

O TRGOVAČKIM DRUŠTVIMA I KONCESIJI

Ovih dana na dnevnom redu Vlade, Crkve i javnosti tema je bila Javno poduzeće Hrvatske vode, treba li ga zakonom preoblikovati u trgovačko društvo ili ne? Nakon oštrog protivljenja Crkve i javnosti, prema izvješćima medija, Vlada povlači iz procedure pripremljeni Zakon, koji bi prema ocjeni njegovih protivnika, omogućio rasprodaju nacionalnih vodnih resursa. Dakle, iako Ustav u svom članku 52. jasno kaže kako: “more, morska obala i otoci, **vode**, zračni prostor, rudno blago i druga prirodna bogatstva, ali i zemljište, **šume, biljni i životinjski svijet**, drugi dijelovi prirode, nekretnine i stvari od osobitog kulturnoga, povijesnoga, gospodarskog i ekološkog značenja, za kojega je zakonom određeno da su od interesa za Republiku Hrvatsku, **imaju njezinu osobitu zaštitu**”, političarima kažu nije za vjerovati, jer bi se primjenom ovoga Zakona mogao učiniti opasan korak prema rasprodaji toga nacionalnog srebra. Kada se Hrvatsko šumarsko društvo protivilo preustroju Javnog poduzeća Hrvatske šume u Trgovačko društvo d.o.o., s istim argumentima, nije dobilo podršku za svoj stav. Da li se ovdje radi o dvostrukim mjerilima ili o “naknadnoj pameti”, što je kod nas sasvim normalna stvar da naknadno ipak pogledamo? Dakle, voda je ovim Zakonom u opasnosti, a šuma koja istu uskladišćuje, čuva i pročišćava, a tretira se također kao nacionalno bogatstvo, kao nije u opasnosti! Ili ipak je? U Hrvatskoj enciklopediji, trgovačko društvo je definirano kao “privatnopravna zajednica osoba nastala pravnim poslom radi postizana zajedničkog cilja. Trgovačkim društvima u užem smislu smatraju se društva cilj kojih je vođenje poduzeća radi ostvarenja dobiti”. Javno poduzeće, prema istom izvoru je “kolokvijalni izraz za društvo koje se bavi djelatnošću od nekog javnog interesa”. No braneći svoj stav rekli smo, to ne znači da može poslovati neracionalno, ali nije mu u prvome planu dobit i punjenje državnoga proračuna, nego ponajprije stručno i odgovorno obavljanje svoje funkcije. Tako, ako je Javno poduzeće Hrvatske šume p.o. z svojih prihoda i sredstava OKFŠ-a moglo za vlasnika obaviti sve poslove koji karkteriziraju potrajno gospodarenje šumama, polučujući klasično gospodarsku ulogu (pridobivanje drvene sirovine) i osiguravajući i općekorisne funkcije šuma (ekološke i socijalne), tu nije bilo mjesta pametnom vlasniku traženje novog ustrojstvenog oblika. Trebalo je samo kontrolirati da li su finacijska sredstva racionalno utrošena i da li se s istim sredstvima moglo učiniti više, jer smatramo da u šumarstvu nema dobiti, ako činimo sve da šumi kroz svoj ulog bar djeomično vratimo ono što ona nama pruža. No, podržavajući stav Crkve i javnosti glede vode, treba dobro razmisliti pa odgovoriti na pitanje što i gdje smo mi sada?

Dakle, imamo Trgovačko društvo “Hrvatske šume” d.o.o., a pojavljuje se novi problem, **pitanje davanja šuma u koncesiju**. U već spomenutoj Hrvatskoj enciklopediji piše: “koncesija (lat. concessio) u širem smislu svako ustupanje, dopuštenje, povlastica. U pravu općenito dozvola za obavljanje neke djelatnosti uvjetovana posebnim odobrenjem”. Mogli bismo reći da Država drugome daje nešto raditi, jer ne znamo ili sami nismo sposobni racionalno to učiniti. Pitamo se, zar to nije uvreda za hrvatsko šumarstvo s gotovo 250-godišnjom tradicijom i tvrtku s oko tisuću šumarskih stručnjaka i 10-tak tisuća zaposlenika. Glede pitanja o profitu kojega država, kao što smo prethodno naveli, neopravdano od šumarstva očekuje, tko će to u tuđu zemlju toliko uložiti da bi dobio manje od uloženog (osim ako se ne bori za dobrobit građana te zemlje, posebno onih s ruralnog područja, što bi od profitera bilo smiješno očekivati!). Stoji i pitanje, zašto struka i tvrtka nije oštro reagirala na te glasine? U daljnjem tekstu iste enciklopedije izričito se kaže: “Koncesija se ne može dati na šumska i druga zakonom utvrđena dobra u vlasništvu države”. No, i uz to, za izlaz iz nastale gospodarske krize nude se prijedlozi o koncesiji pa i prodaji šuma, no izjave resornog ministra bude nam optimizam da se to ipak neće dogoditi. Zanima nas od koga stižu ti prijedlozi? Uvjereni smo da se ne radi o bilo kojem uvaženom šumarskom stručnjaku, no trebalo bi pogledati da li su to “probni baloni” onih istih vrlih ekonomskih stručnjaka, koji su nas doveli na gospodarske grane tu gdje jesmo, ili pak onih pravnih stručnjaka koji su pisali zakone po kojima je Hrvatska opljačkana, što nije moralno, ali je po zakonu.

Ova tema je ciljani poticaj za razmišljanje i analizu utjecaja vanjskih čimbenika na šumu i šumarsku struku, ali i za osvrt na stanje i rješenja unutar struke.

Uredništvo

EDITORIAL

ON COMPANIES AND CONCESSIONS

Recently, the Government, the Church and the public have been concerned with the topic of whether the public enterprise Hrvatske Vode should be legally transformed into a company or not. Faced with stiff opposition by the Church and the public, according to the media reports, the Government is going to withdraw the prepared Act from the procedure. In the estimate of its opponents, the Act would enable the sale of national water resources. Article 52 of the Constitution stipulates the following: “The sea, the coast and islands, **waters**, airspace, mining resources and other natural treasures, but also land property, **woods, plants and animals**, other parts of nature, immovable property and items of particular cultural, historic, economic and ecologic significance, which are of interest for the Republic of Croatia according to law, **have its particular protection**”. Politicians are not to be trusted, however: the implementation of the proposed Act could mark a dangerous step towards the sale of the family silver. When the Croatian Forestry Association opposed the conversion of the public enterprise Hrvatske Šume into a limited liability company using identical arguments, it did not meet with any support. Do we deal here with a double standard or is this the case of “subsequent wisdom”, in other words, the case of finally opening our eyes? The proposed Act puts water supplies at risk, but the forest which stores, preserves and cleanses this same water and which is also treated as a national resource is not at risk! Or maybe it is? According to the Croatian encyclopedia, a company is defined as a “private-legal association, allowed by legislation, for the purpose of achieving a common goal. Companies in a stricter sense of the word are associations which carry on business with the goal of making a profit “According to the same source, a public enterprise is a “colloquial term for a company that deals with an activity of public interest”. In defense of our attitude, we pointed out that a public enterprise is not allowed to make irrational business and that its primary aim is not to receive state funding; on the contrary, its task is first and foremost to carry out its functions in a professional and responsible manner. Therefore, if the public company Hrvatske Šume was capable of carrying out all the activities for forest owners that characterize sustainable forest management and of financing them from its own income and means obtained from non-market forest functions (OKFŠ), taking on the classical economic role (harvesting timber) and ensuring non-timber forest functions (both ecological and social), then it was simply not wise for a clever owner to seek a new organizational form. All the owner had to do was to check that the financial means were rationally used and see if more could have been achieved with these means, since we are aware that there is no profit in forestry if we strive to retribute to the forest at least a small share of what it gives to us through our activities. By supporting the attitude of the Church and the public related to the water issue, we must also answer the question of where the forestry profession is now.

We have a limited liability company Hrvatske Šume, but a new problem is emerging: **the issue of granting forest concessions**. In the Croatian Encyclopedia mentioned above it says “concession (lat. *concessio*) in a broader sense is the act of yielding, conceding, as a right, a privilege. In general, concession is a special contract granting the right to operate an activity”. To put it more freely, we could say that the State grants the right to someone else to do something because we do not know or are not capable of doing it rationally ourselves. Is not this an outright insult to Croatian forestry with an almost 250-year-long tradition and to a company with about one thousand forestry experts and some ten thousand employees? As for the issue of profit, which the state, as we have pointed out earlier, unjustifiably expects from forestry, who on this earth would invest considerable means into a foreign country, only to receive back less than invested (unless the noble goal is to fight for the welfare of the citizens of the country, especially those from rural areas, which would be preposterous to expect from a profiteer!)? We should also ask why the profession and the company did not react more firmly to these rumours. Further on, the Encyclopaedia states explicitly: “Concession cannot be granted for forests and other legally designated goods in state ownership”. In spite of this, however, there are proposals on granting concessions, and even selling forests, as a way out of the economic crisis. According to the statements of the competent minister, we may optimistically hope that this will not happen. We would like to know, however, where these proposals are coming from. We are convinced that they are not coming from any forestry experts. It may just be the case of “testing the public” by those same economic experts who have driven us into the economic crisis or by those legal experts who have written the laws by which Croatia has been plundered. Admittedly, the law was adhered to, but what about the morals?

This topic is intended to encourage discussions and analyses of the impacts of external factors on the forest and the forestry profession, but also to review the current condition and the solutions within the profession.

Editorial Board