years, public relations and the removal of taboos surrounding sexual violence and the abuse of women and girls were given priority over other goals. Now, however, the services focus on providing counselling and advice (ibid: 18). In addition to counselling and advice, Tara offers support and information to people concerned with the topic or with real cases (such as partners and experts). Services include psychosocial counselling, crisis intervention, psychosocial and legal supervision in juridical processes (such as information about likely steps and procedures) and trauma therapy; it also provides advice on referrals, prevention and networking (Tara, Tätigkeitsbericht, 2005: 5 ff.). The organisation was founded as an association and it is still run in that way. However, it has had to deal with several critical changes relating to the board of the association. It is administrated by a head manager, and three employees (one full-time and two part-time) have fixed contracts. In addition, two psychotherapists have freelance contracts in order to cope with times of high demand for the service (Tara – Geschäftsführung, 2006: 1). At present, the organisation does not employ honorary workers, but it regularly involves trainees. Responsibilities and functions are

set out in the terms and conditions of the organisation.

"Being Different" and "Grassroots" Principles of Women's Aid Organisations

Women's aid organisations constitute a sub-population within social service organisations. They cover women's projects, aid services for women and girls, victim support and protection against violence, educational services, female health promotion services and integration programmes for female migrants. The three organisations we investigated still define themselves mainly as "women's projects". For the purpose of this article, the concept of "women's project" needs further consideration. Such organisations are understood to be organised by and for women. They were initiated within the context of the "new women's movement" that began in the 1970s (Doderer and Kortendiek, 2004: 684). These projects claim to be "different" from "traditional" social service organisations. The difference relates to their substantial organisational philosophy and ideology: women's projects are characterised by being orientated on the principles of feminist theory and practice they have in common (Doderer and Kortendiek, 2004: 686). They want to be free from patriarchal dominance. In the sense of self-organisation and freedom from hierarchy, they strive for an emancipated and equal design and organisational form. When they were being founded, their central values were based on grassroots democracy, grassroots democratic decision-making processes and the abolition of dominating "expertise" (Brückner, 1996: 11 ff.). Although many of these values still exist, the most important thing is that their freedom from hierarchy gave way to a flat management structure.

The principles for work, care and everyday constitution in the three organisations we studied are similar. Their principles correspond to those of other women's aid organisations, as they stay close to the principles of the new women's movement in Austria. These women's aid organisations share several characteristics. Their services are free of charge, and they take a feminist approach. They are non-bureaucratic and offer immediate help, respecting anonymity and confidentiality. They are run by women for women, who can also offer assistance with self-help. Like almost all organisations in this field, the three organisations we investigated employ women only, without exception. In the prevention services and in the services provided for family members and relatives the organisations generally serve female clients only, although there are a few exceptions.

The history of these women's aid organisations (or women's projects, according to their definition) shows that they were established not only for the supply of services for women but also (or rather) to "fight against" patriarchy and traditional conditions and patterns. The establishing actors were women (without exception). They were mainly social workers, but there were some psychologists and pedagogues. The organisations were established as associations with a board and informal guiding principles rather than written terms and conditions. This structure remained for the first few years. Interestingly, but not very surprisingly, because of their "grassroots democracy" style, formal and written operational structuring, the functional division of labour and management have been introduced only recently. The feminist principles and values that existed when these organisation were founded had a strong informal character; nowadays, however, their principles are formulated into mission statements (this is shown by information dating back to 2006).

Organisational Changes and Transformation Processes

Population ecology conceptualises a "compool" – a pool of competencies in a population of organisations – and structural inactivity because of resistance to change. From this perspective, present conditions reflect historical conditions (Wolf, 2005: 300). Transformations occur within historical and geographical contexts. All transformations are time-dependent historical processes (Aldrich, 2003: 196). Furthermore, population ecologists assume there are two levels of structural resistance. Hannan and Freeman (1989) distinguish between the "core" and the "periphery" of an organisation. The core contains the mission, the structure of authority, the applied technology and the marketing strategy; all other elements of the organisation belong to the periphery. Core elements would therefore not change as often as elements on the periphery would (Kieser and Woywode, 2002: 269).

The three case studies display different levels of resistance. In the women's shelter, many signs of strong resistance were found, as was a significant demarcation between contextual changes and requirements. This organisation has a long struggle with different "generations" of employees; their approach and ideology and their understanding of the professional services provided to the clients varied. The employees [all female] approach things differently. The employees who have been part of it for a very long time keep the old ideal of the autonomous women's community. [...] Nowadays, there are young employees who consciously decide to work in a women's organisation. They come from a completely different generation. (Translated interview.) Although the "core" of the organisation has remained the same over time, in the periphery there is pressure to adapt; this leads to high tension within the organisation. Ideological differences and its

political position isolate the organisation from contextual changes and intensify resistance. In addition, although the level of professionalism in social work in Austria has changed a lot during the last two decades, professional change in social work has not gained entry into the organisation in any significant way. The profession seems to be subordinate to the feminist political self-definition. In comparison, the women's service organisation and Tara showed less resistance. Here we find a more open and less isolated position, with more willingness to participate in societal changes and to actively change the organisation and the services. One board member illustrates that development and adaptation: One of the organisation's strengths is that it develops and makes progress without reaching crisis point. That is one of the reasons why I have continued to respect the organisation over the years. The organisation is really very active and open to further joint development and participation. There is joy in trying out something new. That's what I value most. (Translated interview.) Organisational development becomes an intentional tool. Adaptation processes are coined in the periphery and even partly in the core, particularly in Tara. The organisational mission has not changed substantially, but the orientation and formulation of the mission are less on a general social-political goal and more on the target groups and their concrete needs. The management gives some explaining examples. During the early days of the organisation, against the background of the women's movement, there was a fight with all radical instruments against inequality and ignorance in society. Information evenings in different locations; pamphlets; radical action we wouldn't take today. Demonstrations. Much more activism; we don't do this anymore, at least not as much. Very feminist things, at certain places; that's what I particularly remember. Walpurgisnacht, women's day, was held around March 8th. We'd run through

town, using a megaphone. That's what it was about. (Translated interview.)

The theory of founding conditions points to the relevance of structural elements that organisations develop when they are founded, and which remain relatively stable over time (Kieser and Woywode, 2002: 264). The three organisations in our case study were characterised by strong feminist and grassroots democratic values, informality and activism. In the first few years these founding conditions played an important role in all three organisations, but subsequent organisational change took different paths. In the women's shelter, long-lasting tension between the fundamental democratic structures and new management requirements followed.

There is still a strong philosophy "against patriarchy" in place. It is simply too complicated when we have a topic to discuss or a decision to make. And it became clear that the organisational structure had to be changed. Then there was the process of organisational change. The idea came up to install a management team. That caused a crisis because all the employees worried about losing their decision-making power and ability to participate. Actually, though, all the employees who were delegated into the management team were elected. Right. Nevertheless, the situation was difficult for the employees, because there was a management team now, and they did not accept that. Well, the idea of having a management team created quite a problem. (Translated interview.)

In contrast, the women's service organisation changed its radicalism and activism into more accepted instruments and implemented strategies to develop services with external bodies. It has a higher degree of context adaptation and networking. It was clear to the board that was ultimately responsible, but budgeting and administration were always

divided. However, the tasks had not been clearly divided. There was that responsibility too. Then the board said no, and made a decision. There were discussions about whether to have collective management, with all employees being responsible. What the employees wanted in the end was the board to take responsibility and to install a management team that would take over some of the responsibility, with one person as a point of contact. (Translated interview.)

The change of Tara was quite different because the organisation's original goals, which were on a higher level of societal awareness of victimisation, had been partly fulfilled, at least in the last decade. The organisation therefore changed its core purpose and found new structural forms in order to supply contemporary services that were aimed at the needs of women. In the beginning, the core purpose was to make society more aware of this area, because it had been taboo. Nobody was interested in finding out more; that included the police, the courts and politicians. The clients were there, but there were far fewer than there are today. There was almost no media coverage; if there was, it was biased or confusing. Consequently, those in need were reluctant to approach an organisation to get information or seek counselling. But that has really changed a lot. Now, the emphasis is on public relations, and on networking. (Translated interview.)

We can connect these observations to the theory of intra-organisational decision-making processes. This concept, which is described mainly by Karl E. Weick (2002; orig. 1995), explains organisational change in the processes of the perception and construction of the environment through the organisation and its members (Wolf, 2005: 301). According to Weick, during the evolution process in organisations, rather than actions being varied and sorted out, it is their

underlying cognitive patterns that assimilate the environmental influences (Sagl, 2008: 69). From the perspective, cognitive patterns of environment perception play the crucial role of varying, selecting and retaining organisational behaviour. The concept highlights the enactment and social construction of the environment and asks how organisations and people interpret and solve complexity and ambiguity, how they find successful strategies, and how organisations save these in the organisation's memory. Here, Weick retains the underlying principle of evolution, but changes the names of some phases of the evolutionary processes in organisations. If an organisation is confronted with a new external stimulus, it tries to interpret this stimulus with an established pattern. If the level of complexity of this stimulus is too high, the system cannot find the appropriate pattern for dealing with it and so must create new methods of integration. If integration is successful, these new patterns are recorded in the "organisation's mind" and can be used again when needed (Wolf, 2005: 301ff).

In general, the women's shelter put a negative connotation on external changes, requirements or stimuli. The social construction of environment sees it as the "external enemy" and the clear cognitive rule is to lament and to fend it off. The dominant rule is defence or blocking. In contrast, the women's service organisation established more rules to actively integrate environmental influences. This organisation has a higher degree of openness, allowing it to cope with new demands. Also, the members of the organisation explore more in order to find new rules to which to adapt. The rule is to see changes and environmental demands as opportunities for development. Tara presents a case in which the dominant rules have changed more dramatically between one period and another. A conflict in the organisation led to a rule change, taking it from its initial feminist position, in which

cooperation with men was not intended, to a new and open concept. Environmental influences were treated differently from then on. This change was not possible without changes in the membership of the board, and it had a greater influence on day-today work than did the implementation of a management team some years before.

Conclusion

Our multiple case study research aims to provide an insight into change in women's aid organisations. Although it is difficult to generalise, we found signs of tension between women and equality-driven ideology on the one hand, and the provision of a service and need-oriented/client-oriented management on the other. These can be identified as the two dimensions shaping the professional understanding, the self-definition and identity, the service concept, and the employees and generational changes in personnel constitutions as well. The profession is formed between two positions and approaches which are, on the one hand, generally taking party for the side of women and their overall societal situation, and, on the other hand, taking a particular position focusing on the services and taking into account the concrete situations and individual needs of service seeking women and girls.

When the three case study organisations were founded, they shared similar conditions and the same ideology, but they have followed different paths of organisational change over the past 25 years, in terms of understanding the concepts of self, service and management. We did not find one dominant pattern of professionalism or professionalisation, or one type of relationship between organisational and professional change. In this respect, the three cases represent various types. The women's shelter is a more isolated and self-directed organisation, which treats the environment

as a potential enemy and which has an ideological position that sees professionalism in social work as subordinate to its feminist, grassroots democratic and political ideology. This case could be characterised by having little in the way of organisational or occupational professionalism. In contrast, although the woman's service organisation shared the same ideological base, it had a professional identity in addition to its feminist roots. The organisation has integrated environmental influences in both organisational and occupational terms. The third case is an example of a drastic transformation, which found new organisational as well as occupational professionalism.

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The role of Human Resource Manager:
Change Agent vs. Business Partner?
Research into HRM in Italy

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Abstract

The paper explores the extent to which HR departments in Italy are characterized by a shift from administrative roles to roles focused on valuing human capital and supporting organizational change, or as business partner and change agent, from the perspective of HRM (Boselie, et al. 2009).

After exploring the theoretical background by analysing the different roles of HRM highlighted in the literature, and referring to Ulrich (1997), a survey was conducted in 102 large companies operating in Italy. The data analysis highlights critical dynamics in the process of adopting the roles of business partner and change agent:

the on-going economic crisis seems to have contributed to a slowdown in the adoption of roles more focused on investing in people and organizational development and a step back from administrative roles and the short-term perspective;

from the quantitative perspective, the role of change agent is adopted less than that of business partner; nonetheless, change agent, when adopted, appears to be sounder and based on rather consistent programmes and actions, while business partner seems to correspond more to a formal label, coherent with managerial fashions, than to real role behaviours.

The main limitation is due to the impact of the economic crisis during the data collection and the necessity to test the hypotheses on more representative samples. The paper identifies possible areas of intervention for the HR manager in order to become a change agent and business partner. Its value is mainly due to being one of the few quantitative studies on HR roles in the Italian context.

Keywords: Business Partner, Change Agent, Human Resource Department, Human Resource Management, Human Resource Manager.

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State of the Art and Evolution of Human Resource Management (HRM)

Many classic contributions in the literature on the state of the art and the evolution of HRM focus on the links between the environment and corporate strategies on the one hand, and HRM policies and tools on the other (Schuler and Jackson, 1987; Wright, Snell, Dyer, 2005; Boxall and Purcell, 2008), underlining the continuous effort in adapting HRM policies and processes to strategic and organizational changes. This approach includes all the contributions related to "strategic human resource management" (Fonbrun, Tichy, Devanna, 1984; Noe, Hollenbeck, Gerhart, Wight, 1994). From this point of view, the evolution of HRM is considered a difficult and continuous adapting to changes both in the environment and in the strategies and structures of the organization. Accordingly, HRM has two main tasks. On the one hand, it should support the top management in defining the corporate strategy, and on the other hand, it should set up all the processes and tools necessary to put the strategy into action (Wright and Mc Mahan, 1992).

Within this stream, consistent literature has developed analysing the role of HRM professionals in defining and implementing policies and tools coherent with the strategic goals of the organization (McKee, 1997; Sparrow and Marchington, 1998; Wright and Snell, 2005).

In particular, Ulrich (1998) maintains that in order to face the challenges coming from the competitive environment, the HRM function should be able to cover different roles, sometimes even contradictory, which can be defined according to two main variables:

- strategic/long term or operative/short term

- managing processes or people

The matrix coming from these variables outlines the following roles (see figure 1):

Business Partner: the main task of the HR manager is to align the contribution of human resources with the company's business strategy;

Functional Expert: the main task is to design and manage efficient and effective HRM systems (procedures, methods, tools);
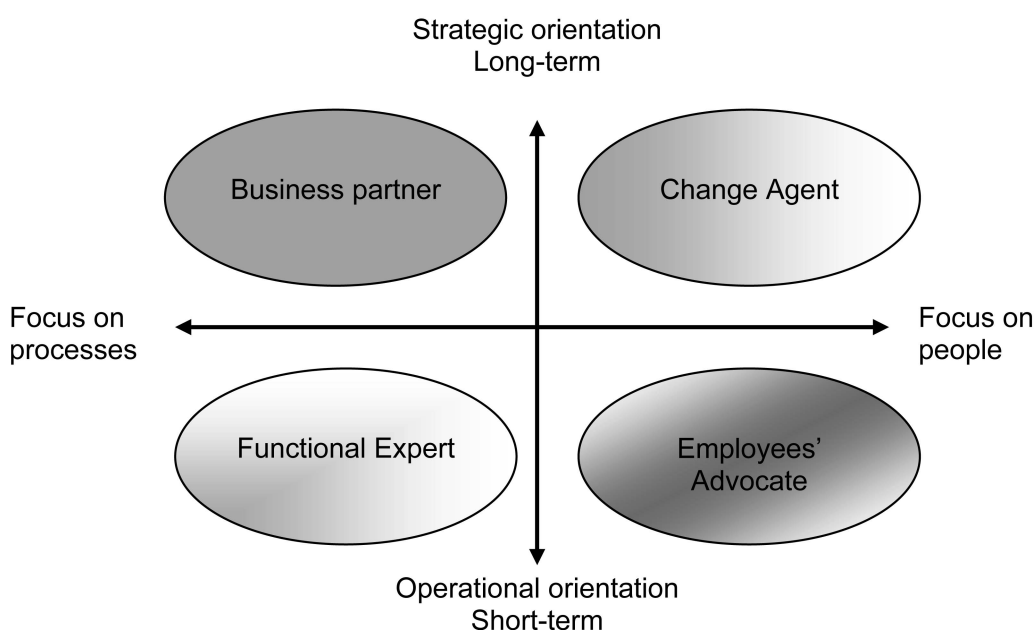

Figure 1: The HRM roles (Ulrich, 1998)

Employee Advocate: this role refers to managing employee commitment and contribution to the company. It means monitoring personnel satisfaction with the working conditions on a daily basis. The basic assumption is that personnel satisfaction has a positive impact on both productivity and company performance;

Change Agent: this role implies the involvement of the organization in change management, and HRM professionals have to identify and overcome resistance to change, and to generate flexibility and adaptability among the personnel.

Ulrich believes that the efficiency and effectiveness of the HRM function depend on the ability to play all these roles at the same time, mixing them up according to the environmental contingencies and strategic goals.

Nonetheless, observations of real practice points out that while the roles "functional expert" and "employee advocate" can be easily adopted, "change agent" and "business partner" are more difficult to play (Losey, Meisinger, Ulrich, 2005), given that the first one implies a longer term orientation and a stronger focus on valuing people, and the second one calls for higher strategic coherence.

In the first case, even if the role of leading organizational change is generally recognized in theory to belong to HRM professionals, it can actually be seen that in recent decades changes have mostly been led directly by top management, supported by external consultants rather than internal HRM professionals, who are probably considered less competent and reliable (Boldizzoni, 2009). It can be observed that "personnel departments are very often considered to be the rear-guard towards innovation, flexibility and change, acting as the guardians of traditions deeply rooted in rules and procedures, rather than as explorers of innovative pathways" (Ulrich, 1998), while the

acquisition of competencies useful to support change are critical for both the credibility and success of HRM professionals.

The adoption of the "business partner" role is even more difficult because it is not just a matter of acquiring new competencies, but it deals with effectively settling the structural conflict with line managers related to human resources management. This conflict is due to the fact that while line managers are mainly interested in managing human resources according to productivity and the short-term perspective, HRM professionals should consider people management from a long-term perspective and with a specific focus on competence development (Barney and Wright, 1998; Paoletti, 2008). And that is the most compelling challenge against which HRM is expected to measure itself.

In recent decades, studies conducted on the state of HRM in the Italian context have pointed out highs and lows, partly confirming a slowdown in its evolutionary process: on the one hand, the models of "personnel administration" seem to have been abandoned and the mere role of "functional expert" is considered insufficient. At the same time, the shift towards "human resources development" models and roles, which are more consistent with strategic orientations, seem to be quite a distant target (Camuffo and Costa, 1993; Boldizzoni, 1997, 1999).

Research Objectives and Methodology

The research presented here aims at contributing to the discussion on the role of HRM in Italy, trying to understand, in particular, if the intention of adopting new and more challenging roles, firstly those of change agent and of business partner, had a concrete translation into real practices in recent years.

The data was collected in 2009 through an on-line questionnaire sent to more than 500

people in charge of a HRM department. The target group of respondents was selected from a mailing list of Human Resource Managers, members of one of the main Italian HRM associations. A total of 102 answers were considered valid for our statistical analysis.

Here follows the most important characteristics of those 102 companies:

- national/multinational profile: slightly more multinational companies (53.9%) than national (46.1%);

- industry: companies are equally distributed between manufacturing (51%) and service sectors (49%);

- size (companies were grouped in the following classes): from 250 to 500 employees (36.4%), from 501 to 1,500 employees (37.7%), from 1,501 to 5,000 employees (13.1%), more than 5,000 (12.8%).

The companies involved in this survey cannot be considered representative of the entire population operating in Italy, which is mainly composed by small and medium-sized enterprises (97% of the companies have less than 15 employees) where generally no specialized HRM function or competence is present.

We decided to focus on companies with at least 250 employees, given that they are generally characterized by the following features: the existence of a formally appointed Human Resource Manager operating as a staff of the CEO (Chief executive Officer); a HRM function articulated in specialized units (e.g. recruitment, training, industrial relations, etc.); and the presence of formal HRM processes and systems. From this point of view, our sample of 102 companies represents 2.98% of all Italian companies with at least 250 employees, which total 3,148 in 2007 according to the Italian National Institute for Statistics.

Results and discussion

The Roles of the Human Resource Manager

Beginning from the analysis of the collected data, here follows a discussion of the trajectories of the evolution of HRM in Italy, referring in particular to the roles of Change Agent and Business Partner in order to understand whether and to what extent Italian HRM departments are actually moving in these directions.

The data analysis was based on a pivotal question in the questionnaire asking: "Among the following roles, which one best represents the nature and the activities of Human Resource Management in your company today?" (Note 1)

Referring to Ulrich's model, the collected data indicates that the role of Business Partner is by far the first option (29.9%), followed by that of Functional Expert (19.5%) and Change Agent (14.3%). Nobody chose Employees Advocate (0%).

The analysis of this data suggests two possible main considerations (see figure 2).

Firstly, the focus on processes is definitely stronger than that on people, suggesting that human resource managers are much more committed to answering requests coming from the organization/management than listening to single employee's needs. In economically and financially bad times, supporting organizational efficiency and effectiveness comes first: so the human resource manager spends his/her time "partnering" line management to achieve business results and improving the functional processes he/she is responsible for.

Secondly, it seems that the human resource manager has somehow lost his/her profile

as "missionary" (Employees' Advocate), taking care of people's everyday operational problems and requests. The focus on people survives only if it is meant in terms of adapting the human capital to the change management processes of the organization, and working on its flexibility skills.

Comparing this data with that collected in a previous survey conducted on the same companies ten years ago (Boldizzoni, 1999), it is possible to highlight the evolution of these orientations in Italian HRM departments referring to the last decade (see figure 2).

The fundamental trajectory of evolution shows that there has been a significant increase of focus on processes, with the quantitative growth of both the Business Partner and the Functional Expert roles; at the same time there has been a relevant reduction in the Change Agent and the disappearance of the Employees' advocate roles, witnessing a weaker focus on people inside the organization.

As mentioned above, it is possible to link this strong emphasis on processes to the recent worldwide economic crisis, during which the Italian economy reported a particularly negative performance. This was followed by attempts by some companies to maintain their competitive advantage, especially through a search for the highest efficiency in their internal processes. As a matter of fact, if the data is analysed according to sector of activity it is possible to observe that the role of Business Partner is much more present in the manufacturing industry than in services (78.3% vs. 54.55%); perhaps because the companies belonging to the former were urged to restructure in order to face the competitive pressure coming from rising economies.

Moreover, if we compare national and multinational companies, it is not surprising that a stronger orientation definitely exists among multinational companies in adopting the role of both Business Partner (78.3% vs. 27.7%) and Change Agent (81.82% vs. 18.18%). The reason is very likely the traditional sounder focus on human resource management policies and systems by multinational companies, partly 'pushed' by the tight relationship with the main consultancy firms at the international level, who frequently represent a significant source and vehicle for managerial innovations and fads.
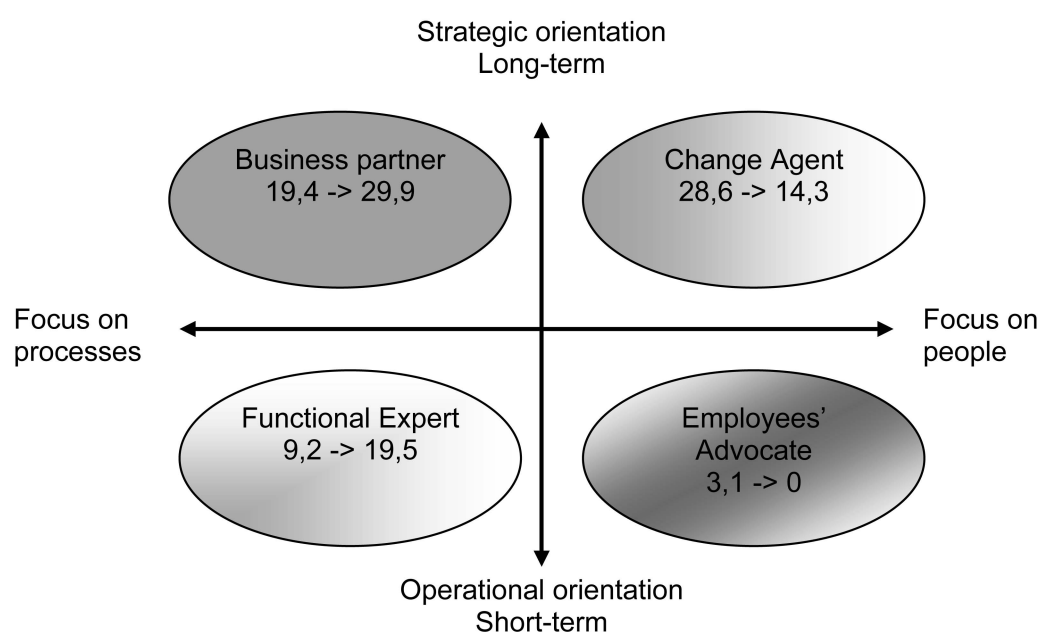

Figure 2: The evolution of HRM role (2000–2010)

Business Partner vs. Change Agent: Data Analysis

In this section the orientations and actions characterizing the roles of Change Agent (CA) and Business Partner (BP) are analysed, trying indicate the gaps and differences compared to the overall sample. As a matter of fact, the aim is to understand whether, beyond the formal statement of having adopted such roles, it is possible to identify policies, approaches and concrete areas of engagement differentiating these HRM departments from the others who participated to the survey.

In particular, the following areas of analysis were considered: the objectives of the HRM department, criteria for the assessment of its performance, the main problems and areas of engagement, and concrete actions implemented in some key innovative areas of human resource management.

HRM strategic objectives

The first question was aimed at identifying the strategic objective of HRM departments in order to make a distinction between "conservative" policies centred on respect for norms/contracts and on maintaining a good internal climate, and "development" policies based on contributing to the development of the organizational system and the complete expression of the human potential available.

Table 1: Objectives of the HRM department

	CA	Total	BP
Ensuring respect for norms and contracts and managing relations with labour unions	9.09%	19.48%	8.70%
Ensuring equity of treatment and maintaining good internal relations	9.09%	10.39%	4.35%
Improving the efficiency of human resources coherently with processes of organizational restructuring	9.09%	24.36%	34.78
Contributing to the development of the organizational system by integrating human resources with all the system's components	27.27%	24.68%	21.74%
Developing human potential at all levels of the organization	45.45%	23.38%	30.43%

Note: it was possible to give only one answer

Compared to the overall sample, generally both CA and BP show a stronger orientation towards valuing people.

CAs are clearly oriented towards valuing people and integrating them into the organization. On the one hand, they have the objective of being proactive in integrating human resources into the overall organizational system (strategy, structure, culture, technology, etc.); on the other hand, it is even more strategic (the difference with the overall sample is more than 20%) for them to develop human potential at any level in the organization – sustaining the competitive advantage of the organization through people (Pfeffer, 1998).

BPs instead, seem to have a slightly more ambiguous orientation that is less distinct from the total sample. If on the one hand, they show a sounder commitment to valuing people, even if to a great degree this is lower than the same in CAs (the difference with the overall sample is around 7%), at the same time their prevailing objective is to ensure the efficient use of people, according to restructuring processes. In other words, they seem to interpret the role of BP more in terms of adaptation to the requests for efficiency coming from the line management than as a contribution to relaunching the company in terms of organizational development.

Criteria for assessing HRM performance

The question of the criteria for the assessment of HRM performance was aimed at understanding the expectations that the different internal stakeholders/customers have towards HRM professionals: What do they expect the HRM department to focus on and ensure for the organization?

Table 2: Criteria for assessing HRM performance

	CA	Total	BP
Functional competence	27.27%	38.96%	21.70%
Management of staffing and labour costs	36.36%	38.96%	36.00%
People development	90.91%	50.65%	48.00%
Management of relations with labour unions	27.27%	20.78%	21.00%
Service orientation	27.27%	33.77%	43.50%

Note: two answers were possible

Compared to the overall sample, for both CA and BP the dimension of the pure functional competence of HRM experts seems to count less, while attention to labour costs and staff management is in line with the total sample.

A differentiated outline does emerge. For CAs, the clearly prevailing criterion is that of "people development", an area absolutely consistent with the stated objective of the function (see above), and on which CAs perceive they have to account for their actions and results. As far as it concerns the BPs, the distinctive criterion appears to be that of orientation to service instead, while referring to people development, the figures are slightly lower than the overall sample (48% vs. 50.65%), suggesting that the main driver is towards satisfying the requests of internal customers (the line manager responsible for specific organizational processes) and not necessarily those of single employees with whom the partnership seems to be a little bit weaker.

Main problems and areas of engagement for HRM today

One specific question had the objective of investigating what primary problems face HRM departments today; in other words, which areas of engagement is it called to direct its energies and actions towards in order to provide an effective answer to the requests coming from the organization.

Table 3: Problems of HRM today

	CA	Total	BP
Efficiency and control of costs	54.55%	50.00%	30.40%
Organizational flexibility	36.36%	21.79%	13.00%
People training and development	45.45%	29.49%	34.80%
Change management	0.00%	1.28%	4.30%
Management of work atmosphere, culture and values	27.27%	23.08%	34.80%
Service to internal customers	54.55%	33.33%	21.70%
Diversity management	9.09%	10.26%	21.70%
Work and life quality	0.00%	1.28%	0.00%

Note: it was possible to give more answers

Compared to the total sample, once again CAs show an overall orientation that is more clearly differentiated and focused towards the development of people and of the organization. As a matter of fact, these HRM departments are more engaged in certain critical issues:

management of work atmosphere, culture and values (54.55% vs. 50.00%); training and development of people (45.45% vs. 29.49%); and search for organizational flexibility (54.55% vs. 33.33%). It is interesting to observe that attention to efficiency and cost control also remains fundamental for CAs – any organizational change and development action, in time of crisis, cannot leave this dimension out of consideration.

BPs on the contrary show a profile which is closer to the overall sample, with a differentiation on the training and development of people (34.80% vs. 29.49%) and most of all on service to the internal customer (21.70% vs. 10.26%) as already noticed.

What is striking here is the absence of both CAs and BPs on the topic of work/life quality – in

line with the overall data, this seems to highlight a certain delay in the entire Italian social and economic system, which even companies that say they have adopted more advanced roles in human resource management are unable to avoid.

HRM present practices

The last question aimed at identifying actions concretely implemented by HRM departments in the deployment of their functional policies. In particular, attention was set on specific cutting edge issues (beyond the traditional human resource management leverages), which should in themselves more clearly show the transition of HRM departments towards the adoption of more innovative roles.

Table 4: Present HRM practices

	CA	Total	BP
a) To increase efficiency and productivity			
Outsourcing/spin-off programs	27.27%	15.38%	17.40%
Internal entrepreneurship programs	27.27%	11.54%	4.30%
Introduction of new types of flexible jobs (part-time, job sharing, flexible time)	45.45%	23.08%	8.70%
Introduction of remote-working	9.09%	2.56%	0.00%
Introduction of variable rewards	45.45%	4.,59%	60.80%
b) To improve the service orientation			
Systematic monitoring of the quality of service	63.64%	33.33%	6.10%
Internal customer segmentation	9.09%	12.82%	8.7%
Introduction of internal accounts	18.18%	12.82%	13.0%
Internal marketing/communication plans	18.18%	11.54%	17.4%
Award for the quality of service	9.09%	11.54%	8.70%
360° appraisal methods	36.36%	12.82%	13.0%
c) To develop potential through:			
Mobility/career policies segmented by educational qualification	27.27%	12.82%	13.0%
Mobility/career policies segmented by age	18.18%	10.26%	4.30%
Mobility/career policies segmented by professional seniority	27.27%	8.97%	13.0%
Mobility/career policies segmented by gender	27.27%	12.82%	4.30%
Policies and plans for Equal Opportunities	36.36%	7.69%	4.30%
Inter-company training programs	54.55%	26.64%	30.40%
Inter-functional training programs	36.36%	32.05%	34.80%
Plans for individual and professional group competency development	36.36%	25.64%	26.10%
d) Work and life quality			
"Work-life balance" programs	9.09%	5.13%	0.00%
Agreements with sport, health-care, family services providers etc.	54.55%	32.05%	30.40%
Introduction of corporate nursery	18.18%	10.26%	8.70%
Plans for the improvement of the work environment (beyond those required by law)	27.27%	29.49%	30.40

Anti-mobbing plans	9.09%	6.41%	8.70%
Customized support/development (counselling, mentoring, etc.)	9.09%	12.82%	17.40%

Note: only one answer per section (a, b, c, etc.) was allowed.

Generally, a weak initiative on these crucial issues does emerge, indicated by the limited differentiation of CA and BP behaviours from the overall sample.

Focusing on each single sub-section of HRM practices, it is possible to draw some insights for the present analysis:

productivity: CAs search for efficiency and productivity not only through variable rewards, but also through flexible solutions oriented to people's needs (e.g. remote working) and the promotion of internal entrepreneurship; BPs limit themselves to introduce variable rewards;

service orientation: BPs state that service orientation is the main criterion for assessing the performance of the function, but they are poorly engaged in consistent actions (e.g. monitoring of customer satisfaction); CAs instead implement a significant range of actions, like monitoring internal customer satisfaction and introducing the role of the account (hard), as well as 360° evaluation, a cutting edge method for developing people's competencies (soft);

potential development: CAs show a strong and definite orientation, given that they invest in segmenting their policies, towards Equal Opportunities and focused plans for competency development (tailored for groups and individuals), as well as towards an opening towards external experiences (intercompany training); BPs are actually indistinct from the overall sample, so less proactive on potential development;

work and life quality: CAs seem to be more focused and committed to people ("work-life balance" programs, corporate nursery,

agreements with services providers, etc.). Also on this issue, BPs appear fundamentally less oriented towards people.

Overall it seems to be confirmed that while the statement of having a role of CA is generally supported by a stronger orientation towards valuing people; on the contrary, that of being a BP appears to be less substantially founded, almost a mere formal label with no consistent practices and actions corresponding.

Conclusions

The aim of the research presented in this paper was to understand the progress of companies operating in Italy in their transition from an "administrative approach" to new and more challenging roles, particularly those of change agent and business partner, according to Ulrich (1998).

The analysis of the overall data highlights that the two trajectories of the evolution of human resource management seem to be only partially confirmed in the Italian context. Even with the caution necessary when drawing generalizations due to the limited number of companies participating in the survey, the choice of some companies defining themselves both as business partner and change agent seems to be only weakly tied to human resource management policies and practices actually coherent with these "labels".

Nonetheless, the collected data allows us to highlight rather different situations related to the two roles analysed.

On the one hand, it is possible to underline that "business partnership" in the Italian context appears to be a weak concept, given

that it doesn't seem to be univocally related to an organic set of variables referring to the objectives and the activities of the HR department. As a matter of fact, HRM departments defining themselves as Business Partner, at the same time declare that they adopt practices and actions not strictly consistent with BP.

It is possible to advance the hypothesis, yet to be confirmed by further surveys on more representative samples of companies, that business partnership is intended more as a "formal label", adopted by HRM departments in order to suggest to their internal (top management, line management, employees) and external stakeholders (HRM professional community, experts and scholars) they are "up-to-date", than as a driver useful to guide behaviours and concrete actions (Ulrich, 1997; Huselid, Jackson, Schuler, 1997). Referring to neo-institutional theory (Powell and Di Maggio, 1991), it possible to assume that the HRM department is engaged in activating isomorphic processes that are both mimetic (in times of uncertainty, organizations decide to imitate what the believed benchmarks are doing) and normative (organizations decide to uncritically adopt managerial models developed and disseminated by the owner of "professional knowledge and know how" as business schools and consultancy firms).

On the other hand, it is possible to point out that if the role of change agent in the last decade has reduced its diffusion from a strictly quantitative point of view, at the same time, it seems to be much sounder today. As a matter of fact it is characterized by the adoption of HRM objectives, strategies and practices that are rather coherent and based on the idea of valuing human capital – according to Ulrich's model, a long-term orientation to people. So HRM departments seem to interpret the change agent role in terms of strong care for people through dedicated policies, systems

and innovations likely based on the assumption that organizational change and development processes can be effectively carried out only by investing in human capital – the one organizational resource that can support them successfully.

At the same time, the quantitative drop of the diffusion of the change agent role can be explained by referring to the on-going economic crisis, an issue recalled more than once in this paper. It might have urged many HRM departments involved in company restructuring towards a short term perspective and a stronger focus on the efficiency of the function's processes (here also a strong increase in the functional expert role).

In short, while there are many HRM departments defining themselves as business partner, but limiting themselves to recall a "label" not supported by consistent actions, there is a smaller number of HRM departments declaring they are adopting the role of change agent, but these are prevalently coherent in their concrete behaviours and practices.

The evidence from the research indicates that a realistic possible development of the studied roles (change agent and business partner) is based more on identifying specific useful contributions that the HRM department can give the organization than on the statement of having adopted an abstract role.

So, it is not a matter of simply claiming the role of change agent or business partner, but of building over time a sound relationship with the different stakeholders with the aim of analysing and understanding their specific needs, suggesting coherent interventions and actions, answering to organizational needs for change and development, and offering continuous support to top and line management to achieve business results.

As a matter of fact this approach appears to be consistent with some of the most recent trends characterising research on human resource management, which focus more and more on the links between HRM policies and practices, and overall company performance (Chang and Huang, 2005; Becker, and Huselid, 2006; Akhtar, Ding, Ge, 2008). And the analysis of these links might represent an interesting perspective for future research into HRM roles.

Notes

1 - The possible answers were not limited to those indicated in Ulrich's model (functional expert, employees' advocate, change agent, business partner), but also included two more alternatives – "top management advisor" and "line consultant" – resulting from the debate on the role of HRM in the most recent Italian literature. These two are not part of the present analysis.

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Abbreviations

HRM: Human Resources Management

HR: Human Resources

BP: Business Partner

CA: Change Agent

CEO: Chief Executive Officer

The Balanced Scorecard: The Evolution of the Concept and Its Effects on Change in Organizational Management

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Abstract

This paper presents a history of the Balanced Scorecard concept from its earliest appearance to the present day, showing that its evolution is closely related to the fact that the concept has always had a practical application. This article's aim is to establish a relationship between its applications as an instrument and the evolution of the Balanced Scorecard concept; it also seeks to demonstrate that this concept has induced changes in the way that organizational management at the global level has evolved in recent years due to its innovation and wide spread use around the world. These objectives are pursued through a review of literature and texts published by the authors of the concept and other relevant contributors.

Keywords: Balanced Scorecard, history, application, change management

Introduction

During the last part of the 20th century, the shift from an industrial age to an information or knowledge age brought about the need to change the performance measures used by organizations. A model was needed to solve the problem of assessing organizational performance rather than focusing exclusively on financial indicators because factors that functioned well as indicators in financial terms were often negative in terms of customer perception, or vice versa.

The Balanced Scorecard (BSC), presented by Kaplan and Norton (1992), emerged out of this context and evolved over time as follows:

- initially it was applied to assess the performance of organizations;

- then it came to be regarded as a management system and a way to implement and communicate strategy;

- next, the interconnection between the BSC and strategic management was emphasized, particularly in terms of strategic learning, which is related to processes of innovation which are inevitably related to the human factor within organizations;

- most recently this tool has been applied in a broader perspective, having moved beyond the internal limits of organizational analysis to the perspective of analysis and monitoring of organizational management systems and their strategic relationships with external organizations.

The basic role of knowledge has become more defined and focused on organizations in the context of workers as collaborators in

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knowledge, and in the way strategies should be implemented at all levels of the organization. This idea began to be understood and employed by organizations and may have become one of the major changes in management, and especially in management accounting.

From its initial presentation to the present day, BSC strategic issues have described the combination of intangibles with internal processes to achieve both intangible results, such as customer loyalty, and tangible results, such as revenue growth and profitability. Therefore, the BSC reference for strategies measurement is based on knowledge and related to its learning and growth perspective which focuses on acquiring and developing knowledge, building organizational memory and the existence of an enabling environment for the development of skills required for organizational success. However, it seems clear that skills development and an environment adequate for that to occur has been successively extended within the organization. The verified applications of the BSC apparently began at the operational level, and over time, the tool's implementation has successively broadened its application potential.

The principal objective of this article is to study how the use and implementation of this management tool has impacted the concept of the BSC, and inversely, how the scope of the BSC's evolution has also changed as a side effect of its application judging by recent developments. The widespread use of this instrument by today's managers will also be analysed in the sense that the BSC has influenced management practices, and emerged as a regular element along the lines of a SWOT analysis or a BCG matrix analysis.

The BCG Matrix concept was established in the early 1970's by Bruce Henderson and was integrated into the Boston Consulting Group (BCG) which he started in 1963. By 1970 the matrix had developed into its initial form, and posterior evolutions gave birth to the form presented in 1973, as it is usually known. The BCG matrix is a simplifying tool, which selects two parameters:

- relative market share as the key indicator of the strength of the organization's competitive position; and

- growth as an indicator of the potential and attractiveness of the market.

A proliferation of variants followed in subsequent years, as consultants and corporations adapted the portfolio planning/ matrix theme to suit their own needs and purposes. This contributed much to its widespread use so that it was soon used by over one hundred major US companies, including a wide range of companies by the late 70's. Its popularity continued to grow, although there were some significant differences from industry to industry in exactly how it was being taken into use (Morrison and Wensley, 1991).

The SWOT analysis has its origins in the work of business policy academics at Harvard Business School, in particular Kenneth Andrews who at the beginning of the 1960's, popularized the idea that good strategy means ensuring a fit between the organization's external situation (threats and opportunities) and its own internal qualities or characteristics (strengths and weaknesses). It has been in widespread use since then and is also used today, even after being considered an idea which was once useful, it continues to have an influence in the field long after it had served its purpose (Hill and Westbrook, 1997). However, in order to overcome its limitations and to improve the use of SWOT analysis, several successful attempts have recently been made to expand SWOT using quantitative methods (Gao and Peng, 2011), which allow us to conclude that this concept is still used today.

The purpose of the paper referred to above will be pursued using literature review methodology, especially focusing on texts by the authors of this management tool, as well as significant contributions from other authors, in order to highlight the fact that this tool has evolved based on the use under which is undertaken at company level. Therefore, it is essentially a text review to interpret the evolution experienced by the BSC concept based on evidence from the material.

The review of the evolution of the BSC, linking its development with its practical use, is largely based on its creators, who not only created the concept but have also promoted its use in the business context.

Finally, the paper will also establish the fact that management practices have also changed with the concept's introduction and the generalization of its use, as it has come to be regarded as a practical management tool with broad and near universal use.

The conclusion suggests that a number of different BSC development stages can be identified and articulated. These are significantly related to the different kinds of uses that the initial management tool has been put to over time. Similarly, methodological approaches to analysis in organizational management have changed with the introduction of the widespread use of the BSC.

Historical Evolution and Application of the BSC

The study that first led to the presentation of the BSC concept, conducted by Kaplan and Norton in the early 1990s, was based on the belief that available methods for evaluating organizational performance based on accounting indicators and financial measures were interfering with the organization's ability to create economic value for the future.
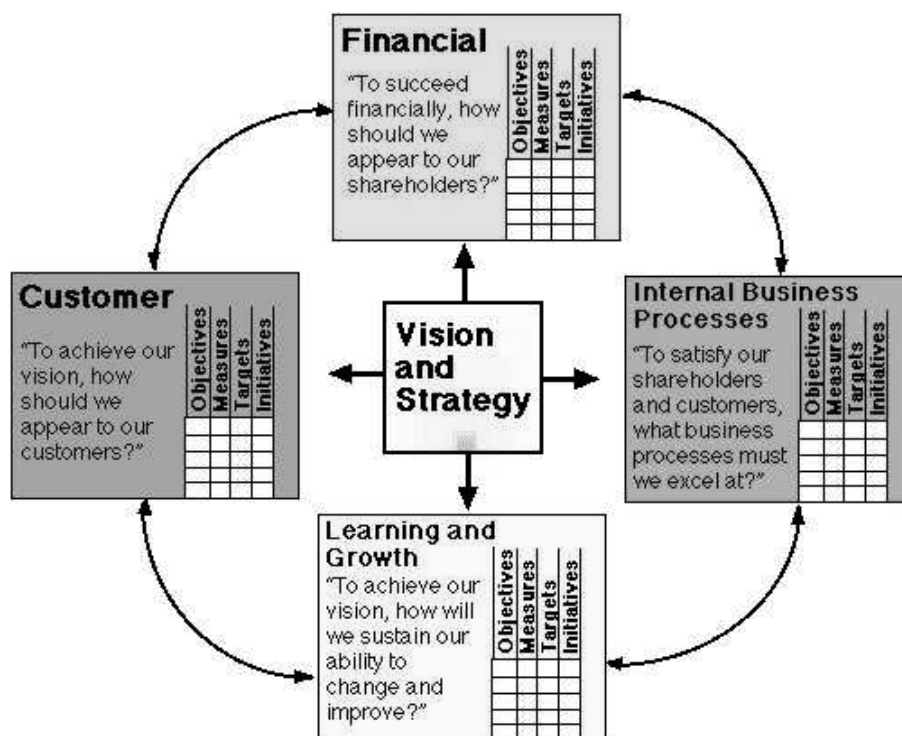

Figure 1: Issues the BSC intends to answer

Source: Adapted from Robert S. Kaplan and David P. Norton, "Using the Balanced Scorecard as a Strategic Management System," Harvard Business Review (January-February 1996): 76.

Initially, the BSC emerged as an approach to answering some important questions within the main purpose and mission of the organization. It is not unusual to use the following figure to illustrate what the BSC is intended to clarify when applied to an organization.

Interestingly, the study referred to above was itself a product of experience related to practice – the fact that it was funded by KPMG, a consulting and auditing company, and conducted by a research unit of the Nolan Norton Institute, contributed to the connection of the BSC to practical business issues from its inception.

The belief that existing methods of management control were unfit and could lead to conflicting decisions with long-term organizational objectives led to this system for measurement and performance assessment, this was as a result of a business study carried out in twelve American companies, and published in early 1992 in the *Harvard Business Review*.

Experiments followed, applying the BSC in a considerable number of business organizations. In 1993, the BSC was being presented by its authors as an applicable methodology in different kinds of institutions – public and private companies, profit and non- profit organizations – as a tool that was adaptable to the main organizational purpose or mission. These organizations have stated that the BSC constitutes the basis of their management system (Kaplan and Norton, 1993).

Also in 1993, in response to the numerous managers who had solicited the authors' collaboration to implement the tool in their companies, regarding it as a system of measures and indicators, Kaplan and Norton published another paper entitled "Putting the Balanced Scorecard to Work", in which

the idea that BSC measures must serve as the connection to company strategy was reinforced.

In the same year, Norton took a managerial position at *Renaissance Solutions Inc.*, which provided strategic consultancy. His practical experience showed that some managers and organizations using these kinds of services not only used the BSC to clarify and communicate strategy but also to manage it.

Between 1993 and 1996, the BSC concept evolved from a system of performance measurement/assessment to a key management system used as the primary tool for overall organizational strategy as a result of improvements identified in some American and Canadian companies – pioneers in the implementation of the BSC. This then became the topic of yet another paper entitled "Using the Balanced Scorecard as a Strategic Management System" (Kaplan and Norton, 1996a).

In the same year, based on experience gained in consulting activities responding to the needs identified in companies, which assisted in the process of building and implementing the scorecard, the authors published the book *The Balanced Scorecard: Translating Strategy in to Action*.

Kaplan and Norton (1997), point out that organizational vision and strategy should be materialized through a map with targets and performance indicators or measures that meet the different interconnected perspectives of analysis to communicate a small number of broad strategic issues, such as organizational growth, risk reduction or productivity increases. In this map, objectives, indicators, measures and financial information serve as a reference or focus and, whenever any action is implemented, the cause and effect relationships underlying the concept create a chain of events that culminates in financial performance improvement.

By 1998, the authors were involved in business consultancy and implementation services for the use of the BSC in a number of companies, designated as the "Balanced Scorecard Collaborative". This activity allowed them to develop a description of the evolution of the concept in another book entitled *The Strategy Focused Organization*, which emphasizes the fact that in a short period of time the BSC has become a global reality in many organizations in all sectors, both profitable and not-profitable, and that the BSC has been used not only as a system of performance evaluation, but also as a central element in their management systems.

In the following years, the authors observed many organizations, which had implemented the BSC, finding that these had registered good results in the short term which were attributed to the alignment of resources and strategy.

At this point, it seemed clear that the BSC would have to be regarded as a Strategic

Management System, defined as such, and accompanied by the complementary strategy map (Kaplan and Norton, 2000a, 2000b). Using indicators and measures related to objectives, the BSC provided the alignment of initiatives with strategy in a process of feedback and on-going learning, efficiently managing business performance according to the following objectives:

- to implement effective strategies, transforming them into measures of specific actions;

- to communicate strategy at all levels in the organization;

- to manage change in the operational process, aligning it to strategy;

- to create value in intangible assets.

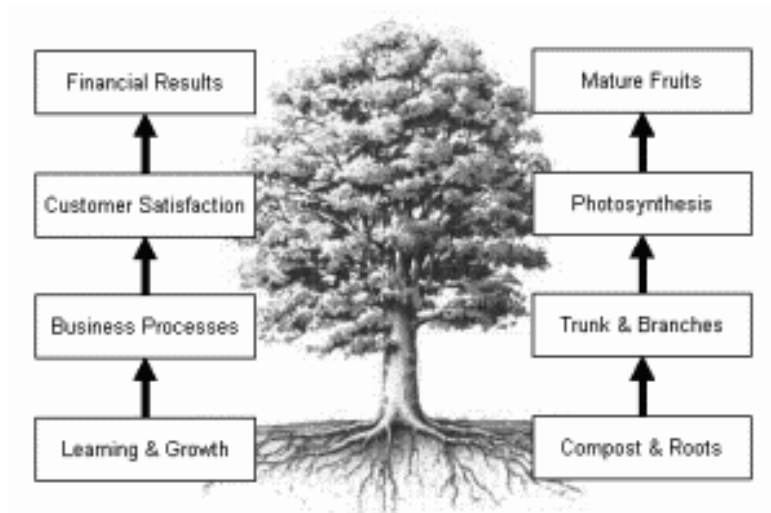By this time the BSC was more like a system that functioned as depicted in Figure2.

Figure 2: Functional diagram of BSC

Source: http://www.business-process-it.com/balanced-scorecard.html consulted 18/11/2011.

This phase was reached through the analysis of hundreds of Scorecards developed in many organizations and through the difficulties normally associated with the BSC implementation process.

Anthony and Govindarajan (2001) argue that the BSC has become a performance evaluation system that aims at strategy implementation. The concept first introduced by Kaplan and Norton was for management

control, although later the definition was expanded to include both the nature of products and the business of management control.

In practice, the leaders of organizations who had adopted the BSC were found to be using the concept to re-align their business units, shared service units, teams and individuals around the goals and objectives.

From the working foundation established by Kaplan and Norton, academics and organization managers around the world became interested in the concept and studied it, contributing to its improvement. In Europe, Latin America and Australia consulting firms emerged certified by the "Balanced Scorecard Collaborative".

During the following years Kaplan and Norton observed BSC implementation in several organizations and noted that important results were achieved in relatively short periods, and also that the leaders of these organizations supported their strategies using the concept of cause and effect relationships depicted in their strategic maps (Kaplan and Norton, 2000a, 2004a, 2004b).

The diffusion of the model, both academically, where critical views did appear (Norreklit 2000, 2003), and professionally, seems to be due in part to how it is promoted and supported by the authors of reference. Kaplan and Norton not only published vast amounts of material on the topic, but also promoted the creation of advisory firms, which greatly contributed to its spread. For instance, with the creation of the *Balanced Scorecard Collaborative Inc.*, comes a whole host of services, conferences, training, certification, standards implementation and software designed around the implementation and use of the BSC. The initiative promoted by the authors, the *BSC Hall of Fame*, applauds organizations that obtain good results via the implementation and use of the concept.

Such a spread in the professional world has been without doubt essential to the tool's evolution. Recent developments in 2008 by Kaplan and Norton, posing the BSC as a system to manage both strategy and external relations (Kaplan and Norton, 2008), and in 2010 by Kaplan, Norton and Rugelsjoen when the BSC debuted as a management system of organizational strategic alliances are cases in point. Again, this last aspect of the BSC results from practice in a pharmaceutical organization, aiming to establish a partnership, bringing about the emerging notion of the "Partnership or Alliance Scorecard" (Kaplan, Norton and Rugelsjoen, 2010). This paper also refers to other experiences with this kind of use by companies in different countries.

The latter field of activity for the BSC is clearly a result of its application which redefines the concept, extending it to issues related to the strategic management of external relations between organizations.

Change in Management Practices Due to the Use of the BSC

This section defines the major changes due to the practical use of the BSC in the management process. Change is considered something (method, process or practice) that is affected by innovation in management science. A simple definition of this difficult concept refers to change as an exciting but problematic concept, defying definition and

structured analysis (Burns and Vaivio, 2001). Different types of change can be identified as being associated with the widespread use of the BSC – as change is a regular feature of practice and is far from homogeneous in the form it takes and in its perceived importance and success (Sulaiman and Mitchell, 2005).

Change in Management and in Management Accounting

An appropriate information system assumes that users know which information is needed by their organization, assures that it is received on a regular basis and is integrated in the decision-making (Drucker, 1995). In this sense, the BSC can be seen as a system that describes the strategy clearly, provides balance and integration between short and long-term objectives, and between the results and their inducers, as well as between objective and subjective measurements, focusing on the organizational performance from four different perspectives: Financial, Customer, Internal Process, and Learning and Growth.

The BSC aims to summarize these perspectives in a single page, through the strategic map of the global organization's strategy, ensuring the simplification of complex strategy documents that a company commonly prepares to explain its activities guidelines. Perhaps the simplicity of the idea behind it has made it one of the most referred to tools in management literature, in training and in practice applications in organizations in recent decades.

Authors such as Kanji (1998, 2003) and Kanji and Sá (2001, 2002) state that the BSC is used in two distinct ways in organizations: as an information system that supports the targeting of management leaders and as a strategic management system based on the criteria presented by Kaplan and Norton.

Wilson and Atkin (1976) had already stated "Businessmen being no less susceptible than the public at large to taking on fashionable theories". After these ideas, it seems that beyond the fashion-factor in management activities (from management control, primarily related to the accounting management practices, to setting and monitoring strategy), which is justified by the legitimacy of the organization or its management system for stakeholders,

or mimicry in other organizations (Powell and DiMagio, 1983, 1991, Abrahamson and Fairchild, 1999, Malmi, 2001, and Ax Bjornenak, 2005), other reasons justify both how and why this innovation has spread to so many organizations – for instance, new management techniques and approaches, such as Total Quality Management, and management practices initially applied in Japan (Vaivio, 1999), such as Kaizen Costing, Just in Time, among others.

These arguments, may be related to results obtained in a number of organizations (Kaplan and Norton, 2000a), widely reported by the authors, consulting firms and information technology companies. The effect may be fashion-related in the sense that the model had obtained some degree of organizational success which attracted other users. In this sense, Bowman (1974) stated "Well documented and consistent behaviour of successful companies is a strong normative guide [...] practise is only ignored with some folly" – but it is also due to broad communication successfully carried out in the following manner:

- initiatives undertaken by the authors of the methodology, related to awards and incentives obtained by organizations who successfully implemented it;

- the existence of numerous organizations acting as consultants in the area of the implementation and development of the BSC, some supported by the authors of the methodology;

- dissemination of information technology solutions for BSC implementation;

- the widespread offer of seminars, coaching, workshops, conferences and seminars about the topic;

- papers submitted at congresses in the areas of Management, Management

Accounting and even the area of Human Resource Management;

- training and educational programs provided by schools (especially higher education and business training entities);

- the fact that almost every school textbook in Management, Human Resource Management and Management Accounting devotes a part of its structure to introducing the concept and application of the BSC.

All these factors seem to contribute to what can be understood as a process of diffusion of innovation (Martínez and Heredia, 2003), and therefore, of changing management practices and management accounting. The primary logic behind this change was the need for management measures and management accounting for non-financial reasons. One of the most important concepts in this field is without doubt the BSC (Kaplan and Norton, 1992, 1993, 1996a, 1996b, Butler *et al*., 1997, Silk, 1998).

Kaplan and Norton clearly recognize the BSC evolution, which started as a tool in the area of management control and then became, through its application and use, a Strategic Management System (Kaplan and Norton, 2000a, 2004a, 2004b). This kind of evolution seems to be common to several elements and methods coming from management accounting, as previously stated by Simons (1990), even management control systems are not solely used for strategy implementation, but also for strategy formulation.

Internal Organizational Change

In terms of changes from using the BSC, there is another aspect to consider: the change that takes place within organizations. In this sense, the BSC is often referred to as:

- a tool to induce change in an organization (Kaplan and Norton, 2000a, 2000b);

- a tool that is most likely to be successfully introduced in organizations facing external or internal environment changes.

Regarding the first point, Pettigrew and Whipp (1991), formulated a theoretical framework in order to understand strategic change, viewing it as an on-going process. The authors state that there are three different interrelated dimensions to consider in order to understanding strategic change: the content of the strategy, the process of change and the context in which change happens. The three dimensions are related to the extent that the context must be considered in order to understand the content and processes of change, and the model can be used to study changes in general, not only strategic changes. This model can also serve to measure whether the BSC fits as a tool to induce change within organizations. Thus, the BSC design phase is the content dimension of change while the process dimension corresponds to the implementation of the BSC, in which its design is integrated and adapted to the organization, and finally, the context dimension is the use and application of the BSC. This last dimension relates to how the design of the BSC is applied in practice because its use will depend largely on how it was implemented (Papalexandris *et al*., 2004, 2005). The time factor is also important, since change takes time to operate. Although the design and implementation of the BSC takes only a few months, it is possible to spend several years until the entire process has been consolidated throughout the organization dealing with the continuing process of strategic change (Venkatraman and Gering, 2000, Sioncke, 2005).

Regarding the second point, and according to Greenwood and Hinings (1996, 2006), change is dependent on the interaction between exogenous and endogenous dynamics of interest, values, power dependency and capacity for action. For change to occur, exogenous dynamics have to be complemented

with enabling internal dynamics, supportive power dependencies and the capacity for action (Greenwood and Hinings, 1996, 2006). Pimentel and Major (2009) similarly state that the motive to implement the BSC is related to changes which have occurred in other areas, such as changes in technology and the necessity of quick responses to changes in the competitive external *entourage*. Anand *et al.,* (2005) point out the beginning of change in the organization as a reason for implementing the BSC. Galas and Ponte (2005) link the implementation of the BSC with the upgrade of the results participation system. Lourenço (2004) notes the implementation of the BSC in terms of changes in other existing practices. Banker *et al.,* (2004) argue that businesses using BSC are those acting in more competitive markets (or in new markets). Soares Júnior (2003), presents the argument that change in markets, in exchange rates and economical instability are related to the use of the BSC. Bruggeman and Decoene (2002) found that another motivation for using the BSC is that it can act as a point of departure to design a variable remuneration system. Gumbus and Lyons (2002) match the introduction of the BSC with the effort to make a cultural change. Malmi (2001) affirms that introducing the BSC acts as support for the introduction of other kinds of organizational change.

There is, in fact, considerable evidence that change in business is directly related to the use and worldwide spread of a management tool such as the BSC.

Conclusions

Through the arguments presented, the historical evolution of the BSC has shown itself to be related to the evolution of its applications and use. Its scope and depth have been expanded through the potential of use verified in practice; in fact, management and management accounting are now deeply influenced by non-financial measures and the cause and effect relationships suggested by the concept of the BSC.

Summarizing Kaplan and Norton (1992, 1996, 2000, 2004), financial information is the culmination or result of actions and tasks developed in and by organizations, with accounting having been previously regarded as the more traditional information system developed by organizations (for legal, tax, or assessment of work organization reasons) as the traditional basis for the evaluation of results. However, it turns out that these financial measures are not always adequate.

Having identified this kind of strategic information, the organization must be concerned with its use, which includes not only defining a strategy but also creating guidelines for its implementation.

This implies that over time the BSC has taken on different levels of depth and breadth, as verified by a review of its history, which covers the following:

- measuring system, consolidating a set of objectives, indicators and measures with a specific orientation, corresponding to the initial rise of the BSC (noticeably between

1992 and 1993); this phase corresponds to the need, first identified in the business world, for strategy to be considered in an organization's management control system;

- communication system: when it is used to disseminate the organization's strategic objectives, and to publish the results achieved by providing opportunities to learn about the underlying strategy, to learn from unexpected results and to consider future changes (corresponding to the period covering the years up to 1996/97);

- overall and individual evaluation system: each element has defined goals, so that its activity

can positively contribute to the creation of value (this phase corresponds to the immediate aftermath of the previous phase, culminating with publications in 2000 and 2001), when the BSC begins to emerge as a tool for strategy implementation;

- strategic management system, used as an element to help and justify decision-making and organizational management support (from 2004 to 2008 - since the BSC is now widely used almost universally);

- strategic management system that manages/ evaluates its own management system – integrating the components of intellectual capital of organizations in pursuit of strategy and initiating a path of apparent "turning outward" (from 2008);

- system to manage strategic alliances, playing a major role in relations with partners outside the organization, using the BSC to manage strategic alliances (from 2010).

The BSC applications made in the business world are at the root of its evolution, which consequently supports new modes of the concept. In the most recent developments, the implementation of the basic BSC concept in a totally different and more outward-looking situation than before has facilitated a whole new playing field for the BSC, creating a new concept from what had hitherto existed.

In fact this trend was always found in applications that have constantly been emerging – each new phase in the evolution of the BSC emerged in response to observed needs in the field. The authors of the BSC took it from a system of measurement and communication to a strategic management system, while the organizations themselves anticipated the authors applying the tool with other goals in other contexts than those originally indicated. An example of this last situation is the evolution of the BSC from a single system

for evaluating and performance improvement from an internal perspective, to a system that aims to manage the organization's strategic alliances with external entities. However, it is noted that even under this scenario the authors, taking relatively isolated examples (Kaplan and Norton, 2010), met and issued a new general application for the concept.

Finally, we tried to seek evidence from the literature that the wide use of the model has led to major changes in management practices and management accounting practices, and constitutes a major instrument of change regarding the use of non-financial measures of high importance and relevance. With regard to change within organizations, it has been found to be a facilitator and promoter of change. It also highlights the great changes that the tool has introduced that are currently applied to classical management analysis practices mentioned in the introduction of this paper. The fact that SWOT analysis and the BCG matrix arose in addition to the BSC shows that these three tools complement each other and were interconnected. Curiously, what they seem to have in common is precisely the way that they have developed across the world, become widespread throughout all organizations, school programs and vocational training in the management area.

To conclude, three major types of change can be identified in association with the wide spread use of the BSC;

- initially, changes were established in management accounting, while the BSC emerged as a tool to be used in the field of controlling or management control; these kinds of changes occurred in the first few years of the BSC's appearance, as non-financial measures emerged as a way to explain how financial results should evolve; this in fact was considered the great innovation of BSC;

- another type of change would be verified at the level of management science as a whole; as the appearance of the BSC emerged and disseminated at a time when non financial measures and indicators were discussed and pointed out as necessary, in contexts such as Total Quality Management, Activity Based Costing systems and Just in Time – systems in which these kinds of non- financial measures have a strong impact; adding to these, initiatives undertaken by the authors of the methodology in order to communicate and spread the word, as well as other ways of dissemination such as text books, training and educational programs, and papers in the areas of Management, Management Accounting and Human Resource Management largely contribute to its widespread use;

- finally, change has been verified internally in organizations which have applied the BSC – two different contexts of understanding change were identified in the organization when they apply the concept: using the BSC as a way to induce internal changes, or seeing the BSC as a tool that has more chances of being introduced in organizations when they are facing changes in the external environment.

Therefore, it can be concluded that the BSC has changed both Management Accounting and Management Science as a whole, and is also not indifferent to the way that organizations face change, for they seem to apply the BSC in contexts when: **change occurs**, facing external change; or, **has to occur**, when organizations look for internal change by applying the tool.

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The Balanced Scorecard and the New IT Approach to the Defence Budgeting Process

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Abstract

The rapid development in the field of measurement methods and techniques that has taken place over recent years offers new opportunities for designers of measurement systems through the use of virtual instruments; for example, balanced scorecards. This paper tackles two research questions: (1) how does the Balanced Scorecard (BSC) contribute to organizational performance, and (2) does it represent a new method of military resources management by applying a unique e-Budget platform (mathematical model included).

The results showed that the Balanced Scorecard application using the "utility function" will allow the Estonian Defence Forces to overcome important barriers to implementing strategy via the interrelation of military planning and budgeting processes. Moreover, the Balance Scorecard focuses on monitoring some easy-to-measure indicators that provide a traditional view of military spending.

Keywords: Balanced Scorecard, e-Budget, Defence Forces, Utility Function, Performance Measurement, IT Technology, Estonia

Introduction

The aim of the paper is to provide an overview of existing research studies concerning the essence of BSC development and to establish some new approaches to the defence budgeting process using the information technology (IT) application "e-Budget platform". The author presents the e-Budget portfolio as the functional part of the e-Budget software by using the "utility function", which in turn might have practical applications in the future.

The "e-Budget" software (application software) is a final product of the proposed approach. e-Budget portofolio- its functional part, the title page-view and its main sections with future modules. e-Budget platform- its information technology (IT) application based on the science approach using the utility function.

When performance measures are added to the financial metrics, the result is not only a broader perspective on the organization's health and activities, it is also a powerful organizing framework. A sophisticated instrument panel can coordinate and fine-tune an organization's operations and businesses so that all activities are aligned with its strategy (Kaplan and Norton, 1996).

The phrase "information technology" inspires a range of interpretations. To some, it simply means computer hardware and software. To others, it is an information capital asset – the information infrastructure, applications and connectivity upon which modern enterprises depend (Gold, 1992).

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In spite of our increasing understanding of performance measurements within the public sector, little is known about the adoption patterns of performance metrics in the defence forces. A study that addresses military spending would expand extant knowledge about the universe of settings that enforce performance measurement systems; it would also advance our understanding about the design of performance frameworks in government organizations (Carmona and Grönland, 2003).

And at the top of the problem lies the military expenditure planning method, which is inefficiently used in the Estonian Defence Forces. The application of the state budget may have incorrect targets and this may also have a negative impact on the performance of military tasks. The conceptual analysis approach and practical experience of planning budgetary funds prove that the topic is important and vital for the defence forces.

Empirical evidence supporting this study was gathered from results based on real financial figures received from mathematical modeling. The author is inclined to believe that the "utility function" or usefulness can be used in the process of planning and selecting an optimal financial plan of military expenditure focused on strategic goals and tasks. For the analysis, the author will use one of the most powerful tools, the Edgeworth-Pareto principle, which has been successfully applied since the 19th century and has been used to solve multicriteria choice issues.

All the methods proposed will be established as a single consolidated system of strategic budgeting (or Strategy Map) by reflecting the special features of the strategic management of military resources. The proposed budgeting method through the use of utility assessment will help guide the concept of efficient budgetary spending on defense as well as take into account the usefulness of strategic planning in terms of economic and financial evaluation.

The motivation for our paper is to formally assess the impact of the BSC on organisational performance and, based on the Strategy-Focused Organisation framework, to examine how the BSC enhances organisational performance (Geuser, Mooraj and Oyon, 2011). Case research is particularly appropriate for research within the IT area because researchers in this field often lag behind practitioners in discovering and explaining new methods and techniques (Benbasat et al., 1987). This is certainly true for the BSC and its application to IT. The BSC is becoming a popular technique with its concepts supported and dispersed by consultants. A single case design is appropriate when "the investigator has access to a situation previously inaccessible to scientific observation" (Yin, 1994). Like Benbasat et al. (1987), we believe "that the case research strategy is well-suited to capturing the knowledge of practitioners and developing theories from it" (Van Grembergen et al., 2003).

Analytical Framework

Kaplan and Norton (1992, 1993, 1996, 2007) introduced the BSC at the enterprise level. Their fundamental premise is that the evolution of a firm should not be restricted to a traditional financial evaluation, but should be supplemented with measures concerning customer satisfaction, internal processes and the ability to innovate. Results achieved within these additional perspective areas should assure future financial results and drive the organization towards its strategic goals while keeping all four perspectives in balance (Van Grembergen et al., 2003).

Therefore, the BSC Model of the system analysis includes four important perspectives, which can be not only financial but also non-financial:

Financial;
Process;
Learning and Growth;
Customer.

Further, it is necessary to point out that the BSC in the Estonian Defence Forces comprises four perspectives: Resources (Budgeting), Management and Control, Innovation and Staff, and the Customer (Estonian Defence Forces).

Figure 1: The Balanced Scorecard for the Estonian Defence Forces *(source: compiled by the author)*

Investigations of organizational performance have increased in recent years (Neely, 1999). The idea that "performance measurement matters" has resulted in the proliferation of various frameworks of organizational performance. These include Performance Measurement (Lynch and Cross, 1991), the Results and Determinants Framework (Fitzgerald *et al.,* 1991), Performance Measurement for World Class Manufacturing (Maskell, 1991), the BSC, the Cambridge Performance Measurement Design Process (Neely et al., 1996, 1997), the Reference Model of Integrated Performance Measurement System (Bititci *et al.*, 1998), and the Performance Prism to name a few. At the same time, both public sector and non-profit organizations have experienced increasing demands for more effective decision-making and more efficient management of resources (Brunsson, 1994; Brignall and Modell, 2000). Pressures from constituents have brought about the deployment of market-based control models in nonprofit and government organizations (Kaplan and Norton, 2001), such as health care agencies (Van Peursem, Pratt and Lawrence, 1995) and local governments (Palmer, 1993) (Carmona and Grönland, 2003).

Robinson (2007) suggests budgeting is the financial component of performance management, broadly referring to financial processes designed to "strengthen the linkage between funding and results" using information in the performance management systems". Lu (1998) notes that performance budgeting has evolved from simple input and output measures to measures of efficiency and program effectiveness, but that the success of such systems hinges on the quality of measures (addressed above) and acceptance by decision-makers. Grizzle (1987) also notes that properly constructed incentives for managers and budgeters must be aligned with performance information. Sub-optimal behaviour can result from mismanaging both actions and resources according to separate performance indicators, and sub-optimal behavior may occur at different levels of an organization (Webb and Candrev, 2010).

According to the utility theory, people maximize their utility wherever possible. Utility was originally viewed as a measurable quantity, so that it would be possible to

measure the utility of each individual in the society with respect to each good available in the society, and to add these together to yield the total utility of all people with respect to all goods in the society. Society could then aim to maximise the total utility of all people in society, or equivalently the average utility per person. This conception of utility as a measurable quantity that could be aggregated across individuals is called *cardinal utility*.

As Peter Fishburn (1976) has noted, the concept of cardinal utility includes such aspects as psychological, empirical as well as measurement theoretical, which along with such related terminology as "measurable," "additive," "determinate," "intensive," and "linear" utility has given rise to considerable confusion as to its precise meaning. The term "cardinal utility" goes back to John R. Hicks and R. G. D. Allen (1934), who argued that only ordinal preference was needed in economic theory, thereby dispensing with neoclassical utility (Vivian Walsh, 1970) (Schoemaker, 1982).

Various choice problems are studied within the framework of decision-making analysis, where utility assessment allows one to realize choice efficiency and avoid inappropriate or self-refencing solutions (Noghin, 2005).

The multicriteria choice problem attempts to find a set of selected alternatives and elements such as an Edgeworth-Pareto principle, and can be formulated as a statement that any set of selected alternatives is a subset of the Pareto set. In other words, every chosen alternative must be Pareto-optimal. To prove this principle, it is necessary to restrict the class of multicriteria choice problems under consideration by imposing special requirements on the variables mentioned above (Noghin, 2005).

Theoretical Background and Methods of Utility Function

According to Amos Tversky (1967), there are several advantages in distinguishing cardinal utility measures constructed under certainty, denoted v(x), from those constructed under risk, denoted *u(x)*. Firstly, it emphasizes that there exist different types of cardinal utility, even within each category, which only have to be related monotonically. Secondly, by examining *u(x) = f(v(x))*, an Arrow-Pratt type measure of intrinsic risk aversion may be defined and empirically measured; for example as, *f"(v(x))/f'(v(x))* (Bell and Raiffa, 1979). Thirdly, the construction of *u(x)* may be simplified by first examining the nature of *v(x)*, especially in the case of multi-attribute utility (Schoemaker, 1982).

Choice is impossible without the concept of a person who makes this choice in order to achieve his or her personal goals. This person (or team) who makes a choice and is responsible for all its consequences is said to be a decision-maker (*further*, DM). The DM strives to reach a definite goal that can be expressed numerically in terms of the maximization (or minimization) of a real-valued *criterion* function defined on space *X*. (Noghin, 2005). In simplistic terms, an objective goal is set with certain criteria and input variables that can be measured.

In fact, the mathematical formulation of the problem could be presented in the following way. Further details are elaborated in several sources: Schoemaker, (1982), Noghin (2005), Gal, Stewart, and Hanne, (1999), Belton and Stewart (2002), Intriligator (1975), Gorbunov and Kozin (2007).

Thus, we assume that there are M real-valued functions:

f1 , f2 ,..., fm, M ≥ 2 defined on the basis of the set of alternatives **X**. These functions are said to be optimality criteria or goal functions (Noghin, 2005).

The real-valued functions *f1, f2,..., f m* compose a *vector criterion* (**function No. 1**) (Noghin, 2005):

f = (f1, f2,...... fm) (1)

For every alternative, the *m*-dimensional vector (*outcome*) is an image of *x*, where *Rm* is the *m*-dimensional real vector space. This space is called a *criterion space* or a *space of outcomes* (Noghin, 2005).

Pareto Axiom (in terms of alternatives). For any pair of alternatives x', x'' ∈ X we have $f(x') \geq f(x'') \Rightarrow \quad x' \prec_x x''$

Dealing with the *quantitative* information on the relative importance of criteria, we mean that all criteria *f*1, *f*2 ,..., *fm* have numerical values. Therefore, $yi = fi(x) \in R$ for every $x \in X$ and all *i* =1,2,...,*m* . According to the Edgeworth-Pareto principle, the Pareto set includes all selected vectors or analogue only Pareto-optimal vectors should be selected. If it is known that one criterion is more important than another then the Pareto set may be reduced without the loss of the selected vectors. In other words, we may remove some Pareto-optimal vectors from further consideration, since they should not be selected *a fortiori*. The reduction of the Pareto set may essentially facilitate the decision process (Noghin, 2005).

The advantage of performance coefficients is their ability to provide a relative measure of sourcing effectiveness that ties directly to financial effectiveness and can be used for estimations and "what if" scenario planning. If designed and implemented correctly, they are useful for any level of engagement, from simple projects to large tenders in public procurement.

In accordance with the available literature, data and parameter calculations (Schoemaker, 1982; Noghin, 2005; Gal, Stewart, and Hanne, 1999; Belton and Stewart, 2002; Intriligator, 1975; Gorbunov and Kozin, 2007), we decided to use a performance research approach, elaborated

from the BSC study. For our research question we adopted the research framework, design and methodology using the decision-making process involved in selecting food suppliers for the Estonian Defence Forces.

The first stage of the research is devoted to constructing economic and mathematical models that encapsulate the essence of utility. In general, the goal function has the form (**function No. 2**) (Gorbunov and Kozin, 2007):

F = f (P; K; N; Z; F) = w (P) + w (K) + w (N) + w (Z) + w (F) (2)

Where, f (P; K; N; Z; F; . . . .) is the set of identified feasible indicators:

F = the total assessment of the utility of the element of decision-making

w - the coefficient of total value - P - potential product price

K - quality of products supplied

N - estimated reliability of the supplier

Z - evaluation of the price/quality ratio of the products

F - financial stability (financial state) of the supplier

The second stage of the research is directed to information gathering and data analysis. The calculation of the abovementioned utility parameters will also be included (**function No. 2**) (Intriligator, 2002).

In the third stage of the research, partial utility parameters will be calculated. The transformation of parameters into partial utility parameters should be carried out using the conversion functions, based on functions representing a mathematical model.

The Strategy Map and The New System Design

Another key step is to develop strategic objectives – the "DNA" of the strategy. The objectives are expressed as continuous improvement actions that can be documented, measured and implemented through initiatives and projects. Once developed, the objectives are linked to form a "strategy map." The strategy map graphically indicates how the organization creates value for customers, stakeholders and employees. The strategy map is constructed by linking strategic objectives using cause and effect relationships. A strategy map is one of the most effective communication tools an organization can use to build transparency, alignment and a focus on results. The figure below shows how objectives are linked in cause-effect relationships to define a strategy

story of how value is created for customers and business owners (Balanced Scorecard Institute, www.balancedscorecard.org).

According to Peeter Lorents (2006), before starting with the main activity or process, all the preparatory processes should be monitored, evaluated and analyzed. He underlines that control is an act or a process according to which a situation coincides with the planned tasks. In other words, we should answer another main question: does the system (its developmental stage or current state) correspond with our planned goals and objectives or not (Lorents, 2006).

For this reason, the analysis and proposed methods might develop a system of ***Multi-Criteria Decision-Making*** (or a Strategy Map) by taking into account the specifics of the strategic management of military resources.
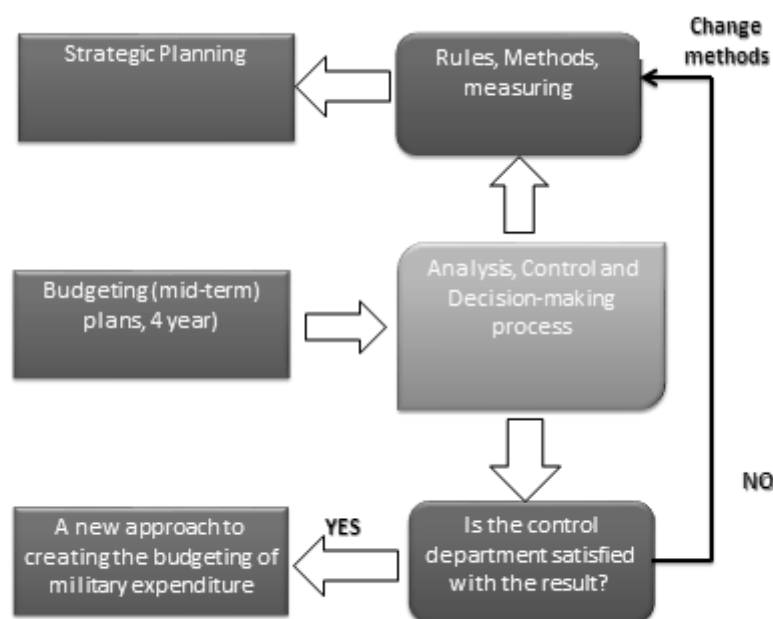
Figure 2. The Strategic Map of the analytic hierarchy process (*source: compiled by the author)*

As seen in Figure 2, the transition from a high-level strategy to budgeting for local operations is presented as a step-down procedure, which covers all main stages of the decision-making

performance from BSC formation to criteria selection.

In fact, all state organizations in Estonia are provided with high-quality software, including

financial solutions. However, there are no special budgetary programs that in turn create an array of problems connected with the planning, execution and control of public funds. For example, the Ministry of Defence is still using "self-made tables" from EXCEL or ACCESS for budget planning processes.

The analytic hierarchy process provides a comprehensive and rational framework for structuring a problem, for representing and quantifying its elements, for relating those elements to overall goals, and for evaluating alternative solutions. Once the hierarchy is built, the decision maker systematically evaluates its various elements, comparing them to one another in pairs. In making the comparisons, the decision maker can use concrete data about elements relative meaning and importance. The analytic hierarchy process concerts these evaluations to numerical values that can be processed and compared over entire problem (Haarstrick and Lazarevska, 2009).

The author is confident that this investigation may be of interest for several reasons. First of all, an e-Budget portfolio, based on a strategic approach, will solve many problems connected with the planning and control of military resources. Secondly, this module can be developed for use in the private sector in future.

Each of these perspectives has to be translated into corresponding metrics and measures that assess the current situation. These assessments need to be repeated periodically and aligned with pre-established goals and benchmarks. Essential components of the IT BSC are the cause and effect relationships between measures. These relationships are articulated using two key types of measures: outcome measures and performance drivers (Van Grembergen et al., 2003).

The design feature of any interactive control system, which includes different types of measures – the system focus and the planning horizon – depends on such factors as different technologies, the degree of regulation and protection and the complexity of the value chain.

The "Utility Function" and the Balanced Scorecard Model

Multi-Criteria Decision-Making (MCDM) will be used as an example, which will allow us to consider the application of statements and strategic tasks. In other words, a mathematical model (utility function) will be used to select an optimal coefficient, which is posed on top of the system and within the decision-making process, in order to make the process itself more transparent and effective. This approach is particularly useful for forecasting prognoses.

The selection process in food suppliers will be taken as an example, and will be examined on the basis of the second function (see *function No. 2*) and using several indicators. In accordance with our task, the research will include different components that contain a specific set of attributes and elements. The utility-based performance measures for strategic planning will present the maximum value of every component and the total sum of the utility assessment. All further tables are formed in accordance with the resulting estimations (Table 1 and Table 3) and will be used in questions of an optimal supplier.

In accordance with non-disclosure agreements, assume that we have six potential suppliers, where the *Total Procurement Cost* is (for example):

Supplier No. 1 - **178 m €**
Supplier No. 2 **- 179 m €**
Supplier No. 3 **- 165 m €**
Supplier No. 4 **- 167 m €**
Supplier No. 5 **- 174 m €**
Supplier No. 6 **- 172 m €**

Cost (Price) Estimation

Calculating the partial utility of PA – the **parameters of the acquisition costs** of production – is a two-step process. The first stage involves calculating coefficients for the best value supplier **ΔP**, defined by **function No. 3** (Gorbunov and Kozin, 2007):

$$\Delta P = (P - P\ min) / (P\ max - P\ min), \text{ where } \quad \textbf{(3)}$$

ΔP – the coefficient of optimal price

P – the current value of supplier's price

P min – the minimal value of all proposed prices

P max – the maximum value of all proposed prices

During the second stage, the values for ΔP are compared with the estimated coefficients of the partial utility of the other factors. To this end, using transformation function **(3)** for the factor **"Price"** through the values for ΔP compute the coefficient of partial utility **Qp** (**function No. 4**, (Gorbunov and Kozin, 2007).

$$Qp = (1-\Delta P) / (1+\Delta P)^2, \text{ where } \quad \textbf{(4)}$$

Qp – the coefficient of the partial utility of optimal price

ΔP – the coefficient of the optimal price

Table 1 presents the results obtained from the above calculation, and as can be seen the maximum value of the partial utility of optimal price corresponds to **Supplier No. 3 – 1,0000.**

Assessment of the Quality of Products

To assess quality, subjective numerical values are represented in absolute or relative terms. The coefficients for partial utility concerning quality are assigned by nutrition experts and military personnel. The quality of products was estimated for each component using the

following **satisfaction scale**:

1 – Unsatisfactory
2 – Partly satisfactory
3 – Satisfactory
4 – Average
5 – Above average
6 – Good
7 – Excellent

The coefficient for optimal quality (**ΔK**) is calculated using **function No. 5** (Gorbunov and Kozin, 2007):

$$\Delta K = \sum_{i=1}^{Z} R / \sum_{i=1}^{N} \sum R_{ih} \text{ , where } \quad \textbf{(5)}$$

ΔK – is the coefficient for optimal quality Ri – is the current value

Z – is the total sum of current value

N – is the total value of participants

The parameter for quality (**Qk**) is calculated using the conversion formula directed to the factor **"Quality"** and transformed into the partial utility (**function No. 6**, Gorbunov and Kozin, 2007):

$$Qk = (1 - \Delta K) / (1 + \Delta K)^2, \text{ where } \quad \textbf{(6)}$$

Qk – is the coefficient for the partial utility of optimal quality

ΔK – is the coefficient for optimal quality

Table 1 shows that the most appreciated quality represents **Supplier No. 2 – 8,7430.**

Estimates of the reliability of the supplier

In our case we examine estimates of food delivery times based on annual statistics and the prognosis for change fixed in the tender's contracts. The monitoring process is based on proposed data and real food delivery times. The choice of the partial utility will be conducted in accordance with **function No. 7** (Gorbunov and Kozin, 2007).

Qn = Npc/Np, where **(7)**

Qn – is the coefficient for the partial optimal evaluation of delivery times

Npc – is the "real" number for the delivery times

Np – is the number for the proposed delivery times

The result has shown that the best value for the delivery times belongs to *Supplier No. 1 – 0,9091* (Table 1).

Evaluation of the price and quality of the products

The calculation of the partial utility concerning the correlation between price and quality will be conducted using the results for **Price** and **Quality.** Accordingly, indicators for **Price,** or the coefficients, will be shared with indicators for **Quality,** or the coefficients. Optimizing the choice is based on the coefficient for optimality Δ**Z** determined by *function No. 8* (Gorbunov and Kozin, 2007):

ΔZ = (Z - Zmin) / (Zmax - Zmin), where **(8)**

ΔZ – is the coefficient for the optimal cost/quality ratio

Z – is the current value of cost/quality

Z min – is the minimal value of all proposed values Z max – is the maximal value of all proposed values

The values obtained were comparable to the estimated coefficients for the partial utility of the other factors necessary for calculating the coefficient for partial utility *Q*z using transformation *function No. 9 (Gorbunov and Kozin, 2007)* for the factor of price/quality through the values for *ΔZ.*

Qz = (1-ΔZ) / (1+ΔZ)², where **(9)**

Qz – is the coefficient of the partial optimal evaluation of price/quality

ΔZ – is the coefficient for the optimal evaluation of price/quality

To form a table of initial data, it is necessary to use the coefficient of partial useful surface and the actual values for prices.

Table 1: The partial utility coefficient matrix

Coefficient for Utility	Supplier No. 1	Supplier No. 2	Supplier No. 3	Supplier No. 4	Supplier No. 5	Supplier No. 6
Price Provider, €	178.0 (mln)	179.0 (mln)	165.0 (mln)	167.0 (mln)	174.0 (mln)	172.0 (mln)
The coefficient of optimal price, ΔP	0.9286	1.0000	0.0000	0.1429	0.6429	0.5000
The coefficient of partial utility of optimal price, Q_p	0.0192	0.0000	1.0000	0.6563	0.1323	0.2222
coefficient of partial utility of optimal quality, Q_k	8.7186	8.7430	8.7315	8.7308	8.7238	8.7291
The coefficient of the delivery times, Q_n	0.9091	0.6818	0.8182	0.9545	0.7345	0.8267
evaluation of price/quality	20.4162	20.4735	18.8972	19.1278	19.9454	19.7042
coefficient of optimal evaluation of price/quality, ΔZ	0.9636	1.0000	0.0000	0.1463	0.6650	0.5120
coefficient of partial optimal evaluation of price/quality, Q_z	0.0094	0.0000	1.0000	0.6497	0.1208	0.2135

Source: compiled by the author

The analysis has revealed that despite the high *quality estimates* for **Supplier No. 2**, and the most appreciated *reliability estimations* established by **Supplier No. 1**, general indicators of the partial utility coefficients belong to **Supplier No. 3.**

Financial stability (the state) of the potential supplier

Calculations of the partial utility of the financial state of the supplier should be based on accounting reports. The number of estimates of financial indicators can be arbitrary; however, they should all give a full picture of the financial state of the company.

In general, they should:

be informative and provide a holistic picture of the financial stability of the company;

have the same orientation (growth factors means improving the financial status);

pay off according to the accounts reporting in the enterprise;

make it possible to carry out pre-rating acceptance in comparison with other companies for a number of periods;

include numerical specifications of a satisfactory level or a range of changes for all indicators.

The most objective estimation of the financial state of the company can be achieved using Altman's factorial models (Z-Score) *(Chernov, 2001)*. They are used to measure the financial health and, in particular, the distress status of companies. Moreover, they serve as a powerful

diagnostic tool that forecasts the probability of a company entering bankruptcy within a 2 year period.

The Z-Score formula for predicting bankruptcy is a linear combination of five common business ratios (*Equity/Total assets, Retained income/Total assets, Pre-tax income/Total assets, Market value of equity/Borrowed capital, Total sales (revenue)/Total assets*) weighted using coefficients and profit-and-loss reports (**function No. 10,** (Gorbunov and Kozin, 2007):

$$F=0{,}717X1+0{,}847X2+3{,}107X3+0{,}42X4+0{,}995X5 \qquad (10)$$

Table 2: Financial status of a potential supplier

Indicator	Supplier No. 1	Supplier No. 2	Supplier No. 3	Supplier No. 4	Supplier No. 5	Supplier No. 6
X1 - Equity/Total assets	0.5220	0.5710	0.6090	0.5450	0.6230	0.5430
X2 - Retained income/Total assets	0.0210	0.0240	0.0310	0.0340	0.1340	0.0280
X3 – Pre-tax income/Total assets	0.0290	0.0270	0.0190	0.0340	0.0210	0.0220
X4 - Market value of equity/Borrowed capital	0.9150	0.7500	0.6410	0.6300	0.9200	0.7610
X5 - Total sales (revenue)/Total assets	0.9790	0.6800	0.8790	0.9780	0.6780	0.8670
F=0,717X1+0,847X2+ +3,107X3+0,42X4+0,995X5	1.8406	1.5052	1.6658	1.7629	1.6864	1.6637

Source: compiled by the author

The calculations showed that the highest level of reliability can be found in **Supplier No. 1 – 1,8406.**

In order to obtain an objective total estimation of utility and potential supplier selection, it is necessary to find average values for the separate parameters. And all coefficients of partial utility will lead to one general denominator (**function No.**

11, Gorbunov and Kozin, 2007):

Zones of Discrimination *(Chernov, 2001)*:

If **F <1.8,** the company is in the "Distress" Zone (near bankruptcy).

If this value falls in the range **1.8 <F<2.7,** the company is in the "Grey" Zone (the company may become non-creditworthy)

If **F> 2.7,** the company is in the "Safe" Zone (indicating a fairly stable financial position for a business entity).

Evaluations of the financial condition of suppliers on the basis of Altman's criterion are shown in **Table 2** (see Table 2).

$$WQi = Qi \,/\, \sum_{i=1}^{N} Qi, \text{ where} \qquad (11)$$

WQi – is the coefficient for the total value

Qi – is the coefficient of the partial utility for each indicator

N - number of suppliers

$\sum_{i=1}^{N} Qi$ – is the total current value

When reduction of all studied criteria for a single analogue of a mathematical model is done, it is necessary to consolidate all obtained results into one general formula **(function No. 12)** (Gorbunov and Kozin, 2007):

$$F_{total} = WQp + WQk + WQn + WQz + WQf, \text{ where} \quad (12)$$

Ftotal – is the total assessment of the utility of a supplier

WQp – is the total coefficient of partial utility for optimal price

WQk – is the total coefficient of partial utility for optimal quality

WQn – is the total coefficient of partial utility for optimal delivery times

WQz – is the total coefficient of partial utility for optimal price/quality

WQf – is the total coefficient of the financial state of suppliers

Table 3: The consolidation matrix of utility coefficients

Indicator	Supplier No. 1	Supplier No. 2	Supplier No. 3	Supplier No. 4	Supplier No. 5	Supplier No. 6
Price, WQp	0.0095	0.1095	0.4926	0.3233	0.0652	0.1095
Quality, WQk	0.1665	0.1667	0.1667	0.1667	0.1666	0.1667
The coefficient of the delivery times, WQn	0.1846	0.1679	0.1661	0.1938	0.1491	0.1679
Price/Quality, WQz	0.1722	0.1662	0.1594	0.1613	0.1682	0.1662
Financial status of a potential supplier,WQf	0.0047	0.1071	0.5016	0.3259	0.0606	0.1071
Ftotal	0.5374	0.7173	1.4865	1.1710	0.6097	0.7173

Source: compiled by the author

Apparently from **Table 3, *Supplier No. 3*** has the maximum value for the sum of all indicators of utility.

Creating the e-Budget Cascade

The creation of any program or system demands certain knowledge and skills. The term "system or systems" includes a certain set of elements (i.e. the ordered set of elements according to Lorents, 2006). All elements should be interconnected, and it is crucial that all elements or parts be designated or defined in detail in order to build a truly powerful system.

To create an e-Budget module we use the BSC model, which will include additional elements connected with budgeting and planning.

All these modules are connected with each other and all the information is presented consistently. In creating this model the whole process of a military organization was taken as the basis.

Using this new IT approach in the defence budgeting process, and the BSC in particular, will make it possible to focus more clearly on the budgeting system of the Estonian Defence Forces. This is particularly important because it offers an opportunity to establish alternatives for many other conceivable development paths that support flexible system implementation.

First of all, such an approach will solve many problems connected with budgeting and the use of public funds, it will help reduce the time invested in planning and budget analysis and

it will improve the control process. And most importantly, the need to draw up various "self-made" tables and reports will disappear.

Secondly, by using this program (module) it is possible to make not only the general

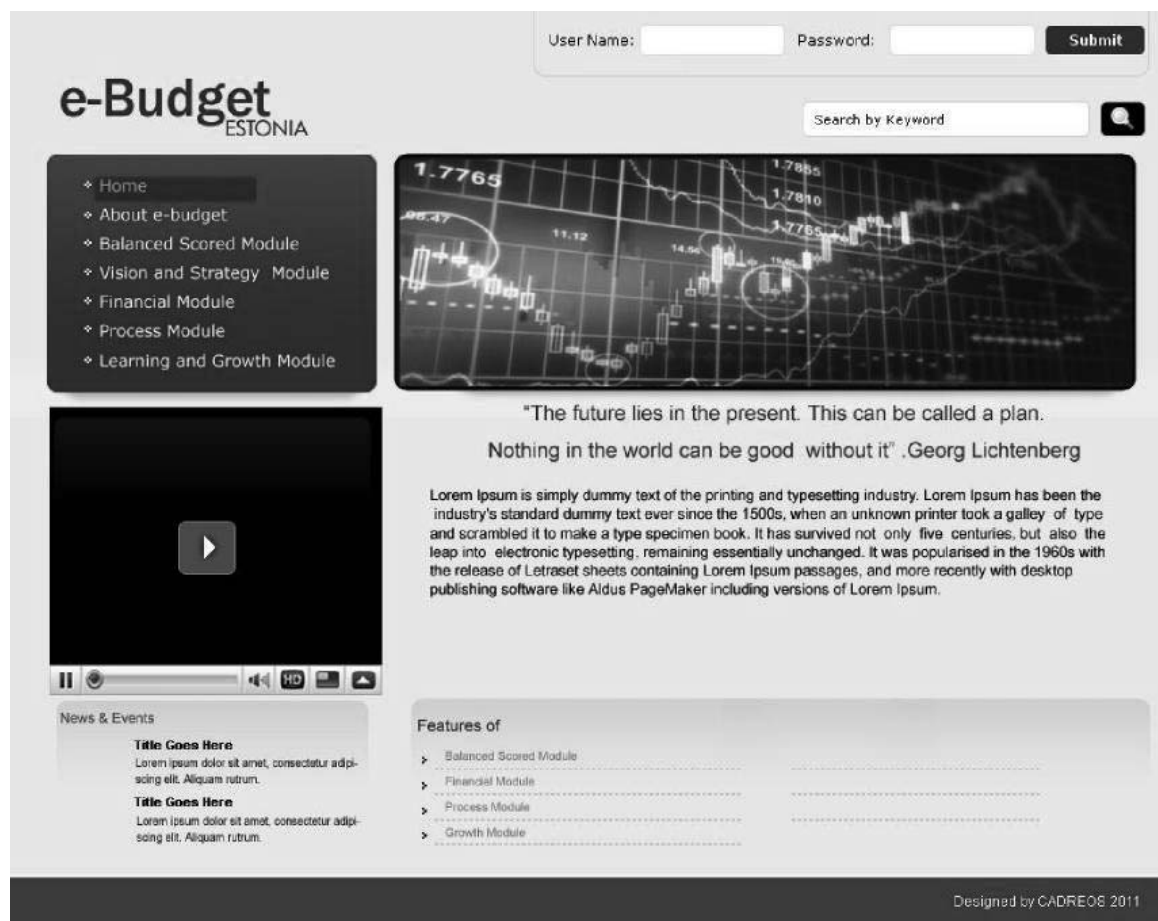budget, but also separate projects or plans that in turn will create an overall picture of the annual budget.

Figure 3: The title page of the future e-Budget software (designed by Cadreos: www.cadreos. com).

Conclusion

Many organizations adopted the initial concepts of BSC to improve their performance measurement system (Kaplan and Norton, 2007). The research reviewed in this article suggests that the utility function can also be used in the strategic planning process. The main chapters here have considered a range of techniques covering the internal environment of military resources management and the evaluation of strategic options in particular. The coefficient method as a component of the process perspective model has proved that budgetary funds can

be planned and distributed according to goals and objectives. This technique can be very productive in the redistribution of means if military tasks change.

Our study examines the deployment of the BSC and performance measurement system so executive management can align performance indicators with the goals and strategies of the organization (Lipe and Salterio, 2000). The best solutions are offered by the Balanced Scorecard model and by its functional element Innovation and Staff Perspective which makes the process of

planning military expenditure more effective. This model will allow the Estonian Defence Forces to overcome important barriers to strategy implementation through the interrelation of military planning and budgeting processes.

In our case, the BSC IT application will allow the Estonian Defence Forces to overcome important barriers to strategy implementation through the interrelation of military planning and budgeting processes.

Moreover, our main target was to create a special program for strategic management of military defence spendingIt is possible to confirm the positive outcomes from our research even now.

In addition, this paper establishes the unique concept of the e-Budget software. However, the case review also illustrates one of the most crucial issues in building and implementing the IT techniques into the BSC: it requires a direct linkage with the military objectives.

Accordingly, we suggest that future research addressed to the Estonian Defence Forces may enhance our understanding of the role of the balanced scorecard in making public sector organizations more effective.

Acknowledgements

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Territorial Communities and the Institution of the Legal Person (The Case of Estonia)

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Abstract

In the course of recent legal history, one of the most important achievements of jurisprudence in individual rights is considered to be the development of the legal person and the attendant regulatory amendments. In this paper the author will attempt to discuss the functional mechanism of territorial communities and the institution of the legal person. According to the author, a legal person is an organization created/formed by people that is recognized by the legal order, which, in order to fulfill its goals, participates in legal utilization as a subject possessing total passive legal capacity. The author maintains that in established law, the legal regulation of the institution of the legal person does not correspond to the needs of legal utilization in the context of territorial communities and generally recognized principles of law.

The general principles of this article were presented by the author at the 10th annual EURAM conference held in Rome, Italy, in 2010.[1]

Keywords: Public law, territorial community, legal person(s), legal order, organization

Introduction

This article is motivated by an interest in the organizational forms of territorial communities and their management. Since the position of the author is that a territorial community (e.g. a local government unit) is a process, the legal form of which is a territorial corporate body, and its representative body is a legal person, the concept of the legal person and its development require study and a general overview needs to be given. It is stated that further studies of organizations and/or representative bodies of territorial communities are also needed. Without an understanding of the background it is problematic to handle organizations and/or bodies of territorial communities within a framework of organizational and management theory.

Furthermore, the interpretation of a territorial community as a process is a constantly developing one. Reference is made to the work of McMillan in defining the sense of community: "a feeling that members have of belonging, a feeling that members matter to one another and to the group, and a shared faith that members' needs will be met through their commitment to be together." (McMillan, 1986). Herein the internal objectives are defined as relating to the needs of their members. This can be shown in the practical example of the of State of Estonia, which is discussed later in further

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[1]   10 th EURAM 2010, Tor Vergata University, Rome, Italy, 19th-22nd May.

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detail, as well as studies carried out by other scholars. This analogy, therefore considers the 'state' as a large scale organized community. The impetus for analyzing this topic came from the finding that the fundamental treatment of territorial communities has been missing from Estonian studies and publications, and therefore, one of the objectives of the paper is to account for this and attempt to establish a theoretical basis for further study. This paper will aim to pay particular attention to applying this view to the works of other authors such as Uluots, Schneider and Almann.

Thus, the following article will analyze the construction, legal nature and management of territorial communities on different levels such as state, city government or rural municipality.

Furthermore, this paper will attempt to examine the manner with which a territorial community might be treated from various points of view, such as in social reality or in terms of natural or positive rights for instance. This examination will also include the paradigm of the legal person and will serve to aid studies carried out by researchers outside the field of law.

The basis for this study will be derived from a systematic analysis of various theoretical sources and look to compare the results with empirical data and corresponding regulatory legislation in this field of research.

This paper takes the view that empirical data can provide order to, and improve the theoretical bases of the legal organization of territorial community management, meaning that the democratic basis of the larger society could also be improved. This will lead to an improvement in the everyday organization of life. The conceptual framework of this paper is based on published scientific research into the environment and the system of communities, processes, management and organization. The Estonian legal organization, for example, will serve as the empirical framework, which

employs induction and theoretical modeling as its primary method and which endeavors to create a substantiated theory.

The Structure of the Article:

At first the author will show the 'development of the concept of the legal person' and outline how the concept of such a person shall be approached. The theoretical background will be discussed, as will the genesis of the legal person, the contemporary treatment of the legal person and the framework of the legal person in Estonia's legal order.

The second part of this article will demonstrate the institution of the legal person within the context of corporate bodies.

Development of the Concept of Legal Personality

In the course of legal history, one of the most important achievements of jurisprudence in individual rights is considered to be the development of the legal person and the introduction of its regulation into the legal order. This has become a desirable objective for legal dogma and it is difficult to find a school of law that has not taken a position regarding the concept of the legal person (Saare 2004). Based on a strictly formal interpretation, the legal person is the only subject with passive legal capacity besides the physical person. As the basis for the following discussion, the authors suggest that the concept of the person be approached from at least three aspects: legal status, development and number.

Based on the status provided by law, persons can be divided according to the following general divisions: persons in public law and private persons. In terms of number, one can differentiate between individual persons and communities of persons, or human collectives.

With regard to the State of Estonia for example, it is pointed out, that despite various destructive foreign occupations, as well as devastating epidemics and wars that destroyed entire villages, the drive for social cohabitation, or the habit of living together communally, has survived from ancient times to the present day. This does not only apply to the State of Estonia but others as well since, as author Edward Heath Robinson (2010) outlines, "states are not organizations but rather the objective legal persons of international law, a non-physical geopolitical entity that is independent of any organizational structures." Furthermore, it is also suggested that a "large number of possible combinations of different socio-economic and socio-political structures provide plenty of material to theorize about, such as how different combinations function, how they should function, or which function best, but that their character and composition has no bearing on whether or not a state exists. The socio-economic structure can be changed or replaced (even suddenly and violently in the case of socialist revolution) and the state will still continue to exist."

Robinson points to the example of the American invasions of Afghanistan and Iraq, since the invasions did not end the existence of these states, nor were new states formed in their place. Instead, the entities that had existed prior to the 2001 invasions continued to exist (Robinson, 2010). The same can be said about the ongoing revolts seen throughout 2010 (and 2011 – author's remark) in some Arab countries. (Boukhars, 2011). Thus, despite the internal unrest, the common goal of the people and their sense of belonging preserve the existence of the territorial community as an organized entity.

These examples add weight to the chosen research topic and the objective of this paper to show that the territorial community can be considered to be a self-regulating human association connected to a territory and its

sequences of time-related states, or processes, that can only be managed by somebody on its behalf, and that the way it is managed is a separate issue. The example of Kuhn's paradigm is provided, which states that "it is a certain way of seeing the world", which once accepted creates a greater understanding of the community, or a religious community of believers, or a territorial community of people living within it. This would confirm the *theory of nation-personality,* whereby the people themselves hold the highest political power, and the representatives are only able to exercise power on their behalf by forming communities and national representation through appointed legal persons (e.g. State Parliament) (Kuhn, 2003).

This paper will seek to show that the treatment of the state, or some regional community or entity, may vary from the point of view of its acceptance of the legal person or a particular organization, but will still continue to exist, even though it may take different forms. The form the state may take can also vary, and will correspond to the needs of the organized territorial community or the needs of the people living within it.

Another issue is the way in which the legal person is able to survive and exist. Naffine describes this way: "*Legal personhood is nothing more than a formal capacity to bear a legal right and so participate in legal relations; it is not a moral term. It does not depend on metaphysical claims about what it is to be a person. There is nothing 'as if' or fictional about the legal personhood of the state.*" (Naffine, 2003). This means that even without a formal understanding of an organized territorial community, it will continue to exist and will still implement its set goals; the status of a legal person on the other hand is merely to provide a sense of formality.

Kuhn's paradigm is again relevant in the sense that territorial communities are the general achievements of communal development that

provide the members of the community with an example for determining and resolving problems for a certain period of time (Kuhn, 2003).

Theoretical Background

Estonian law provides that a private legal person is created in private interests and a person in public law is created in public interests. The classification of legal persons is based on the interest theory established in law, also known as subordination theory and subject theory.

In accordance with the interest theory, which is based on the directions of legal provisions, public law is based on the interests of the Roman state, while private law is based on individual gains. According to Ulpian (170–228 B.C.): *publicum ius est guod ad statum rei Romanae spectat, privatum guod ad singulorum utilitatem*. The shortcoming of this theory is that many legal provisions are based simultaneously on public and private interests. One could also assert that all law primarily serves the public interest, which in turn is comprised of individual private interests.

According to subordination theory, public law regulates relationships of subordination and private law regulates relationships based on equality. Public law regulations are typically unilateral and mandatory (e.g. laws), while private law is characterized by agreement. This theory is also not satisfactory, since relationships of subordination also occur in private law (e.g. relationships between parents and children or guardianship) and relationships based on equality also occur in public law (contracts under public law).

According to subject theory, public law is a collection of legal provisions in which the entitled or obligated subject can only be a public authority.

In individual cases, the criteria for all these theories can be applied and various theories can also be used in combination. In practice, when performing legal acts, it is difficult to differentiate the provisions of private and public law. Thus, when concluding a private law contract, disregarding the formal requirements specified by law may cause the contract to be nullified.

Generally, the fulfillment of private obligations is still guaranteed by sanctions in public law. Historically, the development of the institution of the legal person has been the most to be influenced by fiction and organic theories, also known as normative theory and the social approach.

The most important contribution made by fiction theory to the concept of the legal person was the attempt to place legal persons into the valid legal system and to define their traits. A legal person was considered the same as a physical person, but was treated as having a lower status than a physical person in respect to the quality of its characteristics. One must agree that human beings are at the centre of law and the attribution of status to a legal person is possible only as a result of fiction. At the same time, fiction theory does not satisfactorily resolve the issue of a legal person's capacity for action.

The lack of capacity for action, and the problem of the limitations on legal utilization that accompanies this, was resolved by organic theory, which changed the legal person from a subject of law directing its existence to a subject of law orientated toward action. The capacity of the legal person for extensive independent liability regarding the actions of its institutions was also expanded. Moreover, compared to fiction theory, organic theory made a stronger connection between the characteristics of the physical person, which belong to the legal person, and the structural construction of

the legal person, and the development of its collective will.

In their clarification of legal definitions, including that of the legal person, proponents of the normative theory tried to remain within a legal framework, and to exclude all other aspects. The point of departure was the fact that the definition attributed to a person is one that derives only from the legal order. However, normative theory was not able to resolve the problem of attributing independent will to a legal person, and presented the another issue in that without taking social aspects into account, it is not possible to guarantee legal persons a status that corresponds to the needs of legal utilization.

These shortcomings have helped to eliminate the social approach to legal persons, at the heart of which is the notion that the legal person is an independent carrier of will. Taking the social aspect into consideration when defining a legal person does not mean that the recognition of the status of a person in the legal order has no significance.

However, recognition from the legal order can only follow if a certain social association exists that is comprised of persons and/or assets, which is organized so that the formation and expression of independent will is guaranteed. One can speak of a legal person as a carrier of will with passive legal capacity (an independent unit of influence) only if the corresponding unit of influence is, to a greater or lesser degree, contrasted with its members.

The Genesis of a Legal Person

A physical person is a specific actual person, but a legal person is abstract – a subject perceived through a certain legal construction, which comprises both individuals and/or assets. A legal person can formally exist for a certain period without possessing any connection to physical persons, but in practice, the functioning of a legal person is not possible without this. The will of a legal person can be realized through the actions of people that act in their interests (Saare, 2004).

The need to develop an understanding of the legal person is primarily related to the fact that industrial and technical developments were accompanied by objectives that individuals could not achieve for themselves. Placing rights and obligations on the physical persons participating in the social collective was no longer practical, since, based on the principle of private autonomy, each action performed by the collective would have presupposed an expression of will by each member that constituted the collective.

However, the participation of all the members in the performance of every legal action would have significantly inhibited legal utilization; *i.e.* the performance of legal action, including the development, amendment and termination of legal relationships. This was one of the most important incentives for the development of an independent and collective legal body that would differ from a person. Taking these points into consideration, a legal person could also be considered as a means of achieving certain goals. In summary, legal persons are designated to serve the interests of people. In Mayer's opinion, this is based on the fact that the law is created by the will of people and a legal person is in turn created by the law (Mayer, 1908). A legal person may aid legal utilization for a group of people by achieving goals that transcend the individual.

As a whole, a legal person has been defined as a social formation that is legally recognized as having a passive legal capacity. It has also been suggested that ancient law also recognized the concept of the legal person. In earlier times, social collectives, such as community associations and even larger cities

or states, have appeared in legal utilization as independent units. The treatment of these collectives, or units, as owners meant that they thereby had the right to decide their own contracts and deal directly with the courts. Granting these rights corresponded to the needs of the group, and so it can be said that they were ultimately also granted as a result of these needs (Raiser, 1999).

The associations that historically preceded the institution of the legal person possessed considerable social meaning and their development and recognition as an independent unit was based on societal needs.

According to Roman law, corporate bodies did not initially possess independent passive legal capacity, although with the development of urban communities and the granting of the rights needed to allow them to function independently, the associated characteristics began to be assigned (Ilus, 2000). Thus, corporate bodies acquired the same rights that were assigned to urban communities so that they could operate as independent subjects of law, to appear in court by means of a representative, to participate in commerce, to possess assets, and to be creditors and debtors. These newly independent entities represented a higher uniformity. At least three members were needed to establish an association, and only then could it use its assets to guarantee responsibility for its obligations.

Three traits characterized such corporate bodies: the existence of passive legal capacity, independence from its members guaranteed by the organizational structure, and limits on its liability. According to Saare based on Weber, these three traits are also characteristic of today's legal persons (Saare, 2004), and according to prevailing opinion they are the main traits that characterize the subjectivity of law of the legal person.

Wiedemann has shown that in medieval times, independent asset associations were treated as *persona ficta* or *persona representanta*. At the end of the 17th century, the French lawyer M. Domat adopted the concept of the corporate body alongside the physical person in the study of legal subjects. At the same time, the German lawyer Samuel von Pufendorf developed the concept of the moral person (*persona moralis*) in the study of both the central, as well as all other, subjects of law. From this time, the legal person is recognized as a legal institution on the Continent (Wiedemann, 1980).

During the Middle Ages, a differentiation developed in Germany between corporate bodies or physical units, and agencies, foundations or associations of individuals. This differentiation was then further developed in the 19th century by Otto Beseler and Otto von Gierke into the cohesive person or organic theory. Corporate bodies, agencies and foundations were considered to have passive legal capacity in the same sense as physical persons, emphasized by the use of terms like *persona moralis, persona mystica, persona representanta, persona juridica* or *persona ficta*. In the 19th century, the use of the term "legal person" for a body that had been granted passive legal capacity became the norm (Saare, 2004). This indicates that, in the case of associations, the concept of passive legal capacity was related to the status of the legal person.

In the English legal system, characteristics associated with an independent subject of law were first attributed to church-related and public corporations. As a rule, public corporations acquired their legal status through special documents issued by the king (Royal Charters). In the middle of the 17th century, the most popular form of commercial association was the partnership, which was not treated as an independent subject of law. At the end of the 17th century, the establishment

of commercial associations as independent subjects of laws gained increasing importance, as it would provide them with the opportunity to act on their own behalf, and to be a party to court actions. On the other hand, the issue of limited liability was still to be addressed.

If we consider the international community as described in Edward Heath Robinson's work "*If Jane is considered as a person by her society, then she really is a person in that society, with all its material consequences*", the same is applicable to a state "*that if France is considered a legal person according to international law, then France really is a legal person in that legal system, with all its material consequences*". To achieve this status and satisfy the relevant criteria, certain requirements have to be implemented. These requirements will include the establishment of geographical territory so that it can be given recognition as an international community, and it must also have a population ... (Robinson, 2010).

If these requirements are met then the territorial community will not only be granted a set of obligations, but also a set of rights and protection on a larger scale.

The protection of human rights is a dynamically developing field within the international community, and it may be said that this is in fact the goal, wish and desire of the people within it so that they might promote further development. In addition, it could be suggested that in establishing the international community as a legal person they have created an entity through which they can be represented and extend their common goal.

This notion could be extended to entities at the national or regional level, that the initial formation of these entities was designed to meet the needs of the people to guarantee their survival and to aid development. Therefore, the creation of these entities was based on the collective will and joint goal of the people.

Over time these territorially established entities realized that functioning through an elected representative would ensure a more stable standpoint and that their common goals would develop more rapidly. As such, a government or municipal elder (some form of organization) was elected and appointed by the community, in order to achieve their goals in a more rational way. The appointment of a representative can be taken as the point at which a territorial community becomes a legal person.

The history of the territorial community is the key to understanding why groups form. If the theory of the international community is to be upheld, that the "state becomes a legal person only after it is recognized by other states", then as Edward Heath Robinson asks "then by whom was the First State recognized?" (Robinson, 2010).

An example is provided by Oliver Crevoisier and Hugues Jennerat, who state that "over the last 20 years, territorial approaches have played an important role in the innovation and knowledge economy, given rise to a vast array of literature that is the subject of numerous syntheses and retrospective reviews, that of innovation and space." Furthermore, territorial associations that have a particular goal, whether to perform a regional study of innovation and industry, or another organization, may create an organizational mode through which economic changes can be brought about. The work of Crevoisier and Jennerat suggests that it is possible to draw up various regional policies. Examples of organizational modes can be seen today as people gather together to create an entity that can influence, develop and innovate (Jennerat & Crevoisier, 2009).

Another recent example is that of the Kibbutzim communities now known as the state of Israel or former Palestine. Rowley and Taylor discuss the example of the Jewish people that gathered

together in Palestine from different parts of the world with the objective of surviving the pressure placed upon them as the result of worldwide tension.

The initial goal and objective was survival, although much more has been achieved in the creation of the prospering state of Israel, which is now recognized de facto and also, by most other states, de jure as well. Israel is a marked example of how a territorial community may form only for the sake of survival, but through a process of evolution (Rowley & Taylor, 2006), may also thrive and prosper.

Contemporary Treatment of the Legal Person

Although independent subjects of law that differed from physical people were known long before the term "legal person" came into use, our understanding of them cannot be equated with our understanding of the legal person as we know it today. Our understanding of the concept of the legal person as it is defined today comes from the development and establishment of relevant theories grounded in the 19th century.

Following Pufendorf's example, Austria's general civil code used the term "moral person" to designate the legal person as it is defined today. Before Germany's civil code was passed, the term legal person was only used in individual German laws that were valid at that time. Today, in addition to German and Estonian law, the term legal person is also used in the legal systems of Switzerland, France, Spain and other countries, although in somewhat modified forms. Thus, the concepts used in France include *personnes fictives*, *personnes morales*, *personnes civiles*; in Italy *persone giuridiche*; and in Spain *personas iuridicas*. The Portuguese civil code recognizes the term "collective person" (*pessoas colectivas*) instead of legal person. The latter is contrasted with a human being or individual person (*pessoas singulares*).

In countries that use English law, one speaks of the juridical personality of companies, and the term "corporate personality" is used to designate legal persons.

The term "legal person" refers to the connection of the legal person to the concept of the person. This also confirms the established law, which divided people into two sub-classes: physical persons and legal persons. The law does not expressly name a single common trait that belongs to both classes of people. The General Part of the Civil Code Act abstractly regulates the institution of the legal person, by relying not so much on the legal person as a general concept, but on the two most important sub-classes of the legal person: a legal person in private law and a legal person in public law.

Therefore the terms "a legal person in private law" and "a legal person in public law" are terms of private law and subordinated to regulations governed by private law. The use of the term "a legal person in public law" does not mean that we are dealing with a subject of public law. A legal person in public law as a sub-class possesses meaning in terms of its connection with legal relationships that are subordinated to private law. Therefore, a legal person can primarily be considered a regulative object governed by private law and one should proceed with consideration to the traits of the legal person, including the principle of its subjectivity of law and the determination of its limits. At the same time, not all authors have considered the institution of the legal person to self-evidently belong to the field of regulation governed by private law (Saare, 2004).

In the Anglo-American legal system, there is no mention of the regulation of the legal person as an abstract legal institution. In this system the institution of the legal person relies on court decisions, through which the characteristic

traits of the legal person are formulated (Trustees of Dartmouth College v. Woodward, 17 U.S. (4 Wheat.) 518 (1819)) [2].

According to the above, the legal independence of corporations is treated as legal fiction, behind which are the shareholders. Therefore, one could provisionally note that, in its concept of the legal person, the Anglo-American legal system is guided by fiction theory. The mutual relationship between the members of the corporation and the corporation itself has a greater importance in this system than in the legal systems of Continental Europe.

The shareholders are treated as the direct owners of the company. Therefore, in the American legal system, the independence of the members from the corporation is not as comprehensive as it is in German and Estonian law.

The definition of the person, which in the context of the law includes passive legal capacity, is purely legal, which is why every person legally possesses the equal ability to be an independent, entitled and obligated subject in relation to other persons.

Rittner has noted that there is a special mechanism for the conception of will that forms the objectivity and independence that is necessary for a legal person to be considered as such. It is intrinsic for a legal person to have an independent will that differs from the interests and multiplicity of the goals of the individuals behind it and forms the mechanism for the conception of their will. A legal person has been created by physical persons, but through

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2   See http://caselaw.lp.findlaw.com/scripts/getcase. pl?court=US&vol=17&invol=518 . In the decision, it is noted that „that pursuant to general law, a corporation is a collection of individuals, which is united into one integrated body, which has a special name and freedoms, privileges and capacities that due to its collective nature do not belong to the physical persons that have founded the corporation. In brief, this is an artificial person, which exists in the imagination of the law and which is equipped with definite capacities and concessions that are exercised through its physical person members and are treated as if they belonged to the corporation itself, and which is viewed as an independent person." (08.08.2011)

its creation, it has become separated from the latter to a certain degree, and become more independent and objective. In order for it to become consolidated in its status, it requires articles of association as well as members and a collective existence (Rittner, 1973).

According to some authors, subjective law can only belong to human beings as beings with willpower (John, 1977). The attribution of will to legal persons can occur only through fiction.

The degree to which a legal person is independent is considered to be the trait that differentiates a legal person from other similar associations, and also determines its place in the legal system. Associations that are not legal persons are formed by their members in mutual connectedness, while also realizing the will of the association. The members of the legal person, however, can never be identified with the legal person, but are connected to it by their membership or institutional status.

According to Rittner, it would be unfair to treat legal and physical persons as two identical examples of the concept of the person, which should be structurally similar to each other. The legal person is a product of legal order, a real legal formation like a sales contract, ownership or marriage, which are also legal relationships. A physical person is also a person in law thanks only to the legal order that assigns it passive legal capacity. The equalization of their legal subjectivity by the legal order helps to somewhat level out the structural differences between legal persons and physical persons. The most important tasks in the regulation of legal persons include determining where the power of the legal person over the individuals that comprise its membership should end, as well as the degree to which other persons in law should have power over the legal person (Rittner, 1973).

The Legal Person in Estonia's Legal Order

The law from the pre-war Republic of Estonia recognized the term "legal person", although the approach at that time was not systematized. References to the recognition of the institution of the legal person can be found in individual provisions of Baltic Private Law (BPL) (Nolcken, 1915), and although it was recognized in the BPL as a subject of legal relationships alongside physical persons (legal persons primarily possessed the capacity to be party to transactions pursuant to BPL § 2913 and also had the capacity to own property pursuant to BPL § 713), BPL does not provide exact regulations regarding the formation, organizational structure and operating principles of legal persons. BPL only specified the types of legal persons (e.g. BPL § 713 recognizes the following as types of legal persons: the state treasury (*казна*), all types of corporate bodies, such as knighthoods, cities, city associations and farm associations; all types of foundations, such as churches, charities and community associations, teaching institutions, credit unions, etc.; collection of things which possess or to which legal subjectivity has been attributed, such as succession aggregates), while at the same time failing to provide a detailed definition of the concept of the legal person, or identify any of its traits. Compared to the BPL, a more systematic treatment of the legal person was provided by the draft of the Civil Code, which was developed during the period of prewar independence[3], and was completed by 1940, although it did not enter into force due to the annexation of Estonia.

In the civil law system of the re-independent Republic of Estonia, the basis for the concept of the legal person was provided by the General Part of the Civil Code Act that came into force on 1 September 1994. The general provisions

that deal with legal persons were specified and concretized by a number of specialized laws that were passed regarding individual types of legal persons (the Commercial Code, Nonprofit Associations Act and the Commercial Associations Act). These all dealt with the internal structure and developmental stages of the legal person. Things became significantly more complicated when the Law of Obligations Act came into force on 1 July 2002, which regulated, among other things, civil law partnerships or civil law associations as a form of independent association.

The Institution of the Legal Person in the Context of Corporate Bodies

Here *the theory of nation-personality,* will be considered, which provides that the highest political power is vested in and executed by the people, which exercises its power through its representatives, by forming community and national representations as legal persons (*Riigikogu*, councils, village governing bodies, etc.). In turn these legal persons form units of national or local government, such as the management bodies for territorial corporate bodies governed by public law (the Government of the Republic, rural municipality and city governments. As an exception, according to the valid procedures, village elders are elected directly).

Treating the state, which is a territorial corporate body, as a legal person has been called into question by Schneider, as well as several other authors, by emphasizing that the roots of this construction are in the sovereignty of the people (J. Bodin and J. J. Rousseau) in Germany's particular national reality and the theories of German scientists, and the implementation of the idea of national sovereignty in Germany's 19th-century constitutional models (Schneider, 1998). The same logic applies to the lower levels of territorial communities (city, rural

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3   Draft of the Civil Code. The wording of the Special Commission of the State Council of the Republic of Estonia dated 12 March 1940. Tartu, 1992.

municipality, and village) and their legal form – the territorial corporate body.

If we disclaim the state's personality, then the basis and means of acquiring and executing communal power must be constructed accordingly, regardless of the state's personality. However, if we affirm the state's personality, we must inevitably ascertain how this singular person-state can legally operate. In the latter case, one or another is feasible, either the state functions through representatives, who execute the law in the name and in place of the state, which is correspondingly without active legal capacity (the "*representation theory*" with its variations), or the state functions through its own institutions, which do not execute their own, but the state's law, and the state correspondingly has active legal capacity in the form of its institutions (the "*institution theory*") (Uluots, 1932).

All three of our country's constitutions and the leading constitutional scholars of the day surely and steadfastly held the position that the state's institutions exercise the state's power, and not their own, or in other words, they have accepted institution theory as opposed to representation theory. Therefore, the state is the carrier of state authority, and the subject of authority. From here we arrive at the conclusion that the people are an institution of the state that cannot fulfill their constitutional function in any other way. This theoretical construction of the state and the people as an institution was also uncritically adopted into the Constitution of 1992. From the materials of the Constitutional Assembly it is not clear if the problem of the state as a legal person was even seriously considered, because the issue of the form of governance overshadowed much else. Paradoxically, the concern for the precedence of parliament did not guarantee the power of the people, but rather served the state's interests through the *Riigikogu* as a state institution (Schneider, 2005).

As it turned out, Estonia's established legal order has also accepted institution theory, in which the state functions through its institutions that do not execute their own, but the state's law, and the state itself has active legal capacity. This *de lege lata* legal construction is theoretically understandable, but not acceptable, because, if the state is a separate legal person, and the subject of state authority, how can its position be totally defensible in the context of a democratic country? The position that state authority belongs to the state as a person and that the people in a democratic country are to be defined as an institution that exists within it ("*nation institution theory*") is not acceptable.

The power in a democratic country is delegated to the corresponding representative bodies that exercise this power, yet this power belongs to the people (this has also been called the *nation-personality theory* (Uluots, 1932).

However, can such a doctrine of democratic power be combined with the perception of the state as a legal person, because it seems obvious that one and the same power cannot simultaneously belong to the state and the people (Uluots, 1932)? The power belongs to the people (*dēmos*), the people choose their *representative bodies* (the *Riigikogu* at the national level; councils at the local government units level), which this paper takes as legal persons. Democracy is defined as the power of the people (Greek: *dēmokratia* < *dēmos* people + *kratos* power). The state and the units of local government are territorial corporate bodies, in which the people that possess power are able to function.

Here it should be stressed that the *Riigikogu* or rural municipal councils do not represent the state or the specific local government unit but the people of the country and the residents of the specific local government unit and so are representations of the community or of

the people. The Government of the Republic is appointed by the *Riigikogu* or the rural municipality. City governments appointed by the council of a rural municipality or city constitute the executive power of the territorial corporate body and are governed by public law (state, rural municipality, city) or their management institutions.

In sum, this section of the paper has sought to provide an analysis of the construction of, and the legal nature of territorial communities, as well as the way in which they are managed. The territorial community has been considered at all levels from the national to the regional, providing focus on the state of Estonia and the formation of its rural municipalities. How these communities have been formed has been examined from the viewpoint of social relations, the establishment of natural or positive rights and the paradigm of the legal person to aid the study of researchers from outside the field of law.

At the time when the idea of a nation-state was burgeoning and maturing in Estonia, before finally becoming a reality in 1917, there was no consensus among Europe's jurists regarding the construction and legal nature of the state. One could say that a pluralism of views prevailed. Some treated the state as a social reality, others as an ideal system, while others equated the state with a legal order. There were those who differentiated states based on natural and positive rights. Others distinguished between the state and society, while others did not.

In the German legal system, the sphere of influence where Estonians historically belong, the theoretical interpretation of the state is primarily based on the following three points: (1) the state as a subject of law; (2) the state as the object of law; and (3) the state as a complex of legal relationships (Schneider, 1998).

The concept of a legal person that encompasses the state as a whole is one that seems to have prevailed. The 1933 law to amend the constitution and the 1938 Constitution did bring changes to the structure of state institutions, their competency and mechanisms for balancing powers, but did not generate a change to the general concept of the state. The original concept has remained intact despite the disturbances to legal continuity in the 1930s – the "silent period", the 1938 Constitution entering into force without the referendum that was required by the previous procedural standard of the 1920 Constitution, or the 1933 law to amend the Constitution. Some evidence suggests that, based on the 1938 Constitution, a new continuity of legal order had started to function. Generally, it could be said that theoretical continuity is more enduring than state or legal continuity, although endurance as such does not mean the stagnation of change or development. When the 1992 Constitution was being worked out in the Constitutional Assembly, the most important thing receded into the background – the theoretical interpretation of the state as a whole given the changed circumstances, or that of the people who are vested within it and execute the highest power.

The inherited notion of the state as a legal person is now laboring under the ills of old age, which is becoming increasingly apparent. We are faced with the estrangement of public authority from the people, the centralization of power, the compounding of developments characteristic of an administrative state, and the nationalization of society. In a short period, a dual-level national governance system and a single-level local government has been established (Schneider, 1998).

This paper maintains the position that a **legal person, be it private or public, is an institution of private law and possesses meaning only in connection with a legal**

relationship that is subordinated to private law. Thus, rural municipalities or cities do not occur as legal persons in legal relationships that are subordinated to public law, such as the establishment of local taxes. At the same time, rural municipalities and cities should perform as legal persons in legal relationships that are subordinated to private law, such as purchasing a ballpoint pen from a stationery store. It is proposed that the units of local government must possess capacities equal to those of other persons to be considered legally independent subjects with passive legal capacity in relation to other persons. However, unlike current law, we propose that it is not the territorial community but its representative body that is the legal person. This paper argues in favor of the position of Rittner that a legal person is created by physical persons, but in its creation, has separated from the latter to a certain degree, and become more independent and objective.

This paper approaches the representative bodies of territorial communities in the same way, and treats them (not the communities themselves) as legal persons – created by their members, but having separated from the members to a certain degree, and become more independent and objective. It is debatable whether, in addition to interactive membership (members of the representative body), articles of association are also necessary for the representative body of the territorial community to secure its status as a legal person. Articles of association (as well as statutes) are documents that cannot be contrary to the legal order, and in practice, often include a composite of the provisions regulated by law. Articles of association are only a formality, which is why the question of their necessity has come to the fore and an alternative is required which should be guided by the law.

It is concluded that a territorial community is

a human community connected to a territory – its legal form is a territorial corporate body and its representative body is the legal person. According to the given overview, a legal person is an organization created/formed by people that is recognized by the legal order, which, in order to fulfill its goals, participates in legal utilization as a subject possessing total passive legal capacity.

As a rule, the representative bodies of territorial communities are created as legal persons to ensure the continued existence of that community and the legal person is not automatically terminated upon the achievement of its goals. In the case of the legal personality of a territorial community one can speak of a unit of influence which is capable of possessing and expressing the will of its membership through the right to vote and to carry this out itself or through its executive bodies.

The separation of this will from the personal will of the members may turn out to be problematic in the private sector since legal persons may have very different structures, in the sense that they may be comprised of only one member or one founder.

However, more important than the definition of the concept of the legal person is the legal regulation of the legal person and its correspondence to the needs of legal utilization and the generally recognized principles of law. It is maintained that in established law the legal regulation of the legal person does not correspond to the needs of legal utilization in the context of territorial communities and to generally recognized principles of law. The position is therefore held that territorial communities are not legal persons.

Pursuant to valid law, in regard to territorial corporate bodies, it is the state and units of local government that are legal persons

governed by public law[4]. This has not always been true, since, based on the law valid at the end of the last century (1989–1993), at the local government unit level, the legal persons were its institutions (council and government)[5].

However, the concept of the legal person as such is not called into question. Quite the opposite, it is recognized that from a management point of view, the institutions (bodies) of territorial communities – more exactly their representative bodies – can be treated as organizations and legal persons. A consensus must be reached in the prevailing juristic approach that sees territorial corporate bodies as legal persons. This paper proposes that in the context of territorial corporate bodies, the representative bodies (such as the national parliament and councils of local government units) can be considered legal persons.

Admittedly this approach contradicts the current position of the law (*de lege lata*), according to which the state and its local government units already perform as legal persons governed by public law, and therefore its institutions cannot be legal persons. These institutions are organizationally but not legally independent.

This in turn raises the question of which theory should be used as the basis for the construction of the concept of the state and local government units as legal personalities.

At the same time, from the viewpoint of what the law ought to be (*de lege ferenda*), the options suggested in this approach are worth considering. We should also think about whether amending the current law is advisable and if the time for this is ripe.

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4   General Part of the Civil Code Act § 25 (2). RT I 2002, 35, 216.
5   ESSR Law on the Bases of Local Government § 6 (12). ESSR Supreme Soviet and Government Reporter 1989, 34, 517.

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