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Foreword

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The autumn issue of *Croatian and Comparative Public Administration* brings together several important research topics that are explored in detail in the published articles. We are publishing six articles written by a total of 17 authors affiliated with universities from seven countries: the Netherlands, Chile, Armenia, Slovenia, Indonesia, Ukraine, and Croatia. In this way, this issue of the journal is truly international and comparative in its content, approach, and treatment of the analysed topics. The articles are, as usual, grouped into three sections.

This issue opens with the section Multi-level Governance and Local Civil Service, which contains two articles. Esteban Szmulewicz, Professor of Public Law at the Law School, Leiden University (the Netherlands), and the Catholic University of the North, Antofagasta (Chile), in his article *Challenges of Intergovernmental Relations in Non-Federal Countries: Reflections on the Management of the COVID-19 Crisis in the Netherlands*, addresses a topic that has been the subject of intense scientific analysis in recent years. Dealing with crises has become one of the central topics in the field of public administration, given the multiple crises faced by modern societies and their public administration systems. The author examines intergovernmental coordination mechanisms in a unitary country such as the Netherlands. He identifies a kind of transfer of authority to executive bodies at the expense of representative ones, as well as to ad hoc bodies created to deal more effectively with crisis management – in this particular case, the COVID-19 crisis. The second article in this section, *Improving the Competencies of Municipal Employees: The Case of Armenia*, was written by Svetlana Baghdasaryan, Arman Avetyan, and Goharik Martirosyan, teachers and researchers at two Armenian universities – Yerevan State University and the Russian-Armenian University (both in Yerevan, Armenia). The article explores the relationship between territorial reform of local self-government and the strengthening of local officials' capacities. Several

dimensions of capacity-building are analysed, especially considering the current gender imbalance and the need for greater inclusion of women in the local government system. The authors also highlight that “engagement with international programs and the adoption of innovative governance models are crucial steps towards more efficient, transparent, and responsive local government” – an important conclusion of their research.

The second section features two articles addressing an area that is becoming increasingly prominent in the scientific literature on public administration and related academic disciplines. The rapid development of information and communication technologies and artificial intelligence has brought unprecedented changes to nearly all aspects of public administration – from organizational structures and work-process optimization to the adaptation of skills and competencies of public servants, as well as the enhancement of efficiency and effectiveness across administrative systems. Professors and researchers from the Faculty of Administration, University of Ljubljana (Slovenia) – Polonca Kovač, Matej Babšek, and Aleksandar Aristovnik – are the authors of the article *The Artificial Intelligence Act Between the EU and National Levels: The Slovenian Case Study*. Applying a multidisciplinary approach, they analyse the implementation challenges of this act in Slovenia. They identify key issues that can be grouped into three categories: gaps in awareness, institutional readiness, and administrative application. Slovenian experiences regarding the application of the AIA offer valuable insights that can serve other EU member states as practical guidelines on how to successfully implement the AIA and what challenges to avoid. The second article, *The Role of Electronic Records Management Systems in Enhancing Accountability in Educational Institutions: Evidence from Indonesian Senior High Schools*, was written by Nina Oktarina, Edy Suryanto, Dian Fithra Permana, and Ahmad Saeroji – teachers and researchers from the Faculty of Economics and Business, State University of Semarang (Indonesia), and the Faculty of Teacher Training and Education, Lambung Mangkurat University, Banjarmasin (Indonesia). The article analyses the application of digital technology in the administrative sector of secondary education. It examines the Electronic Records Management System in Indonesian high schools to determine its impact on efficiency and accountability. The authors identify significant improvements in document availability and completeness, as well as positive effects on accountability and transparency. However, they note that continued efforts are needed in employee training and periodic evaluation of the system to improve its implementation.

This issue concludes with the Public Law section, which contains two articles. Authors Mykhaylo Voznyk, Yaroslav Goloborodko, Vadym Vlad, Yurii Sevruk, and Katerina Rudoï – researchers from the National Defence University of Ukraine (Kyiv), the Interregional Academy of Personnel Management (Kyiv), and Odesa State University of Internal Affairs (Odesa) – wrote the article *Reforming Military Law and Service in Ukraine: Lessons from the Military Police of Other Countries*. The article examines the organization and powers of military police forces in terms of investigating and prosecuting military-specific offenses. Based on a comparative analysis of military police systems in several countries, the authors provide recommendations for improving the functioning of the military police in Ukraine. The final article, *The Rights of Citizens in the Krbek's Doctrine of Administrative Law*, was written by Ivan Kosnica, Professor at the Faculty of Law, University of Zagreb. From a legal-historical perspective, the article analyses the work of one of the most influential Croatian administrative law scholars, Ivo Krbek. The author examines the development of Krbek's ideas on citizens' rights across three periods of his work: the interwar years, the Second World War, and the post-war period.

With this issue, we aim to contribute to the exchange of ideas among researchers from different administrative, political, and social environments, with the goal of building a common framework for understanding how public administration systems function around the world. In this way, we are building a community of scholars dedicated to the serious analysis of various aspects of public administration. Although contexts and circumstances differ, the research community shares a common denominator – the pursuit of legitimacy and the identification of trends in the development and functioning of public administration. We hope that this issue and the articles published in it make a meaningful contribution to building a global public administration community and to establishing the legitimacy of public administration systems worldwide.

Professor Vedran Đulabić
Editor-in-Chief

Challenges of Intergovernmental Relations in Non-Federal Countries: Reflections on the Management of the COVID-19 Crisis in the Netherlands

Esteban Szmulewicz^{*}

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This paper complements the literature on intergovernmental relations by analysing the case of the Netherlands' management of COVID-19, focusing on the challenges posed by the application of safety regions, particularly the lack of accountability mechanisms, and the role of the so-called Safety Council. Even though intergovernmental coordination was conducted primarily through this body, reports have questioned its feeble framework. Overall, two lessons can be learned from the Dutch experience. First, the potential long-term discussions regarding the balance

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of power at the subnational level, with the executives now displaying a stronger role, and local councils being less involved in determining policies and in accountability practices. Second, the potential permanent effects of transitory measures, such as greater salience of safety regions as well as the reliance on the Safety Council in the Netherlands, which emerges as an important actor, somehow altering the traditional territorial distribution of powers.

Keywords: intergovernmental relations, safety regions, crisis coordination, democratic legitimacy, accountability, COVID-19

1. Introduction

Over the course of history, democracies have survived many crises while also having an inherent tendency to handle them in the heat of the moment, from one crisis to another, and only to display their strengths over time. This gives democracy stability and confidence but, at the same time, introduces a possible trap, since people can forget the critical moments and start believing in a certain “end of history”. This could lead to new crises that can prove too big to escape (Runciman, 2015).

It appears that the history of democracy, as the COVID-19 pandemic shows, is full of setbacks and small advances followed by profound, poly- and even permacrises, and it is seldom easy to know how to steer democratic societies to adequately weather these storms. Hence, it is critical to learn the right lessons from each crisis to continue the never-ending process of renewing and strengthening the democratic system. This paper moves forward in that objective, by studying the relationship between the different levels of government in the Netherlands during the management of the COVID-19 pandemic, focusing on the decentralisation and centralisation challenges, accountability deficits, and the issues concerning the so-called Safety Council (SC) created by the Dutch public administration, and potential lessons regarding intergovernmental relations in non-federal countries.

The first departing point is recalling the traditional literature on crisis management, which disregarded or downplayed the role of the government in these scenarios (Quarantelli, 1978). Yet, more contemporary studies have made much clearer the crucial role – for better or worse –

that the governmental dimension plays, and particularly intergovernmental relations (IGR) and intergovernmental management (Rosenthal, Hart & Kouzmin, 1991). At the same time, this line of thought still emphasises the centrality of strong central level authorities, even in the context of official frameworks that highlight the role of local government (Rosenthal & Kouzmin, 1997). Yet, as the Dutch case will portray, centralisation needs to be balanced out properly with local autonomy and decentralisation. For this purpose, intergovernmental coordination is crucial because of the several types of asymmetries that can emerge between and among levels of governments. In fact, during an emergency like a pandemic, three types of asymmetries are particularly relevant: information asymmetries, because central government must safeguard overall planning and cohesion; administrative asymmetries, because the solution to a certain problem transcends the strict boundaries of governments (event nationally as in the case of the COVID-19 pandemic); and policy asymmetries, because of the potential contradiction of the policies that would be implemented by distinct governments (Ruano & Profiroiu, 2017).

On the other hand, from the perspective of public administration studies, authors have highlighted that decentralised systems are preferable, since they are more efficient in dealing with complex and uncertain information (Scott, 1987). Pluriform governance structures are said to be better than uniform ones because contingencies and contexts vary, while also encouraging local innovation (Pollitt, 2007), an argument logically connected to dealing with crises and emergencies. In other words, decentralised structures may have advantages for solving difficult problems since they empower several subunits to search for policy solutions in parallel, and to share and coordinate the information discovered (Kollman, Miller & Page, 2000). However, widening opportunities for citizens' participation in local decision-making, while at the same time improving public services delivery and responsiveness to the people, are not always simultaneously achieved (Saito, 2011). Hence, it is crucial to introduce coordinated intergovernmental relations as a bridging mechanism to balance out effectiveness and legitimacy in the context of decentralised administrative structures, as the Dutch case will show.

In this context, the central research question can be stated as follows:

In the context of the Dutch decentralised public administration, how has the COVID-19 pandemic impacted intergovernmental relations and its effective and legitimate management?

Naturally, this guiding question can be divided into several sub-questions, which can be summarily stated as following:

- a) Regarding how to organise the political system in terms of the relationships between the different government levels, how was the Dutch decentralised political system able to coordinate/cooperate with its diverse government tiers?
- b) How were tensions between the central and subnational governments managed during the COVID-19 crisis?
- c) How to craft a balance between democratic inclusiveness, both regarding individuals as well as organisations, and government effectiveness, in the context of intergovernmental coordination?

In order to address these questions properly, it is important to clarify the scope of the research and certain crucial concepts. First of all, for the purpose of this research, it is understood that a certain institutional design, particularly the territorial structure or organisation of the state, aims at balancing two distinctive but equally crucial values: effectiveness and democratic legitimacy. Effectiveness can be conceptualised as the institutional design capacity, at least in theory, to achieve certain goals or outcomes. What those outcomes are is contested, but typically, regarding the territorial structuring of the State, they encompass economic development, social well-being, and polity and policy stability (De Vries, 2000). In turn, democratic legitimacy in the realm of the territorial structure of the State can be conceptualised as both increasing citizen participation by bringing government closer to the citizens, and also enhancing opportunities for accountability, because it provides easier access to information about local authorities (Treisman, 2007). Furthermore, the literature distinguishes two sources of legitimacy: input and output legitimacy. Input legitimacy consists of participation and consensus or government by the people, while output-orientated legitimisation derives from the government's capacity to solve problems requiring collective action, or government for the people (Scharpf, 1999). In turn, the contemporary scholarship also considers a third dimension, labelled throughput legitimacy, which is dependent upon the quality of the policymaking processes, the black box of governance that absorbs the input and generates the output, where accountability, transparency, and inclusiveness are critical (Schmidt, 2020). This latter dimension will be the main concern of this paper.

The research starts with the hypothesis that COVID-19 affected intergovernmental relations and intergovernmental coordination in the Dutch case, challenging the effective and legitimate management of the emergency. Moreover, the paper will show the way those challenges have affected debates about intergovernmental relations and decentralisation in the Netherlands, which in turn could resonate in other decentralised

countries facing similar discussions. This paper will begin by providing a framework related to IGR. Afterward, it will explain and analyse the Dutch territorial governance system during the COVID-19 pandemic, with an emphasis on IGR. Finally, it will present comparative and concluding observations.

2. Intergovernmental Relations in Non-Federal Countries

The increasing demands placed on all types of political and administrative structures, particularly because of joint programmes, shared financial schemes between organisations, and financial transfers, explains the raising interest in research about IGR (Hueglin & Fenna, 2015). In this context, countries not defined as unitary in their constitutions but embodying different forms and degrees of regionalism, such as Italy (Ceccherini, 2021) and the United Kingdom (Anderson, 2022), as well as formally unitary decentralised states, such as the Netherlands (Szmulewicz, 2022), have been attracting the attention of researchers. Toonen (2010) proposes distinguishing between the intergovernmental constitution concerned with the formal distribution of powers, intergovernmental relations defined as the organisational relationships and linkages between government units, and intergovernmental management, which focuses on problem-solving activities and procedures.

By focusing on IGR, the analysis moves beyond the traditional depiction of the formal distribution of powers, by highlighting the dynamics of the relationships between government levels, as well as concerns regarding its influence on the effectiveness of government, as shown by recent empirical and comparative research on IGR during the COVID-19 pandemic (Bergström et al., 2022).

However, IGR can pose critical challenges to democratic legitimacy and accountability. For instance, studies have highlighted the emergence of informal coordination mechanisms during the COVID-19 pandemic, which led to misalignment between subnational units as well as challenges of the lack of democratic legitimacy and accountability, which allegedly formal mechanisms would provide (Nader, Fuchs & Méndez, 2021). At the same time, local cooperation and horizontal collaboration across subnational governments and municipal associations have contributed to reducing transaction costs by sharing resources and knowledge, while

highlighting the need to address unequal distribution of capacities and financial resources (Mavrot & Malandrino, 2022; Ramírez et al., 2020).

Additionally, and building on Smiley's (1979) criticism of Canadian IGR, authors have questioned the technical nature and managerial emphasis of IGR. This line of argumentation is based primarily on three reasons: accountability lines of governments towards their respective legislatures and public opinion are weakened; the introduction of relevant intergovernmental relations distances the accountable politician from the constituents; and even if IGR are transparent, voters are still faced with issues of blame allocation (Greer, 2006).

Critical to understanding IGR is the distinction between cooperation and coordination across and between levels of government. Relationships characterised by the dominant role of the central state are understood as coordination, whereas equal footing of all the levels of government involved is considered a key element of cooperation (Ceccherini, 2021). In turn, cooperation can be vertical, e.g., in the case of voluntary agreements between central and subnational governments, or between provinces and municipalities, as in the case of the Metropolitan Region Rotterdam-The Hague or the Amsterdam Metropolitan Area (OECD, 2014), or horizontal, as in the case of different types of intermunicipal cooperation, or the work carried out by associations of municipalities (VNG) and provinces (IPO). In fact, Wayenberg and colleagues (2022) report that Dutch municipalities participate on average in 33 formal and informal intermunicipal collaborations.

Furthermore, vertical cooperation can rely on certain instruments or arrangements, such as governance agreements (*bestuurakkoord*) between the central government, the VNG, the IPO, and the association of regional water boards (UvW). In the Dutch case, the provinces have the role of coordinators, to provide coherence and align national and local objectives. Nevertheless, there are difficulties in enforcing this role because they are subordinated to the national frameworks and lack the power to compel municipalities to take the provinces' policies seriously (OECD, 2014; De Vries, 2004). In institutional terms, the relationship between municipalities and the central government is one of coordination and negotiation, given the interdependence between different government levels, particularly because of the significant role municipalities play in the execution of public services, and in the decision-making processes (Wayenberg et al., 2022).

Finally, despite the fact that IGR have traditionally been approached by studies focused on federal countries, the Dutch case shows that decentralised non-fully-fledged federal countries can also contribute to the literature on IGR. Following Toonen's (2010) already mentioned three-fold

classification (2010), non-federal countries allow to change the focus from the formal distribution of powers (intergovernmental constitution) to the organisational relationships and linkages between government units (intergovernmental relations). This means that a focus on non-federal countries can contribute to understanding crisis governance, in the sense that by incorporating these countries the research emphasises the “in-flux” nature of intergovernmental relations, and to addressing concerns regarding the influence of IGR on the overall architecture and functioning of government (Cuesta-López, 2014).

3. Methodological Considerations

In terms of the methods, this paper analyses the actual workings of the intergovernmental constitution, that is focuses on the challenges posed to the vertical intergovernmental relations during the COVID-19 crisis in the Netherlands, a country traditionally defined as a “decentralised unitary State” (Toonen & Steen, 2007). Specifically, it focuses on the role of municipalities and their relationships with safety regions in the context of managing the pandemic, while also looking at the relations between the latter and the central government. It also addresses the democratic legitimacy and accountability questions emerging from IGR. This has been done by revising a series of reports, documents, and news articles, as well as conducting individual, semi-structured interviews with a selection of policymakers and researchers online via different platforms between April and August 2021,¹ which corresponds to the period of analysis covering the first wave of the pandemic (2020), as well as the second (winter of 2020–2021).

This study assumes the logic of “the most different or diverse case,” which means selecting a country that presents significant differences to others relevant in terms of the institution or variable of interest (Hirschl, 2019), in this case intergovernmental relations. This method is employed fundamentally in order to test the analytical framework of intergovernmental relations as generated in federalism studies, in the Dutch case that belongs to the family of “decentralised states,” hence critically assessing the validity of this framework, particularly in the context of an emergency or crisis, and the way this institution works in practice (Hirschl, 2019).

¹ To facilitate more open conversations, the interviewees chose to remain anonymous.

In terms of research techniques and given that the research is interested in a “law in action” approach, the actual functioning of the legal rules would also need to be accounted for. For that purpose, accounts of the countries dealing with the crisis will be comprised of several sources (electronic journals, blogs, newsletters, and so on). Also, it looks at secondary sources while also conducting interviews with selected policymakers and researchers. Semi-structured online and in-person interviews were conducted by the author during 2021. The interviews were directed towards experts on the topics and the country, as well as towards decision-makers that were involved in the decision-making processes, covering 2020 and early 2021. For confidentiality purposes, the names of the interviewees are omitted.² An anonymised list of interviews is provided in the Appendix. This method allows us to triangulate information from different primary sources, as well as from secondary literature (Vromen, 2018).

Notwithstanding the strengths of the methodological approach, the justification for selecting this case, and the research techniques adopted, a couple of limitations need to be recognised. First of all, the interviews were conducted through online platforms, which had the advantage of being the only available channel considering the epidemiological situation at the time but also meant that certain characteristics of this data-gathering technique were missing, including the capacity to more readily perceive attitudes and dispositions of the interviewees and also a more dynamic interaction during the encounter. Moreover, time constraints and limited resources, particularly considering the context of the research project, required that the number of interviews and on-the-ground observations was more limited than initially planned, hence augmenting the reliance on the researcher’s interpretation of the available data (Hopkin, 2010). Secondly, and more importantly, while privileging detailed information about the case and tracing processes in the explored institutions, the case study reduces the validity of extrapolating more general statements from the empirical results. This implies that the case study might be unrepresentative and the findings specific to this particular case (Hopkin, 2010). Hence, potential improvements of this research design are offered in the conclusions.

² Examples of the questions formulated in interviews are incorporated in the Appendices, as well as explanations of the process for arranging the details of the interviews.

4. Safety Regions in the Netherlands

The challenges posed by the safety (often also translated as security) regions (SR) to democratic accountability and legitimacy, in the case of the Netherlands, can be analysed using the framework of IGR theory.³ The governance system during the COVID-19 pandemic was based on the Safety Regions Act (*Wet veiligheidsregio's* or SRA). This functional administrative act contemplates dividing the country into 25 safety regions which can issue legally binding emergency ordinances (Meuwese, 2020). At the same time, these ordinances followed “binding instructions” issued by the Emergency Cabinet, headed by the Prime Minister, and integrated also by the Ministry of Public Health, and Ministry of Justice and Security, as well as the experts from the Outbreak Management Team (OMT) and the National Institute for Public Health and Environment (RIVM). While the mechanisms for implementing these instructions and the multilevel governance system were structured under the SRA, the content of the Emergency Cabinet instructions was based on the prescriptions of the Public Health Law. This crisis management structure required a great deal of operational and administrative coordination, both between the SRs, and with the central government. On 12 March 2020, the government raised the status of the emergency to GRIP-4 level, after the crisis had extended to more than one municipality (Instituut Fysieke Veiligheid, 2020; Wayenberg et al., 2022).⁴ With the exception of a couple of cases, the 25 SRs match most of the 25 regional health services (*gemeentelijke geneeskundig dienst* or GGDs).⁵

³ The official English version of the Safety Regions Acts speaks indistinctively about “safety” and “security” regions.

⁴ In the Netherlands, the Coordinated Regional Incident-Management Procedure or *Gecoördineerde Regionale Incidentbestrijdings Procedure* (GRIP) scales up to five levels of emergency, from GRIP-0 being the lowest one, to GRIP-5 covering multiple regions, and managed in a more centralised manner.

⁵ Given that public health is a shared responsibility between the national government and the municipalities, each municipality has its own GGD. These local public health services cooperate with each other to organise 25 regional public health services, covering all municipalities. Regional structures generally provide advice to municipal public health services but, as will be seen with the safety regions, the relations between this “regional arrangement” and the municipal structure are complicated, and they receive little insight from the national government (Maarse et al., 2018, pp. 83–85). Municipalities individually and in cooperation have great freedom to give the GGD a role to their liking. In practice, there are large differences between GGDs, in terms of the scope of the range of tasks and the set-up of the organisation, and also problems of democratic accountability.

5. The Issue of National vs Local Competences in the Netherlands

According to the Constitution, municipalities and provinces have a certain degree of autonomy to regulate and administer their own affairs, while also being required to cooperate with regulations and orders from higher government bodies in certain cases, or co-administration (Art. 124). A municipality is headed by the municipal council, directly elected by the people, and a municipal government headed by a mayor appointed by the government. In turn, the country's administrative division also recognises provinces as the second tier of government, led by a provincial council representing the people at this level, and an appointed King's commissioner (Voermans, 2016a). Despite this political-administrative organisation, provinces normally lack competences regarding public health, safety, and security, three of the main policy areas discussed during the first two waves of the COVID-19 emergency (2020 and first half of 2021). In normal times, those attributions are distributed between the national government – embodied in the Ministry of Public Health and the Ministry of Justice and Security – and the municipalities themselves.

In these circumstances, recourse to the functional organisation of the SR can be interpreted as a deliberate choice in order to “scale up” competences that normally belong to municipalities, as well as to create a “middle space” to foster further dialogue between the subnational authorities and the national government. Therefore, the government avoids the need to consult over 300 local public entities, which could potentially provide over 300 different responses or public policies to handle the pandemic. At the same time, the impact of that institutional choice put the provinces' existence into question. The accumulated effect of resorting to functional organisations rather than to the provinces for crisis management, as well as the historically low turnout in provincial elections, has resulted in an ongoing debate about the role and even the justification of having provinces in the first place, with some scholars even claiming that “the future of the province is at stake” (Boogaard, as cited in Dennis l'Ami, 2023). This is a critical trend that was detected and has continued to spiral over the last 20 years (de Vries, 2004).

In practice, the emergency response system corresponds to the following stages. First, mayors of normally the largest municipality of the functional region, titled chairperson of the safety region, assumed the powers vested in each individual mayor, including the competence to approve emergency ordinances (Art. 39 of the SRA). However, often times these ordinanc-

es were based on the model enacted by the Safety Council (SC), which is a cooperative body comprising the chairpersons of the 25 SRs,⁶ with some autonomy from national standards as long as the subject is not regulated. In fact, the differences between the SRs have been minimal,⁷ despite the fact that some of them adopted their own measures, for issues such as the regulation of local markets and tourism or bans on honorary hedges and certain public areas (Esser & Boogaard, 2020).⁸ Although the content of the model regulations was almost entirely decided by the health and security ministries, these offices consulted the mayors who integrated the so-called Safety Council before adopting them, to check whether they would have public support and could be enforced in practice (mayor and chairperson of an SR, interview, 29 April 2021). In turn, at the subnational level, the chairpersons of SRs also consulted civil society organisations in their respective regions, in particular when more stringent measures were imposed or needed. In general, this approach helped in preventing possible protests and negative reactions against the measures.⁹

Enforcement of these ordinances relied on each mayor, who in the absence of a particular SR regulation for a specific issue, could implement their own safety measures.¹⁰ The fact that each safety region adopted almost the same rules during the entire COVID-19 emergency, which was not the case in crises before COVID-19, can be traced to the consen-

⁶ The Safety Regions Act defines the Safety Council as the chairmen of the safety regions acting jointly (Art. 1). Even though this translation from Dutch might be contested, given the fact that the institutionalisation and formal powers of this body are more limited than what the name “council” seems to assume, this paper will maintain that denomination because it is the term used in the official English translation of the law from the Dutch word *Veiligheidsberaad*.

⁷ Empirical research covering a total of 559 emergency regulations enacted by the safety regions and comparing them to the 17 model emergency regulations by the Safety Council, concluded that emergency regulations deviated very little from the model ordinances in the period up to 1 December 2020 (Becker et al., 2020).

⁸ In general, the different regulations by certain safety regions are related to imposing harder measures than the ones directed or recommended by either the Safety Council ordinances or the recommendations of the central government. For instance, during Easter 2020, certain safety regions ordered the closing down of shared facilities in camping lodges and rental of cabins and other small accommodations in parks, in order to prevent the flow of tourists in the context of the blossoming season in western areas of the country (interview with the mayor and chairperson of a safety region).

⁹ The clear exception to this being the nationally imposed curfew in the winter of 2021, which resulted in violent and repeated riots and protests in many large cities in the country.

¹⁰ There are a few examples of rebellious mayors who, for example, decided to stop or minimise the enforcement of rules which they did not agree with (van Der Steen, 2021)

sual policymaking culture (Lijphart, 2012; Hendriks & Schaap, 2011), strong institutional and interpersonal trust in the Netherlands,¹¹ as well as significant long-term informal cooperation (Toonen & Steen, 2007, public administration scholar, interview, 4 February 2021; political science scholar, interview, 5 February 2021). Others have also indicated the small size of the country and the need for national coverage of the measures as possible reasons. In Boogaard's opinion, this happened because the consequences produced in one part of the country could easily spill over to other locations, disrupting the health care system in regions apart from the ones where the outbreak began (Boonstra, 2020).

On the other hand, the same reasons that explain informal cooperation, can also lead to criticism because of the opacity of specific decisions, the difficulties in assigning responsibilities, and the lack of sufficient accountability for the decisions adopted (Congress of Local and Regional Authorities, 2021; Loof et al., 2021). Additionally, attributing it to the size of the country might justify the nationally coordinated general policies, but the enforcement of these measures and their individual adaptations is an issue where the representative democratic institutions subnationally – at a local or provincial level – could and should have had more influence (elderly woman in central Netherlands, interview, 27 August 2021).

Regardless of the reasons that may explain adopting this model, it has been characterised as a formal and permanent emergency network, with a clear focus on improving its effectiveness and resilience (Resodihardjo, Van Genugten & Ruiter, 2017). Even though the latter dimension will not be addressed in this research, its focus on effectiveness can be relevant for the potential trade-off away from the values of democratic intergovernmental relations such as legitimacy and accountability.

In general, the emergency system allowed for little territorial autonomy and democratic accountability.

“At the local level, mayors also took decisions and liked being crisis managers, while city councils had a hard time keeping up with them (...) perhaps this is only natural in a crisis, that the crisis managers try to be as effective as possible and are less concerned with democratic rules than the bodies that should control them” (public administration expert, interview, 19 August 2021).

This structure of governance strengthened the municipal – or regional – executive powers, which are not adequately balanced out with repre-

¹¹ Confidence in the government increased by about 18% during and a little after the height of the COVID-19 crisis in 2020 (Groeniger et al., 2021).

sentative institutions, particularly city councillors. This trend was already detected before the new Municipal Law of 2002,¹² when the dualistic model was established for decentralised authorities, but was exacerbated during the management of the COVID-19 crisis (Wayenberg et al., 2022; Hendriks & Schaap, 2011). This contradicts other recommendations, such as the 2006 Council of State on intergovernmental relations, which raised concerns as to what extent the enhanced role of executive leadership, such as mayors in municipalities and the chairpersons of SRs, is balanced out by representative and deliberative institutions,¹³ particularly city councils (municipal councillors, interviews, 30 June 2021 to 27 August 2021).

Moreover, accountability for the decisions of an SR is very limited and the potential mechanisms for that were rarely used during the COVID-19 crisis (Szmulewicz, 2022), despite the fact that city councillors could raise questions to mayors, but only in the local governments where the mayor served as the chairperson of the respective SR at the same time. In practice, few local councillors made use of this mechanism (subnational governance researcher, interview, 22 April 2021; councillor from southern Netherlands, interview, 30 June 2021). Additionally, even though the chairpersons of SRs were obliged to submit a detailed report explaining their decisions and the motivations behind the policies they adopted, this was only presented after the end of the emergency. In the case of the COVID crisis, this meant that any account of their policies was given several months after the first decisions were made (Evaluatiecommissie Wet veiligheidsregio's, 2020; public administration scholar, interview 4 February 2021).

Regardless of this, the crisis provided several positive examples. In the Municipality of Oss, in the Noord-Brabant Safety Region, the mayor and vice-chairperson of the SR explained the measures to the councillors of another city at a meeting (van de Lustgraaf, 2020; mayor from central Netherlands, interview, 16 August 2021). Additionally, some mayors reported the measures under discussion of the SR to their respective city councils, during weekly meetings in the first phase of the pandemic. However, councillors still claim that they held no meetings with the mayor who acted as the chairperson of their respective SR (councillor from

¹² See de Groot, Denters & Klok, 2010; and also the arguments by Mazza, 2016.

¹³ This power shift towards the executives, and away from local and provincial councils, had been already noted by scholars. See, among others, Voermans, 2016b; Volland et al., 2018.

central Netherlands, interview, 27 August 2021). In numerous instances, interviewees noted the good example of the mayor of Amsterdam, Femke Halsema, acting as chairwoman of the Amsterdam-Amstelland Region, praising her positive attitude and dialogue with the city council (councillor from southern Netherlands, interview 30 June 2021).

Another example is the chairperson of the Leiden Safety Region, who regularly sent letters to the municipal councils explaining the measures taken and held frequent online meetings that were attended by around 60 to 70 councillors, debating and discussing the final report on their local crisis management structure in December 2020 (mayor and chairperson of an SR, interview, 29 April 2021). Nonetheless, not all the SRs included non-regional mayors or local councillors in their decision-making processes. Even though the mayors of all territories integrated the board of their respective SR (SRA, Art. 11), they were more involved at an informal level, engaging on different communication platforms and pulling together certain resources (Wayenberg et al., 2022).

On the contrary, from the citizens' perspective, the SRs created a more distant bureaucracy than municipalities, with access which is more difficult and can be dominated by special interest groups, and whose intermunicipal coordination makes it difficult to assign specific responsibilities (OECD 2014). Therefore, it is difficult to provide accountability and to identify who has the final say in each decision, which provides flexibility and smoothness to the decision-making process at the same time (Congress of Local and Regional Authorities, 2021). Given that it is hard to say who the competent authority is, citizens have difficulties learning and understanding the structure of their public institutions.

On the other hand, this only strengthened in practice one half of the municipal executive: the mayor. The other half, the aldermen or alderwomen were generally left out of the decision-making process during the COVID-19 crisis (alderwoman from a municipality in central Netherlands, interview, 27 August 2021). Therefore, the power shift from individual local mayors to the chairpersons of SRs (sometimes nicknamed super mayors or regional mayors) also meant that aldermen, alderwomen, and non-regional mayors played no direct role in managing the crisis (Wayenberg et al., 2022).

For instance, in Maastricht, the mayor referred to their "national role" as chairperson of the SR, acting as a representative of the national government in their territories, as the reason for not being held accountable to his or her own city council (council member from southern Netherlands,

interview, 30 June 2021; subnational governance researcher, interview, 22 April 2021; Esser & Boogaard, 2020). In rare cases, a certain accountability was possible by using informal networks, e.g., by connecting aldermen and alderwomen from one small municipality with their partners from larger municipalities, or collecting information from organisations related to safety regions (alderwoman from central Netherlands, interview, 27 August 2021). In this context, interviewers frequently referred to the word “understanding,” meaning that most of the time city councils assumed that the urgency of the crisis required a more passive and coinciding role than usual (alderwoman from central Netherlands, interview, 27 August 2021). Others stated that considering that there is no democratically elected organisation at the level of the SR, accountability of any kind is barely possible.¹⁴

As explained above, this top-down coordination was different from cooperation, because there was a dominant role of the state (Ceccherini, 2021, p. 69). Even though the report on the SRA did not consider the COVID-19 emergency management, the actual workings of the institution during the pandemic confirm its conclusion: “safety regions function well individually for risks and crises within their own regional borders but fall short when dealing with cross-border incidents” (*Evaluatiecommissie Wet veiligheidsregio’s*, 2020). Overall, the report holds a positive overview regarding the existence of the SRs and the structuring of the regions themselves, both issues that have been under public debate, while raising critical points.

6. The Safety Council: Towards Institutionalised Executive IGR?

In addition to the territorial governance system discussed, there is an ongoing discussion about the impact that the Safety Council, the convening body of the chairpersons from the 25 SRs, could have on regionalisation and IGR in the Netherlands, performing some kind of regional coordina-

¹⁴ The legitimacy and accountability problem has been noted in previous studies of regional structures and institutions in the Netherlands, pointing to a prevailing issue of legal design where there is a trend of transferring powers and competences to meso-level institutions without the necessary legitimacy and accountability mechanisms (see Hulst, 2005; Andeweg, Irwin & Louwerse, 2020).

tion and advisory role to assist government measures (Boonstra, 2021), in the absence of a stronger middle level government with the competences to coordinate during crisis management (OECD, 2014). In other words, reports have qualified the Dutch territorial governance system as having an “hourglass” character, because the regional level appears squeezed between two strong levels of government, the central and the local (OECD, 2014, p. 208).

In fact, by mid-February 2021, this organisation was giving advice to the Cabinet on the roadmap to reopen Dutch society once the hardest part of the emergency was over, moving beyond its original mandate. This confirms the perception that, in practice, this body had somewhat altered its concept during the crisis: from its original consultative nature to a somehow more coordinating role, and then back to a cooperative mode once the peak of the crisis was over and more regional differentiation was possible (Boonstra, 2021). After the COVID-19 crisis, the Dutch government attempted to use the structure of the SRs to handle the asylum-seeking crisis coming¹⁵ from Ukraine. Even though some initial decisions were made between the central government and the SRs, negotiations failed to continue at that level. Still, the fact that SRs sat together with the government in August 2022, and that the VNG and the IPO drew up quasi arrangements concerning the reception of asylum seekers and the possible housing and integration of asylum permit holders, is proof that the SRs continue to be recognised as a partner in IGR in the Netherlands.

In this sense, one can connect the SRs to the trend of creating new regional arrangements in several policy domains in the country (35 labour market regions, 42 youth care regions, over 50 social support-regions). This makes a *de facto* shift towards functional regionalisation and has been questioned by the OECD for its lack of an appropriate, updated, and clear legal framework (2014). Other existing regional organisations include 21 regional water authorities (*waterschappen*), police regions with similar boundaries as the SRs, but financed and supervised by the central government, 25 functional regions that coordinate preventive healthcare delivered by municipalities, and a myriad of other functional territorial arrangements.

Moreover, there are several structural coordination problems between the SR management, and the other institutions involved in dealing with a

¹⁵ I owe this observation to Geerten Boogaard.

crisis, at the municipal level, the public health organisation (GGD),¹⁶ the provincial structures, and so on (OECD, 2014).

“We have a lot of regions in the Netherlands. Actually, we don’t exactly know how they function, how they relate, and what the collective impact of these regions is, besides [the fact] that they are not democratically elected” (public administration expert, interview, 19 August 2021).

On the other hand, the influence of the SC on national policymaking throughout the various stages of the pandemic has led some researchers to consider it as a type of lobby group representing the interests of mayors at the national level (public administration expert, interview 19 August 2021), which can also be problematic for the relationship between the VNGs and the national government.¹⁷ In fact, even after the SRA was reformed in December 2020 to allow for a more centralised steering of the pandemic response, the chairperson of the SC was still allowed to attend the weekly cabinet meetings discussing the COVID-19 measures (mayor and chairperson of a safety region, interview, 29 April 2021). However, the mayors’ participation at the small team of ministers’ meetings in an advisory role meant they were losing the influence they had on national decision-making during the first wave of the pandemic (Wayenberg et al., 2022). Therefore, and in the context of the activation of a national crisis, the SC acted as a coordination body, mediating between the government’s decisions affecting the territories, rather than a cooperative institution.¹⁸ Still, it should be clarified that the Safety Council only coor-

¹⁶ The GGD organisation is also regionalised, headed at the regional level by aldermen representing the municipalities conforming to their region, but they do not exactly correspond to the same distribution as safety regions, nor do they correspond to the provinces, further complicating the decision-making and decision-controlling processes.

¹⁷ The National Association of Municipalities (VNG) plays a role more in the national policy arena than as representatives of the territories involved, as a lobby association institutionalised in The Hague, with their own office there. The same might be said about the Association of Provinces of the Netherlands (IPO). For instance, it was active during the discussion of the Temporary Corona Law (TCA), but not so much during the first phase of the pandemic and the decisions adopted at that time. Especially smaller municipalities have difficulties making their voice heard in the VNG, and also city councils play a minor role in an association mostly controlled by the municipal executives (interview with subnational governance researcher). The TCA was extended every three months pending a permanent law. Four extensions were approved, and the fifth one was rejected by the *Eerste Kamer* in May 2022. The VNG was also the partner for the central government regarding the measures to address the socioeconomic impact of the pandemic (see OECD 2020, pp. 55–56).

¹⁸ It should be clarified that the Safety Council only coordinates the regions for the purposes of the Safety Regions Act, and no other policy areas or domains. Naturally, during

dinated the regions for the purposes of the SRA, and no other policy areas or domains. Naturally, during the COVID-19 crisis this seemed to extend beyond that restricted mandate.

Some scholars interviewed stated that the actors involved needed to find “new ways of interaction,” as “new relations became important,” and concluded that it was crucial for them to think “how to relate to the other parties” (public administration expert, interview, 19 August 2021). As one expert puts it:

“In the first instance, it was the central government that tried to come up with all kinds of regulations...but along the way, it became clear that others were also involved, for instance the mayor who had to enforce the rules that were made at the central level, by the crisis team at the centre. And also, mayors tried to communicate with the centre to have an influence on what the rules were about (...)” (public administration expert, interview, 19 August 2021).

In fact, the report evaluating SRs recommends a stronger and more formalised position of the SC, to increase the territorially cooperative nature of the crisis management system, without completely changing the coordination and policy-defining role assigned to the central government (Evaluatiecommissie Wet veiligheidsregio’s, 2020). However, without an adequate and clear legal framework, this *de facto* coordination role can lead to ambiguities, uncertainties, opacity, and lack of democratic legitimacy. The search for these types of executive intergovernmental relations institutions, like the SC, appears to match current trends in public opinion, such as a wave of criticism of the Dutch Senate (*Eerste Kamer*), and the need to rethink bicameralism in the Netherlands. The public perception of the SRs was at its strongest at this point, while the *Kamer’s* was at its weakest (Voermans, 2021). Not coincidentally, while discussing the Corona Act of December 2020, the Senate chose to stay out of the procedure for the ordinances to be enacted, and they retaliated in May 2022 by refusing to renew the application of the TCA.

The declining role of second chambers in effectively representing sub-national entities, the growing influence of the executives in opposition to parliaments in decision-making processes at all levels, and the need for permanent coordination, especially in highly technical and complex matters, have led to the creation of institutions that bring together sub-

the COVID-19 crisis they seemed to cover everything, and their powers appeared extended. However, this should not be the case in normal circumstances.

national and national executives in most parts of the world. Hence, these intergovernmental councils that include governmental representatives of all levels of government play an essential role in facilitating cooperative participation (Szmulewicz, 2023).

7. Concluding and Comparative Observations

The case of the Netherlands during the COVID-19 pandemic can lead to a series of comments and reflections. The first comment, related to the above-mentioned issue of formalisation, is that this type of institutionalisation of existing practices of governance will have an impact on the need for urgent and rapid responses in terms of crisis management. One might even say that, when compared to other countries, the lesser necessity for detailed rules in the Netherlands speaks plenty about the trust and confidence in government as a general feature of their political culture. This greater flexibility is also visible in the large level of creativity displayed by mayors during the crisis in terms of informal collaboration and pooling resources together (Wayenberg et al., 2022). On the other hand, empirical research on inter-municipal cooperation in the Netherlands – a relatively similar structure – has shown that introducing institutional provisions to organise certain public entities can contribute to the democratic quality of organisations that lack a more direct democratic mandate (Klok et al., 2018). This conundrum is somehow similar to the paradoxical relationship between the traditional notions of law and public administration and calls for a revised relationship between the two disciplines. As the conclusions from a law and public management conference given over 20 years ago put it: “Where is the complementarity between public law and public management? Provided that lawyers transcend their classical role of establishing an authoritative hierarchical framework, they have a fundamental role in designing the accountability framework within the network, while public managers have a fundamental role in the development of the network” (George, Machado & Ziller, 2001, p. 36)

The second contribution is that, amongst the key similarities observed between the Netherlands and other countries during the COVID-19 pandemic, one must not understate the crucial role of national leadership. Like in the Dutch case, researchers have highlighted the centralisation of decision-making in the hands of national executives in Italy (constitutional law scholar from Italy, interview, 29 July 2021). Along the same

line, even the mayor of a prominent municipality, acting as head of a SR, mentions that:

“In the beginning, everyone was thinking ‘well this is a crisis, we don’t behave as we normally do. Let them [central government, particularly the health ministry] do their job’. Nobody was questioning the measures of the central government...this was the case of the second chamber (*Tweede Kamer*) and the city councils...there was no debate” (mayor and chairperson of a safety region, interview, 29 April 2021).

Third, the centralised approaches in countries like the Netherlands and Italy in managing the COVID-19 pandemic somehow contradicted their decentralised competences and traditions: the relevant position of local democracy in the Netherlands (Hendriks, 2009) and the recent federalising trend in Italy (Ceccherini, 2021). In the Dutch case, accommodation and compromise in the Netherlands, also concerning central-local relations, were somewhat diminished when government structures tended to centralise decision-making. But at the same time, when compared with the more tense IGR like in Italy, the idea of power-sharing between the centre and the periphery, connected to a more effective management of emergencies, was still preserved to a certain level (Moorkamp, Torenvlied & Kramer, 2020; political science scholar, interview, 5 February 2021). In other words, this attempt at centralisation, clear during the initial responses throughout the first wave and throughout the winter of 2020–21 – contested by some academics and even subnational authorities, particularly city councillors – proved effective because of the Dutch recourse to informal coordination and, in general, a much more consensual approach than other political systems. However, this centralisation of the pandemic became a contradiction of their historical political traditions of “considerable central-local interdependence rooted in strong coordination mechanisms, such as the central government appointment of mayors, to encourage central-local policy alignment,” which led to a significant confusion over regional and local roles in crisis management, as well as to a conflicted process of decision-making, with much limited subnational consultation (Bergström et al., 2022, pp. 184–185).

Fourth, as Unikowski (2008) has highlighted, key bureaucratic officials took the role of critical intergovernmental actors, yet it is not clear how different institutional designs (federal v. non-federal, competitive v. cooperative, and so on) can affect the way these actors conduct their operations as part of the intergovernmental relations ecosystem. The well-oiled bureaucracy in the Netherlands, with a significant level of continuity,

agency, and multilevel technical cooperation (key public servant, municipality in North Brabant, interview, 27 May 2021), was crucial for the good management of the pandemic. This essential machinery included the role of experts in decision-making, and especially those bureaucrats advising political leaders, as well as implementing policies or assisting in the design of public policies. Even smaller municipalities normally have a relatively good structure of support for local council, from several public servants collaborating with councillors in their roles, particularly in information gathering, and with mayors, aldermen and alderwomen at the local executive level. In the Netherlands, the figure of a secretary (*griffier*), who has multiple functions within the local government, is particularly relevant (key public servant, municipality in North Brabant, interview, 27 May 2021).

Fifth, from a different angle, the Dutch case also confirms the advantages of institutions that promote coordination and convergence in policymaking, beyond the diffusion of powers, competences, and resources. As Gerring and Thacker's (2008) centripetal theory shows, good government can derive from reconciling broad-based inclusive institutions that are also authoritative, therefore providing effective mechanisms for reaching and implementing agreements. According to this theory, centripetal institutions are those that push the diverse interests involved toward the centre, offering incentives to participate and disincentives to defect, which culminates in an authoritative decision-making process. These causal mechanisms will make centripetal institutions more successful in achieving party governance, conflict mediation, and policy coordination (Gerring & Tacker, 2008). One way to accomplish coordination in decentralised structures is adopting common standards, which is supposed to be a voluntary process of setting shared outputs across different government levels and among its subunits. As it has been explored, the Dutch safety regions can be seen through this prism in a certain way.

This pragmatic approach could also assist in analysing the interactions between two or three levels of government that are normally involved in the various stages of the policy process, regardless of the formal definition of the form of state. For instance, the rigid Napoleonic model can be contrasted with the autonomy-oriented system prevalent in Scandinavian countries and the Netherlands. As it has been pointed out in recent studies, multilevel, decentralised countries can be more effective in coordinating crisis responses than centralised policy processes, provided that their IGR are structured in such a way as to provide pathways for tensions to be resolved, and where subnational governments have the capacity and

mandate to negotiate with the centre (Bergström et al., 2022). Despite its flaws, this seems to be the case of the SRs and the SC, which was facilitated by a culture of consensus – on a multilevel basis and with civil society – as well as a robust support structure within the bureaucracy,¹⁹ even though they still face accountability and legitimacy challenges.

Moreover, the case highlights the level of cooperation beyond the formal distribution of powers, embodied by the instruments and institutions used to promote cooperation across all levels of government, as well the cooperative dynamic inside the party system. In fact, it has been noted that the Dutch government closely cooperated and consulted the SRs' chairpersons before and during the adoption of measures either in the SC or by inviting its chair to the council of ministers, even though the chairpersons of SRs were affiliated with both coalition and opposition parties, and were often mayors of municipalities where the opposition was the majority (Massart et al., 2021).

8. Final Observations

Two important lessons from the Dutch experience arise so far. First, it shows a certain change in the balance of power within subnational institutions, with the executives playing a larger and stronger role, and the city council becoming less involved in determining policies, which goes beyond the text and original intent of the SRA considering the prolonged nature of the COVID-19 crisis as well the extensive scope of the measures adopted in this period. Even considering their controlling role, the actual accountability practices by city councils and city councillors were limited. This is a trend that has been observed in recent decades in other countries as well.

Second, it underscores the salience of the safety regions through an extensive and prolonged application of the SRA, the *de facto* transfer of powers from the safety regions to the central government and their extensive re-

¹⁹ In fact, the Netherlands Institute for Public Safety (NIPV) is the research and knowledge centre that links and strengthens ties between the country's 25 safety regions, the central government and partner organisations, including the fire brigades, the police, regional medical emergency bodies, municipalities, and other strategic partners (see: <https://nipv.nl/english-summary-of-this-website/>). I am grateful to Professor Sandra Resodihardjo for introducing me to this body and its critical contribution in terms of exchange of technical information, research about crises, and processing the lessons and learnings.

liance on the SC. This included very little differentiation in terms of local regulations and their dependency on the model ordinances agreed upon by the SC. During the COVID-19 pandemic, this council emerged as a powerful actor in IGR and reduced the involvement of the mayors in central decision-making, particularly after the first wave of the crisis was over (Wayenberg et al., 2022).

The emergence of the SRs as a new layer of government, separate from provinces and municipalities, as well as the increasing centrality of the SC, merits moving the case of the Netherlands from the field of centre-local relationships, typical in the research about centralised states (Thoening, 2006), to the broader field of intergovernmental relations. This change represents a critical juncture in the study of intergovernmental relations and even in the territorial structures of states, given the fragile institutional position of the provinces, a shift that is also observed in countries like Portugal (Moreno González, 2023). It is certainly not a mere incremental change: the structure of the SRs and its application beyond the COVID-19 pandemic, for instance to the case of the so-called asylum crisis in 2022, stands out from other regional arrangements with limited usage in the past in the Netherlands. Nonetheless, it remains to be seen if this juncture materialises in formal and institutional changes that lead to more clear vertical pathways and an articulated relationship between the centre and the subnational governments.

As mentioned in the introduction, intergovernmental relations provide an adequate lens through which to analyse the actual functioning of the system of vertical distribution of powers, beyond the text of the constitution. Hence, this framework advances the research on the relationship between law and public administration. In concrete, formal intergovernmental institutions in the Netherlands were “enabling,” meaning that they needed to be understood as an integrated system of rules that structures social and organisational interactions, therefore causing certain dispositions for particular behaviours (Hodgson, 2006), but not constraining entirely the actors’ behaviour, particularly during the crisis. Hence, a more nuanced picture of the real life of the formal institutions emerges, one that highlights adherence to the law in the books, as well as points of departure or adaptation from it.

For instance, it is confirmed that the Netherlands has a fluid and flexible political and administrative territorial organisation, particularly after examining the actual performance of the IGR system. In fact, it can be said that the SR and particularly the meeting of the 25 chairpersons of the SRs (the Safety Council), performed a sort of informal accountability

function with regards to both the central government's decisions, as well as concerning the decisions adopted by the SRs themselves. This function went well beyond its original design and somewhat compensated for the lack of accountability of government decisions by the parliament, despite the shortcomings already mentioned.

On the other hand, the minimised necessity of detailed rules can be a sign of trust and confidence in the government as a general feature of political culture in the Netherlands, as explained in the first paragraphs of the concluding section. Or, to put it differently, functional organisations created above the municipalities, like the safety regions or inter-municipal collaboration, not only create risks for accountability, particularly for the role of local councils, but also raise a number in terms of informality, transparency, and multiplicity of roles (Veenendaal, 2024).

Further research is needed to assess whether this shift represents a move from an effective vertical leadership, as executed by the national authorities in the first months of the pandemic, to a constant horizontal coordination between subnational authorities, as seen in the second stage of the crisis, to an informal vertical coordination from the perspective of the SC (as it occurred after the summer of 2020 and especially after December 2020). The Dutch case shows that we need to further study the degree of institutionalisation and fulfilment of principles of these types of coordination bodies, such as accountability and democratic legitimacy. When doing so, learning from the COVID-19 pandemic experience can make democracy more resilient and better equipped to deal with the permanent polycrises of the 21st century.

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APPENDICES

Appendix 1: Example of an interview

1. Personal introduction.

Good afternoon, Mayor Thank you very much for this opportunity to engage with your knowledge and experience, which directly connects to my research.

My name is, and I am PhD Candidate at Professor ..., who is my thesis supervisor, sends his warmest regards.

I am very interested in your opinions and thoughts regarding decentralisation and the COVID-19 pandemic, both as mayor of ..., as well as head of the ... Safety Region.

For the sole purpose of my research and the accuracy of your own opinions, would you mind if I record this meeting?

2. Research introduction.

I am working on decentralisation and the COVID-19 pandemic. I am interested in trying to understand why some countries adopted coordinated nation-wide policies, while others privileged subnational autonomy and decentralisation. Also, understanding the factors that explain countries' responses to the crisis from a territorial perspective.

3. Opening question.

First of all, how would you assess the functioning of the safety regions in the country in general and in ... specifically?

How would you characterise the relationship between the national government and subnational authorities during the pandemic in the Netherlands?

4. Following questions/topics

Following your response, what do you think are the main factors that explain these dynamics between the national and subnational governments in the Netherlands?

Can you point to particular mechanisms for coordination/collaboration between subnational and national authorities in the Netherlands in emergency contexts?

How would you assess the performance of the Safety Council in light of the experience with the COVID-19 pandemic so far?

Furthermore, do you think municipalities are sufficiently considered in the work of safety regions?

Do you think this mechanism properly represents large municipalities, as well as smaller communities?

What are your opinions and thoughts on the recent decisions announced by the government, in order to extend the COVID-19 restrictive measures?

Do you think the interests and perspectives of the local authorities have been properly considered in these recent announcements?

What are the accountability mechanisms in place for heads of the safety regions and do you think they have worked well during the pandemic?

Finally, are there any other remarks or comments that you would like me to incorporate into my research?

5. *Closing remarks*

Thank you very much for your time and consideration. Your insights and opinions are very valuable for my research.

I am looking forward to continuing exchanging ideas with you and learning from your expertise.

Appendix 2: Considerations for organising the interviews

In terms of preparation, the first thing was to select and contact the key informants. In the selection process, a list of potential informants was compiled, which was then narrowed down to key informants belonging to different sectors and expertise (public sector, local elites, academia), according to the research focus and hypothesis. This was then discussed and agreed with the supervisors. After the interviewees were selected, the particular informant was contacted first by email, explaining the purpose of the research and the interview, which was then confirmed by telephone. In some instances, with high-ranking officials or elites, an initial contact by email introduced the PhD candidate and also opened further and more direct communication. In order to achieve the expected results, a meeting of one hour was estimated as ideal, yet considering that many respondents were not able to grant that time, some of the interviews were scheduled for 20–30 minutes.

In terms of the venue, even though an in-person interview at the interviewee's place of work would have been preferable, given that sanitary restrictions were still present when the large majority of the interviews were conducted, in the first semester of the year 2021, the use of online communication software, such as ZOOM or Microsoft Teams, was the final means for the conduct of the interview. The interviews were recorded with permission from the informant.

Also, since the responses will be included in the research to be published, informed consent was asked of the interviewee, and delivered before the interview was initiated.

The dress code was formal, but not too formal; the impression of someone who takes the interview seriously while also giving room for open and honest responses.

In terms of the script for the start of the interview, it included the following steps.

1. Introduction of the researcher.
2. Introduction of the research. This research is part of the empirical foundation of my PhD project, as part of PhD programme, under the supervision of professor
3. Opening.
4. Key initial question: (here). In your opinion and experience (here, follow-up questions).
5. Closing and further recommendations.

Thank you very much for your time and consideration. Your insights and opinions are very valuable for my research. Also, if possible, I would appreciate it if you could suggest to me other colleagues of yours who might be good contacts for my project.

I am looking forward to continuing to exchange ideas with you and learning from your expertise.

Appendix 3: Anonymised list of interviews

1. City councillor from a Maastricht municipality. Date: 17-05-2021.
2. Mayor of a smaller Dutch municipality salient during the COVID-19 pandemic. Date: 03-05-2021.
3. Public management expert with an emphasis on Dutch intergovernmental relations. Date: 22-04-2021.

4. Mayor and head of a safety region. Date: 29-04-2021.
5. Public management professor, expert on crisis management. Date: 02-02-2021.
6. Professor specialised in Dutch health law. Date: 02-02-2021.
7. Dutch professor emeritus of public administration. Date: 18-08-2021.
8. City councillor from The Hague. Date: 10-11-2021
9. City council alderwoman in a municipality in the central Netherlands. Date: 27-08-2021.
10. Dutch public management specialised in network governance. Date: 19-08-2021.
11. Long-time *griffier* from a municipality in North Brabant, the Netherlands. Date: 27-05-2021.
12. Dutch professor of public administration specialised in decentralisation in the Netherlands and comparative scholarship. Date: 28-01-2021.
13. Professor of human rights in the Netherlands and the European Union context. Date: 30-06-2021.
14. Professor of constitutional law specialised in Dutch decentralisation. Dates: 30-06-2021 and 16-07-2021.
15. Belgian public law professor who is an expert on intergovernmental relations. Date: 14-04-2021.

CHALLENGES OF INTERGOVERNMENTAL RELATIONS IN NON-FEDERAL COUNTRIES: REFLECTIONS ON THE MANAGEMENT OF THE COVID-19 CRISIS IN THE NETHERLANDS

Summary

Intergovernmental relations (IGR) have emerged as a significant research topic in all sorts of political systems, with an increasing body of literature focusing on non-federal countries. Moving research beyond the more known federations has the advantages of emphasising the “in-flux” nature of IGR as well as tackling concerns regarding the adequate balance between effectiveness and democracy in multilevel arrangements. This paper addresses the challenges that IGR pose to democratic legitimacy and accountability, by analysing the case of the Netherlands’ management of the COVID-19 pandemic. It focuses on the functioning of the safety regions (SR), particularly the strengthening of the municipal (or regional) executive, at the expense of representative institutions and particularly the local councils. In addition, the lack of accountability mechanisms, and the prominent role of the so-called Safety Council, which could have a significant impact on regionalisation and IGR in the Netherlands, are also discussed. While some reports have called for a stronger and more formalised position of the Safety Council, without an adequate and clear legal framework, this institution for organisational coordination can lead to many challenges from the point of view of democratic multilevel constitutionalism. Yet, on the other hand, the formalisation of existing governance practices might impact the need for rapid responses in crisis management. Overall, two contributions might be learned from the Dutch experience. First, the change in balance within subnational institutions, with the executives now playing a larger and stronger role, and the city councils being less involved in determining policies and with limited real accountability practices. Second, the transfer of powers from local municipalities to safety regions, and from regions to the Safety Council, through the extensive and prolonged application of the SR, thus altering the normal allocation of powers and competences, and the traditional channels for intergovernmental relations.

Keywords: *intergovernmental relations, safety regions, crisis coordination, democratic legitimacy, accountability, COVID-19*

IZAZOVI MEĐURAZINSKIH ODNOSA U UNITARNIM DRŽAVAMA: OSVRT NA UPRAVLJANJE KRIZOM COVID-19 U NIZOZEMSKOJ

Sažetak

Međurazinski odnosi pojavili su se kao značajna istraživačka tema u svim vrstama političkih sustava s rastućim opsegom literature koja se fokusira na unitarne države. Pomicanje istraživanja izvan uobičajene domene federalno ustrojenih zemalja ima svoje prednosti jer naglašava „fluidnu“ prirodu međurazinskih odnosa, a također usmjerava pozornost na prikladnu ravnotežu između učinkovitosti i demokracije u višerazinskim aranžmanima. Ovaj rad bavi se izazovima koje međurazinski odnosi predstavljaju za demokratski legitimitet i odgovornost analizirajući slučaj nizozemskog upravljanja pandemijom COVID-19. Rad se usredotočuje na funkcioniranje sigurnosnih regija, posebno na proces jačanja općinskih (ili regionalnih) izvršnih institucija na štetu predstavničkih, a posebno lokalnih vijeća. Osim toga, raspravlja se i o nedostatku mehanizama odgovornosti i istaknutoj ulozi tzv. Sigurnosnog vijeća koje bi moglo imati značajan utjecaj na regionalizaciju i međurazinske odnose u Nizozemskoj. Iako su neka izvješća pozivala na jači i formalniji položaj Sigurnosnog vijeća, bez odgovarajućeg i jasnog pravnog okvira ova koordinacijska institucija može proizvesti mnoge izazove s gledišta demokratskog višerazinskog konstitucionalizima. S druge strane, formalizacija postojećih upravljačkih praksi mogla bi utjecati na potrebu za brzim reakcijama u upravljanju krizama. Općenito, iz nizozemskog iskustva mogu se izvući dva zaključka. Prvo, dogodila se promjena ravnoteže među subnacionalnim institucijama pri čemu izvršna vlast sada igra veću i jaču ulogu, a lokalna su vijeća manje uključena u određivanje politika i s ograničenom stvarnom odgovornošću. Drugo, prijenos ovlasti s lokalnih jedinica na sigurnosne regije i s regija na Vijeće za sigurnost opsežnom i dugotrajnom primjenom sigurnosnih regija mijenja uobičajenu raspodjelu ovlasti i nadležnosti, kao i tradicionalne kanale za međurazinske odnose.

Ključne riječi: međurazinski odnosi, sigurnosne regije, krizna koordinacija, demokratska legitimacija, COVID-19

Improving the Competencies of Municipal Employees: The Case of Armenia

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This article examines the challenges and prospects for improving the competencies of municipal employees in the Republic of Armenia, against the backdrop of administrative-territorial reforms and the need for a more effective local governance system. This study utilises both statistical analysis and qualitative assessments to evaluate the competencies of municipal employees in the Republic of Armenia. Expert interviews and content analysis were used to develop a comprehensive competency matrix for municipal employees. The study advocates a multi-level approach to reform, emphasising the importance of continuous training, implementing a competency matrix, and adopting client-oriented local governance. It also highlights the critical role of gender equality and the potential benefits of international cooperation in addressing these challenges. The findings suggest that improving the competencies of municipal staff is central to advancing local governance in Armenia and offer insights that may be relevant to similar reform initiatives in other contexts.¹

Keywords: local government, management, communities, advanced training, certification, municipal service

1. Introduction

In the modern world, municipal employees play a crucial role in the development of the local economy and the improvement of the quality of local services, and therefore the level of their education and qualification has a decisive impact on the development of national states – including the Republic of Armenia. According to the official administrative-territorial division of Armenia, the country is divided into ten provinces (known as *marzes* in Armenian) and the Yerevan municipality, which holds a special administrative status. Each *marz* is governed by a governor (*marzpet*), appointed by the government of Armenia, while Yerevan is headed by an elected mayor. Local self-government in Armenia operates at the municipal level, where all 1,002 settlements are organised into 78 enlarged

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municipalities, each responsible for governing one or more towns and villages. The municipalities operate within the framework of local self-government, which includes both administrative and fiscal autonomy under Armenian law. These municipalities are tasked with addressing the specific needs of their communities while adhering to national legislative frameworks, ensuring improved service delivery and administrative efficiency.

Given the growing demand for enhanced competencies among municipal employees, this study also examines Armenia's integration into the pan-European system of local and regional authorities. Participation in initiatives such as the European Assembly of Local and Regional Elected Representatives and the Congress of Local and Regional Authorities of the Council of Europe (CLRA) provides Armenian municipal employees with access to best practices, training programmes, and policy frameworks that promote professional growth and align local governance with international standards. Such exposure is instrumental in addressing competency gaps and improving governance quality at the municipal level.

This study seeks to address the following question: How might the professional competencies of municipal employees in Armenia be enhanced to ensure more effective local governance, particularly in the context of ongoing administrative-territorial reforms? In answering this question, the study aims to identify the key factors influencing the professional development of municipal employees and to propose solutions for enhancing their qualifications. The works of Martirosyan (2022), Zohrabyan and Asryan (2019), Karapetyan and colleagues (2023) and Gasparyan (2023) were considered for their relevance to Armenia. These authors focused on governance models, the dual roles of municipal employees, and factors influencing public satisfaction in Armenia. To ensure thematic coherence, the study prioritises Armenian scholars addressing local challenges, as their insights are most relevant for improving municipal governance in the Republic of Armenia.

2. Literature Review

The professional development and competencies of municipal employees have attracted considerable attention in academic literature, as these factors are critical to the efficiency and effectiveness of local governance structures. Municipal employees serve as the primary executors of local policies and the intermediaries between government authorities and the public; thus, their competencies, education, and ongoing professional de-

velopment are fundamental to the successful implementation of governance strategies. This section will undertake a review of relevant studies on the competencies of municipal employees, with a particular emphasis on their roles in citizen-oriented governance, capacity-building initiatives, and the challenges they face in Armenia and beyond.

Martirosyan (2022) introduced a customer-oriented governance model, highlighting the pivotal role of municipal employees in adapting services to meet citizens' needs. The study emphasised that municipal governance must integrate citizen feedback to ensure greater transparency and responsiveness. This approach demands that municipal employees develop competencies in public engagement, data analysis, and the application of feedback mechanisms to refine service delivery. Martirosyan's work underscores the growing importance of soft skills, such as communication and interpersonal abilities, which are essential for fostering trust and cooperation between citizens and local governments.

In a similar vein, Zohrabyan and Asryan's (2019) study explored the dual responsibilities of municipal employees, namely the maintenance of administrative stability alongside the promotion of continuous improvement. Their study emphasised the need for employees to balance operational efficiency with innovative capacity to address emerging challenges. This dualistic role necessitates a combination of strategic thinking, problem-solving skills, and adaptability – competencies that are increasingly valued in modern municipal governance.

The incorporation of Armenia into international governance frameworks has engendered novel opportunities to address competency gaps among municipal employees. The CLRA has pioneered initiatives such as "Strengthening the Association of Communities in Armenia". These projects include training programmes and consultation mechanisms that aim to align local governance practices with international standards. The outcomes of these initiatives underscore the importance of fostering global competencies among municipal employees, such as intercultural communication, understanding international policy frameworks, and adopting best practices from other governance systems.

In their study, Karapetyan and colleagues (2023) examined the competencies required of municipal leaders in Armenia, focusing particularly on expertise in taxation and regional development. The study identified specialised knowledge in fiscal management, legal frameworks, and regional socio-economic dynamics as crucial for effective municipal leadership. The authors further emphasised the significance of customised capaci-

ty-building programmes in addressing these competencies. The study emphasises the necessity of developing competencies that are aligned with the specific challenges faced by municipalities in Armenia, advocating for a tailored approach to capacity-building.

Recent scholarship has identified communication skills as a critical competency for municipal employees. Gasparyan (2023) evaluated the impact of local legislative reforms on public satisfaction, finding that insufficient communication and a lack of visible benefits negatively affected citizens' perceptions of governance. This research underscores the importance of equipping municipal employees with the ability to clearly articulate the objectives, processes, and outcomes of governance initiatives. Effective communication fosters transparency and builds public trust, both of which are essential for the successful implementation of reforms. Furthermore, Gasparyan's findings imply that the lack of these competencies can potentially result in diminished citizen engagement and satisfaction.

The present study aims to address these gaps by proposing a comprehensive competency matrix tailored to the Armenian municipal context. This matrix will identify core and specialised competencies required for municipal employees and provide actionable strategies for continuous professional development. The study places particular emphasis on fostering digital literacy, enhancing problem-solving abilities, and promoting adaptive leadership skills. By addressing these areas, the study seeks to contribute to the broader discourse on municipal governance and provide practical solutions for improving employee competencies in Armenia and similar contexts.

The conclusion of this study is that a robust framework of competencies is required from municipal employees carrying out multifaceted roles and responsibilities, as highlighted by the reviewed literature. While significant progress has been made in identifying key competency areas and implementing capacity-building initiatives, gaps persist in addressing specific professional development needs and adapting to emerging challenges. The findings of this review emphasise the importance of targeted interventions that align with local governance objectives and international standards, ultimately contributing to a more effective and citizen-centric municipal governance.

3. Materials and Methods

This study employed descriptive statistics, regression analysis, and comparison analysis to assess the major performance indicators across all

municipalities in Armenia. The studied data comprised longitudinal data from prior years and cross-sectional data from the latest available reports. Descriptive statistics enabled a comprehensive overview of data trends and patterns, while comparison analysis was utilised to evaluate Armenia's municipal performance against that of EU countries, establishing a contextual baseline for governance standards.

3.1. Statistical Approach

Descriptive statistics were predominantly employed to encapsulate data concerning employee engagement, educational qualifications, and training certificates throughout diverse locations in Armenia. This method enabled the study to ascertain central tendencies (mean, median) and variability (standard deviation) in the data, providing insights into the overall distribution of key performance indicators (e.g., number of certified employees, advanced training participation, and educational qualifications of municipal leaders).

Furthermore, regression analysis was employed to investigate the correlations between particular factors and municipal performance results. The study employed regression models to examine the impact of education level (independent variable) on the number of vacancies filled or the efficacy of municipal governance (dependent variable). Regression analysis was executed utilising SPSS version 26, guaranteeing the precision and transparency of the statistical tests. The independent variables comprised the educational qualifications of municipal officials, the number of employees who received training, and the gender distribution within leadership positions. The dependent variables encompassed governance efficiency metrics, including the quantity of filled vacancies and the efficacy of local government in service provision. The findings of the regression analysis indicated the impact of education and training on governance efficiency.

Comparative research was conducted to evaluate Armenia's municipal governance performance relative to those of EU countries. This investigation concentrated on metrics including government transparency, personnel qualification levels, and the accessibility of training programs. The study utilised benchmarks from worldwide standards to elucidate Armenia's standing in comparison to its EU counterparts.

3.2. Data Sources

Information regarding municipal employee activities was sourced from official government reports and internal municipal documentation, encompassing employee certification records, training programmes, and recruitment data. These data sources facilitated a thorough assessment of the professional development of municipal employees, their educational credentials, and the execution of governance reforms.

The competence matrix was developed via the criteria list technique, incorporating a synthesis of theoretical frameworks, expert interviews, and previous research in public administration. The matrix classified competencies into basic, functional, and specialised categories, encompassing a spectrum of talents from general knowledge to specific jobs in municipal governance. The matrix was enhanced via interviews with municipal employees, trainers, and specialists, guaranteeing the incorporation of competencies that represent both theoretical and practical requirements in local governance. The data collection approach was enhanced by qualitative methods, such as interviews with municipal officials and experts, which yielded useful insights into the practical implementation of the competence matrix and the efficacy of existing training programmes.

The research examined the effects of Armenia's integration into international governance frameworks, specifically analysing the European Assembly of Local and Regional Elected Representatives and the CLRA. These international frameworks established a foundation for examining the impact of international collaboration on improving the capabilities of municipal employees, facilitating access to training programs, knowledge-sharing platforms, and best practices that conform to European governance requirements.

4. Results

The activity of local self-government bodies is aimed at solving public problems of a local nature, which, as a rule, cannot be solved by national structures due to local specifics and the inefficiency of using global resources for such private cases. Accordingly, the success of municipal bodies is conditioned by optimising their structures and hiring staff with not only appropriate professional qualifications, but also an understanding of local conditions and traditions. This understanding is critical for developing tailored solutions that meet municipality needs.

In this context, transparent and efficient mechanisms for staff recruitment are essential. Equally important is an ongoing training system to ensure the professional growth and advancement of the most talented employees. Annual assessments of key indicators are conducted to understand the dynamics of the municipal governance system’s development. One pivotal indicator is the number of positions within the staffing table, which provides insights into the resources allocated to local governance.

To illustrate this, annual assessments of key performance indicators were conducted. One of the most pivotal indicators is the number of positions represented in the staffing tables of local governments. As evidenced in Table 1, the data indicates that in the wake of the 2021 administrative-territorial reform, the newly constituted municipalities had a considerable number of municipal servants, accounting for over half of the total positions within local administrations. This prevalence indicates a potential overreliance on these roles to address local governance issues, which may impact efficiency and responsiveness to municipality needs.

Table 1: *Number of full-time municipal positions by regions of the Republic of Armenia*

Region	Number of political positions		Number of municipal employees		Number of technical staff		Number of employees under a civil contract		Total	
	Plan	Fact	Plan	Fact	Plan	Fact	Plan	Fact	Plan	Fact
Aragatsotn	161	128	396	356	343	321	-	-	900	805
Ararat	136	129	313	313	205	213	96	96	750	751
Armavir	217	204	632	546	370	324	750	732	1,969	1,806
Vayots Dzor	63	59	137	129	143	131	12	11	355	330
Gegharkunik	170	167	377	354	262	253	54	54	863	828
Kotayk	92	84	347	326	134	125	33	25	606	560
Lori	164	147	507	431	226	206	41	40	938	824
Syunik	119	104	306	289	154	145	17	20	596	558
Tavush	103	101	282	258	159	144	8	14	552	517

Shirak	177	169	466	420	272	234	22	25	937	848
Total	1,402	1,292	3,763	3,422	2,267	2,096	1,033	1,017	8,465	7,827
Yerevan	60	44	1,550	1,520	383	380	-	-	1,993	1,944
Total	1,462	1,336	5,313	4,942	2,650	2,476	1,033	1,017	10,458	9,771

Source: Authors, based on Statistical Committee Republic of Armenia (2022).

Table 1 illustrates the distribution of full-time municipal positions across the various regions of Armenia. One of the most notable observations is the significant discrepancy between the planned and actual numbers in both political and municipal employee positions, e.g. the planned number of municipal employees in Armavir was 632, yet only 546 positions were filled, indicating a discrepancy of 13.6%. This discrepancy may indicate difficulties in the recruitment or retention of municipal employees, potentially due to an absence of adequate incentives or local infrastructure issues. Furthermore, the region of Yerevan is notable for having the highest number of full-time municipal employees (1,520), which is reflective of its central administrative role. This stands in stark contrast to the situation in smaller regions, such as Vayots Dzor, where only 129 municipal employees are recorded, highlighting the difficulties faced by smaller municipalities in terms of governance capacity and the availability of qualified personnel.

According to current legislation, there are no educational or professional restrictions when nominating candidates for local government bodies, and the same person can be nominated and elected an unlimited number of times. Even though Armenian legislation does not impose restrictions regarding the level of education of candidates for municipal bodies, the vast majority of municipality heads in Armenia have higher education. The process of municipality unification has positively influenced this metric; as of early 2022, 77 out of 93 municipality heads had graduated from a higher educational institution, surpassing 80%. Conversely, eight heads hold secondary vocational education, and seven have only secondary education.

Higher education institutions are universities or colleges that offer undergraduate (bachelor's) and postgraduate (master's, doctoral) degrees. These institutions provide advanced academic and professional training required for leadership roles in local government. In addition, eight local government leaders have secondary vocational education, which is a form of schooling that focuses on practical skills and vocational training.

This type of education is usually taken after primary education and prepares individuals for specific technical or craft jobs, making it a useful qualification for operational roles within local government. In addition, seven municipality leaders have secondary education, which refers to the schooling that follows primary education and precedes higher education or vocational training, and usually includes middle and high school levels. With regard to educational qualifications, Table 2 demonstrates that a considerable majority of municipal leaders have obtained higher education degrees.

Table 2: *Educational level of municipal leaders of the Republic of Armenia*

Region	Number of communities	Education of the head of the municipality		
		Higher	Secondary professional	Average
Aragatsotn	9	5	1	3
Ararat	5	5	-	-
Armavir	8	8	-	-
Vayots Dzor	5	5	-	-
Gegharkunik	20	14	4	2
Kotayk	11	11	-	-
Lori	16	12	2	1
Syunik	8	8	-	-
Tavush	4	3	1	-
Shirak	6	5	-	1
Yerevan	1	1	-	-
Total	93	77	8	7

Source: Authors, based on Statistical Committee Republic of Armenia (2022).

Table 2 offers an intriguing perspective on the educational background of municipal leaders in Armenia. The majority of leaders (82.8%) have obtained higher education degrees, which is indicative of the high level of qualification among those occupying leadership roles in the majority of communities. It is also noteworthy that a considerable number of municipal leaders possess only secondary education, particularly in regions such as Aragatsotn, where only three leaders have completed secondary

education. This discrepancy in level of education may have an impact on decision-making processes and the quality of governance at the municipal level. Those with lower levels of education may lack the capacity to effectively navigate the complexities of modern municipal management. The absence of higher education among municipal leaders may impede the implementation of advanced governance reforms and technologies designed to enhance local governance.

The elective nature of many leadership positions negatively impacts the motivation for advanced training, as the selection of such leaders is often subjective. A centralised appointment process for municipal heads could incentivise improvements in candidate competencies. Alongside educational qualifications, another essential aspect of municipal governance is the adherence to gender equality in leadership positions. According to Table 3, only four out of 92 communities (excluding Yerevan) had women mayors, and out of 188 deputy heads of communities, only 13 positions were entrusted to women, i.e. only about 7%. On the contrary, the gender distribution of the position of public secretaries – 91 women and 87 men – is relatively proportional, and the functions of ordinary municipal employees are performed by women in 59% of cases.

Table 3: *Gender distribution of positions at different levels of municipal employees in the Republic of Armenia*

Region	Mayors		Deputy mayors		Members of the public council		Staff secretaries		Public servants	
	W	M	W	M	W	M	W	M	W	M
Aragatsotn	-	9	6	43	14	99	28	28	189	167
Ararat	1	4	-	9	38	81	1	4	222	147
Armavir	1	7	1	14	88	612	3	4	330	211
Vayots Dzor	-	5	-	10	17	53	4	4	69	55
Gegharkunik	1	19	1	23	28	96	3	17	141	203
Kotayk	-	11	-	11	44	130	6	5	216	105
Lori	-	15	3	11	49	168	16	3	285	134
Syunik	-	8	-	13	34	87	6	3	215	118
Tavush	-	4	-	4	17	59	3	1	90	60

Shirak	1	5	2	37	36	89	21	18	220	161
Total	4	87	13	175	365	1,474	91	87	1,977	1,361

Note: W – women; M – men.

Source: Authors, based on Statistical Committee Republic of Armenia (2022).

The data from Table 3 suggests the necessity for targeted interventions to advance gender equality in local governance. The representation of women in leadership roles must be increased to foster a more inclusive decision-making environment that reflects the diverse needs of the population. The gender ratio in the leadership of municipal employees necessitates public intervention to ensure the respect of women’s rights during the selection of leadership positions in the *marzes*.

The gender ratio in the leadership of municipal employees is of concern and requires public intervention so that women’s rights are respected in the selection of leadership in the *marzes*. The situation is more progressive in the capital – more than half of the employees of the Yerevan City Hall, about 53.6%, are women. At the same time, the gender structure of members of the Yerevan Community Council is far from balanced – the number of men exceeds the number of women almost twice. As for mandatory qualification control, according to current legislation, the certification of municipal employees is carried out once every three years. In 2021, 876 public servants were certified, and local governments announced 499 competitions to fill relevant vacant positions. According to the data in Table 4, 388 (78%) of the announced competitions were recognised as valid, which is a high figure.

Table 4: *Number of certified municipal employees and number of announced and held competitions for vacant positions*

Region	Number of certified employees	Number of announced competitions to fill vacancies	Number of competitions held to fill a vacancy
Yerevan	206	46	40
Aragatsotn	107	36	34
Ararat	106	12	12
Armavir	89	59	46
Vayots Dzor	58	52	48
Gegharkunik	65	52	34

Kotayk	66	11	9
Lori	24	104	48
Syunik	40	14	14
Tavush	0	41	41
Shirak	115	72	62
Total	876	499	388

Source: Authors, based on Statistical Committee Republic of Armenia (2022).

Table 4 illustrates the number of certified municipal employees and the frequency of competitions held for filling vacant positions across different regions. A high share (78%) of announced competitions for vacant positions were successfully filled, suggesting that the competition system is functioning relatively well. However, the variation between regions is noteworthy; the number of certified employees in Yerevan (206) is far higher than in smaller regions like Tavush (0), indicating potential disparities in access to certification and training opportunities. This disparity could affect the overall quality of municipal services, particularly in regions with fewer certified employees. The high number of competitions in regions like Lori may indicate higher turnover or vacancy rates, which could disrupt the stability and continuity of local governance.

In general, vacancies in the municipal service are filled in the format of a competition, which is based on the idea of attracting more qualified, educated and professional personnel. However, this mechanism works relatively effectively only in densely populated areas, while contests organised in small towns and settlements are formal. The existing personnel reserve for municipal administration, designed to fill temporary vacancies, does not fully serve its purpose, and issues related to staffing local administrative bodies with individuals possessing the necessary communication and professional skills persist.

Moreover, due to the uneven distribution of the budget between *marzes*, some modern projects, such as the Smart City digital strategy, are implemented only in the capital (and not at a fast rate), while the digital infrastructure is often absent in other municipalities. In addition to the mandatory qualification exam, every municipal employee in Armenia must undergo mandatory training at least once every three years. Training may also be initiated by the employee himself or by the head of the municipality, if there are changes in the functional duties or requirements to the rights and duties set out in the job description of the position.

The procedure for training programmes for municipal employees, including issues related to direct functions, powers and management skills, are approved by the state body in the sphere of local self-government, and the training itself is carried out by organisations selected on a competitive basis. In 2021, training for municipal servants was conducted by the “Master Style” training centre, and training for heads of local self-government bodies was conducted by the Academy of Public Administration of Armenia. A total of 1,589 local government employees were trained in 2021, including 148 from the staff of Yerevan Municipality and its administrative subdivisions. Notably, the number of public servants trained in the *marzes* increased almost ninefold compared to the previous year, likely due to the easing of COVID-19 restrictions (Table 5).

Table 5: *Dynamics of the number of trained municipal employees by year*

Region	2016	2017	2018	2019	2020	2021
Aragatsotn	39	-	9	100	154	139
Ararat	60	41	-	120	9	140
Armavir	120	24	-	140	-	200
Vayots Dzor	20	-	14	17	-	72
Gegharkunik	40	25	11	100	-	140
Kotayk	20	65	24	79	-	195
Lori	80	60	24	99	3	157
Syunik	19	-	25	3	-	145
Tavush	37	-	25	40	-	123
Shirak	60	63	16	80	-	130
Total	495	278	148	778	166	1,441
Yerevan	198	561	309	286	454	148
Total	693	839	457	1,064	620	1,589

Source: Authors, based on Labour Market in Armenia (2022).

Table 5 demonstrates a significant increase in the number of trained municipal employees from 2016 to 2021, with a notable spike in 2021 following the relaxation of COVID-19 restrictions. This trend suggests that the Armenian government is proactively seeking to enhance the skills

and knowledge of its municipal employees, particularly in response to the challenges posed by the pandemic. However, the distribution of training opportunities across regions remains uneven, with areas such as Armavir and Kotayk exhibiting significant growth, while regions such as Syunik and Tavush demonstrate relatively modest increases. All regions must have equitable access to training to enhance the overall competence of municipal employees and ensure the standardisation of the quality of services provided by local governments.

Despite large-scale efforts to improve the training process since the introduction of the system of advanced training for municipal employees, it should be noted that the current training programme still has many gaps. Another disadvantage of the training system is the discrepancy between the content of certain educational programmes and the real need for advanced training of personnel. As a rule, the final results and objectives of the training programme are not determined in advance, i.e., the knowledge, skills, and abilities that participants will acquire at the end of the programme are not clearly defined. The issue of the relevance of the content of training materials also remains problematic, as a result of which there are repeated cases when the same municipal employee attends courses on the same educational programme in different years. In addition, it should be noted that regular meetings to exchange experiences with colleagues from other municipalities, which must be held regularly in the format of joint internships in the workplace, play a big role in increasing the qualifications and raising the level of education of employees (Spren, Afonso & Gerrish, 2020).

For a more efficient assessment of the municipal servant's competence and the need to improve his/her qualification, a competence matrix consisting of three levels – basic, functional, and special – was developed within the framework of the present work. The skills of functional competence were decided to include:

- the ability to communicate effectively with visitors, petitioning citizens and customers' requests in the form of telephone conversation, email and messenger communication, as well as in person;
- carrying out explanatory work among the residents of the municipality.

Special competence implies the compliance of the employee with such qualities as:

- knowledge and observance of the local conjuncture, traditions, and customs;

- exemplary behaviour in dealing with elders and opinion leaders;
- proficiency in financial paperwork and an impeccable credit history;
- ability to prepare documentation for the organisation of public events, coordinate with all competent services, and sign the necessary contracts with contractors;
- performing extracurricular activities to popularise civic ideas and values;
- creating and communicating service instructions to subordinates and colleagues.

Thus, in order to promptly determine the employee's competence level, it is proposed to assess his/her compliance with the following duties and requirements (Figure 1).

Figure 1: *Competency matrix of a municipal employee*

CROATIAN AND COMPARATIVE PUBLIC ADMINISTRATION	Basic level	<ul style="list-style-type: none">• Compliance with the norms of official behavior based on the norms of the Constitution of the Republic of Armenia, legislative acts of marz, job description, common business etiquette and traditions of the Armenian people.• Préparation of primary documents according to the existing service regulations and in accordance with the established requirements, applying skills of using modern office equipment and application programs.• Maintaining the System of electronic document management and record keeping in accordance with the approved nomenclature.	Functional level	<ul style="list-style-type: none">• Conducting effective communications with coworkers and citizens using messengers, office email and verbal communication.• Conducting outreach to the public about the department's activities, resolving communication problems.• Reviewing oral and written appeals, formally responding to them within legal deadlines.	Special level	<ul style="list-style-type: none">• Knowledge of and compliance with local conditions, peculiarities of relations between local residents, traditions and customs.• Drawing up financial reports and other documents, controlling the flow of funds and the justification of their use.• Organization of cultural and mass events, conclusion of contracts with contractors and tenants, obtaining necessary permits.• Development of job descriptions for colleagues and subordinates.• Organization of informal communication after hours with the residents of the municipality in order to better understand the problems and expectations of fellow countrymen, establishing communication with local opinion leaders and elders.
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Source: Authors.

Key findings include significant gaps in functional competencies, such as citizen interaction and resource management, and special competencies like drawing up financial documentation and public event coordination. Addressing these gaps through targeted training aligned with the competency matrix will enhance the efficiency and responsiveness of municipal governance.

Armenia's relations with Western countries deserve special attention, which, through a number of targeted programmes, help to improve the qualification level of municipal staff. Thus, for the purpose of monitoring and evaluation of the local self-governance system, the USAID-funded CELoG programme developed a project in 2017 on "Annual Assessment of Local Self-Governance Reforms and Index Calculation Methodology" adjusted the specifics of Armenia (Markwart, 2022). Another example is the Open Government Partnership (OGP), where two Armenian communities were selected to join a global group of reformers – Vanadzor and Gyumri. By maintaining an ongoing link between local authorities and civic organisations, OGP Local promotes innovations that make local governments more open, accountable and responsive to citizens (Pazylov et al., 2023).

The quest for improved local self-governance in Armenia is further supported by the CLRA through the project "Strengthening the Association of Communities in Armenia", which is funded by the Swiss Government. The objective of this project is to facilitate the development of democratic processes at the local level through the establishment of effective consultation mechanisms between the government and Armenian municipalities. Furthermore, the project aims to foster greater public confidence in local authorities through enhanced transparency in the reporting practices of local self-government. Nevertheless, the level of public involvement in these processes remains relatively low.

In 2022, a new online tool, bE-Open, was launched with the objective of supporting local and regional governance actors in improving the quality of local democracy. This portal offers practical guidance on public ethics and provides immediate and convenient access to a comprehensive database of pertinent international standards, domestic legislation, and exemplary practices from municipal authorities in Armenia, Georgia, the Republic of Moldova, and Ukraine. By forging alliances with nations that espouse democratic principles, Armenia can confront the challenge of uneven regional development by establishing specialised clusters, including those focused on tourism and agriculture (Zolotukhin, 2018).

Furthermore, as part of the municipal coaching and benchmarking programmes, the development of a unified rating system for municipalities and their employees is of paramount importance. It is imperative to acknowledge that alterations in development programmes should not necessarily result in a reduction in municipal personnel. The dismissal of employees represents a significant loss of the time and resources invested in their training. In the context of regional restructuring, the implementation of retraining initiatives for personnel can facilitate the preservation of earlier investments in human capital.

The study's conclusions indicate substantial issues in the municipal governance system of the Republic of Armenia, especially with staffing, qualification levels, gender balance, and access to professional training. Statistical analysis revealed significant discrepancies between the projected and actual staffing levels across regions, highlighting challenges in attracting and retaining personnel – particularly in less desirable areas – due to insufficient incentives, infrastructural limitations, or the low prestige associated with public service. Regression research revealed that more than 80% of municipal leaders possess higher education degrees, which favourably corresponds with the results of the administrative-territorial reform. Nonetheless, significant inequalities persist in staff readiness across regions, with certain municipalities appointing individuals possessing only secondary education. A comparative analysis revealed that the number of trained public servants in 2021 nearly tripled relative to 2020.

However, access to training programmes remains inequitable, with notably low participation rates in the *marzes* of Syunik and Tavush – potentially compromising governance efficacy in those regions. A competency matrix for municipal employees was created using the criteria list method and expert interviews, incorporating basic, functional, and specialised levels, and addressing essential skills such as effective communication, public engagement, document management, compliance with local customs, and organisation of public events. This matrix facilitated the identification of current competency gaps and the formulation of specific recommendations for enhancing the staff training and retraining system. A case analysis of Armenia's involvement in international projects, including OGP and CELoG, revealed that international collaboration facilitates the adoption of open governance standards and improves the qualifications of local officials. The utilisation of a comprehensive methodological framework – comprising quantitative analysis through SPSS, qualitative expert evaluations, legal framework examination, and case studies of international practices – facilitated the development of a representative and thorough

understanding of the current state of municipal governance in Armenia, thereby identifying practical avenues for enhancement.

5. Discussion

The findings of the research study indicate that municipal employees in the Republic of Armenia exhibit clear deficiencies in a number of key competencies, particularly in the areas of professional development, gender balance, and regional disparities in governance. These findings directly address the research question posed at the outset of this study, namely how the competencies of municipal employees might be enhanced in order to ensure more effective local governance.

The analysis reveals significant discrepancies between planned and actual staffing levels in Armenian municipalities. For example, in Armavir, there is a 13.6% deficit in filled municipal positions compared to the planned figures. This discrepancy may be indicative of recruitment or retention issues, potentially driven by inadequate training opportunities or incentives. These findings resonate with the conclusions of Maksat and colleagues (2024), who emphasise the significance of decentralisation strategies adapted from European countries such as Denmark and Germany. Their analysis highlights the role of municipal associations and citizen engagement initiatives, such as Finland's Internet portal for civil initiatives, in improving governance efficiency. Adapting similar governance strategies in Armenia could address challenges related to staffing and resource allocation in smaller municipalities.

Public engagement and training are critical to enhancing governance effectiveness. In a related context, Halili and Berisha (2023) underscore the necessity of fostering a culture of genuine engagement within public institutions. Their study on public consultations in Kosovo suggests that targeted training in municipal management can significantly improve the responsiveness of local governance. Similarly, integrating targeted training programs for Armenian municipal employees could bolster their ability to address citizen needs effectively, particularly in regions with historically low engagement rates.

With regard to educational qualifications, a significant majority (82.8%) of municipal leaders have attained higher education degrees. However, in regions such as Aragatsotn, there are leaders who have only completed secondary education, which may impede their capacity to implement

complex governance reforms. This underscores the necessity of prioritising access to advanced education for municipal leaders, as supported by the findings of Mariana (2020). Mariana's study on local government employees found a direct correlation between higher educational attainment, increased motivation, and enhanced work performance. These insights suggest that emphasising professional development and educational opportunities could significantly improve governance effectiveness in Armenia, particularly in underserved regions. Cibák, Kollár and Filip (2021) found that graduates from institutions accredited under programmes like Erasmus+ have better employment prospects in municipal employees. This suggests that focusing on advanced education for municipal employees, possibly through partnerships with internationally accredited institutions, could significantly improve local governance outcomes.

Gender disparities in municipal leadership roles are another pressing issue. Only four out of 92 municipalities are led by women, and just 7% of deputy mayors are female. This stark imbalance reflects broader global trends of underrepresentation of women, and highlights the importance of targeted interventions, such as leadership training programmes tailored for women or the introduction of inclusive policies to promote gender equality in governance. This imbalance is noted in the study by Bishu and Heckler (2021). The authors show that gender stereotypes frequently impede women's authority in domains traditionally dominated by men, such as municipal governance. However, this study makes a contribution in that it provides region-specific data which can inform the implementation of targeted interventions, such as the introduction of gender quotas or the design of leadership training programmes which are specifically tailored to the needs of women in public administration. Despite criticism of gender quotas from researchers such as Otero-Hermida and Lorenzo (2020) and Spaziani (2022), Armenia may benefit from tailored programmes that focus not only on increasing the number of women in leadership roles, but also on fostering an inclusive governance culture that values diverse perspectives.

Training opportunities for municipal employees show promising trends, with a notable increase in participation in 2021 following the easing of COVID-19 restrictions. However, there are significant regional disparities in access to training programmes, as evidenced by lower participation rates in regions like Syunik and Tavush. This unequal distribution highlights the need for more equitable access to training opportunities, as regions with fewer trained personnel may face reduced governance effectiveness. This finding is supported by Rodrigues and Franco (2021),

who demonstrated that the level of digital skills among municipal staff is inversely related to regional depopulation trends in Portugal. This insight suggests that enhancing access to professional development in underrepresented regions could help mitigate similar trends of internal migration in Armenia.

In terms of digital competencies, the findings underscore the necessity of equipping municipal employees with the requisite skills to effectively navigate contemporary governance challenges. The competency matrix incorporates digital literacy as a pivotal element, aligning with the conclusions of Jonsson and colleagues (2022) and Dingelstad, Borst and Meijer (2022). These scholars emphasise the necessity for municipal employees to possess data literacy, teamwork skills, and critical thinking abilities to make well-informed decisions in a data-driven governance environment. As municipal services become increasingly reliant on digital platforms, the capacity of staff to engage with these technologies is of paramount importance for enhancing service delivery and responsiveness to citizen needs. It is therefore recommended that digital training programmes, targeted at specific skill sets, should be given priority status within the broader competency framework. Also, the competency matrix developed in this study aligns with the conclusions of Schenk and Dolata (2020). These scholars advocate for practice-oriented curricula in public administration education to equip municipal employees with the skills needed for digital transformation. Their findings are particularly relevant in the context of ongoing administrative-territorial reforms in Armenia, where a digitally proficient workforce is essential for successful e-governance initiatives. Expanding digital training programmes and integrating them into the competency framework could enhance service delivery and responsiveness to citizen needs.

This study offers valuable insights into the challenges and opportunities associated with enhancing the competencies of municipal employees in Armenia. The findings underscore the significance of education, gender equality, and digital proficiency in fostering effective local governance. The implementation of the competency matrix, coupled with the addressing of the disparities identified in this study, would enable Armenia to enhance the quality of its municipal services and foster a more inclusive and responsive governance system. The results also have broader implications for other countries undergoing similar governance reforms, particularly in the areas of municipal capacity building.

6. Conclusions

Modern municipal employees must have computer and office equipment and smartphone skills, be able to communicate effectively with colleagues and residents through messengers and social networks and be able to deliver key messages both in person and through the media. By investing in the training and development of municipal employees, local communities can provide themselves with the human capital needed to succeed in the 21st century. Quality planning and continuous development, infrastructure management, public safety, and social services – this is not a complete list of qualifications and competencies of municipal employees that can influence the development of the local economy and the quality of life in the municipality. At the same time, it should be noted that the unjustified administrative-territorial division of the Republic of Armenia and the current one-tier model of local self-government have led to uneven regional development and the need for new reforms in the sphere of municipal development.

Special attention should be paid to the principle of preserving investments in work with local self-government employees, according to which dismissal of an employee in whose training time and funds have already been invested is a measure of last resort. If the qualifications of such an employee do not match the position he or she holds, additional training should be provided to preserve human capital in the structure of the municipality. In general, in the sphere of municipal coaching in Armenia, it is necessary to create a unified rating system for municipal servants, identifying leaders who will then be able to engage in training and retraining. Also, with the help of marketing activities, it is possible to position each municipality as, e.g., a production, health, or tourism centre of the district, thus initiating the development of the cluster theory of regional development in Armenia. Analysing such regional peculiarities and advantages of each Armenian territory could be the subject of the next research paper.

Nevertheless, it is important to acknowledge the limitations of this study, which should be addressed in future research. Firstly, the analysis did not fully explore the long-term effects of training programmes on employee performance. Consequently, further studies are required to assess the sustained impact of such interventions. Furthermore, the study did not consider potential regional variations in the efficacy of the proposed reforms, which may necessitate the development of bespoke solutions for different areas of Armenia. Further research could concentrate on these regional discrepancies and evaluate the applicability of the cluster theory

of regional development, particularly by examining how specific municipalities can be designated as industrial, health, or tourism hubs.

This research provides a basis for further investigation of the regional peculiarities and advantages of Armenia, offering a foundation for more targeted reforms in municipal governance and employee development. By addressing these areas, future studies could make a substantial contribution to the ongoing efforts to enhance local governance and guarantee a more balanced and equitable distribution of resources and development across Armenia.

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IMPROVING THE COMPETENCIES OF MUNICIPAL EMPLOYEES: THE CASE OF ARMENIA

Summary

This article provides a thorough analysis of the current state and challenges related to the professional development of municipal employees in the Republic of Armenia. The study carefully examines the impact of existing administrative-territorial structures, legislative frameworks and the dynamics of local governance on the competencies of municipal employees. Through the use of statistical data and comparative analysis, the authors identify an urgent need for improved training programmes, the implementation of a comprehensive competency matrix, and a shift towards a more customer-oriented approach to municipal services. Key findings from the research highlight the importance of aligning training and development initiatives with the real needs of local government. The introduction of a competency matrix serves as a strategic tool for identifying skills gaps and structuring targeted training interventions. Furthermore, the study addresses issues of gender imbalance within local government roles, advocating for equitable representation and empowerment of women in local governance. The article also explores the positive impact of international cooperation and exchange, which can provide valuable insights and best practices for local governance reform in Armenia. Engagement with international programmes and the adoption of innovative governance models are highlighted as crucial steps towards more efficient, transparent and responsive local government. Overall, the research makes a compelling case for systemic reform of local government training and development in Armenia. By focusing on skills enhancement, gender equality and international cooperation, the article contributes valuable perspectives to the discourse on local governance reform, with implications beyond the Armenian context.

Keywords: local government, management, communities, advanced training, certification, municipal service.

UNAPRJEĐIVANJE KOMPETENCIJA LOKALNIH SLUŽBENIKA: PRIMJER ARMENIJE

Sažetak

Ovaj članak pruža temeljitu analizu trenutnog stanja i izazova vezanih za profesionalni razvoj lokalnih službenika u Armeniji. Studija pažljivo ispituje utjecaj postojećih administrativno-teritorijalnih struktura, zakonodavnih okvira i dinamike lokalnog upravljanja na kompetencije službenika zaposlenih u lokalnoj samoupravi. Korištenjem statističkih podataka i komparativne analize autori identificiraju hitnu potrebu za poboljšanim programima osposobljavanja i usavršavanja, za implementacijom sveobuhvatne matrice kompetencija te za prijelazom na korisnički orijentiran pristup lokalnih javnih usluga. Ključni nalazi istraživanja ističu važnost usklađivanja inicijativa za osposobljavanje i razvoj službenika sa stvarnim potrebama lokalne samouprave. Uvođenje matrice kompetencija služi kao strateški alat za identificiranje nedostataka vještina i strukturiranje ciljanih intervencija osposobljavanja. Nadalje, studija se bavi pitanjima rodne neravnoteže u strukturi zaposlenih u lokalnoj samoupravi zalažući se za pravednu zastupljenost i jačanje položaja žena. Članak također istražuje pozitivan utjecaj međunarodne suradnje i razmjene koje mogu osigurati vrijedne uvide i najbolje prakse za reformu lokalne samouprave u Armeniji. Sudjelovanje u međunarodnim programima i usvajanje inovativnih modela upravljanja istaknuti su kao ključni koraci prema učinkovitijoj, transparentnijoj i responzivnijoj lokalnoj samoupravi. Sveukupno, studija zagovara sustavnu reformu usavršavanja i razvoja zaposlenih u lokalnoj samoupravi u Armeniji. Fokusirajući se na unaprjeđivanje vještina, rodnu ravnopravnost i međunarodnu suradnju, članak nudi važan doprinos diskursu o reformi lokalne samouprave s implikacijama izvan armenskog konteksta.

Ključne riječi: lokalna samouprava, upravljanje, lokalne zajednice, napredno usavršavanje, certificiranje, lokalna služba

The Artificial Intelligence Act Between the EU and National Levels: The Slovenian Case Study

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The Artificial Intelligence Act (AIA) represents a pioneering step in the European Union's approach to digital governance, establishing a legally binding regulation directly

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applicable across all Member States. However, its hybrid character, combining legal obligation with policy guidance, creates challenges for implementation at the national level. This article examines how this dual nature is understood and applied by administrative authorities in Slovenia, based on a mixed-method study involving normative legal analysis, surveys, and focus groups. Although the AIA is formally recognised as binding legislation, the findings reveal substantial gaps in awareness, institutional readiness, and administrative application. Operational authorities often interpret the AIA more as a strategic framework than enforceable law. The study underscores the urgent need for coordinated action, clearer delineation of responsibilities, and structured support mechanisms to ensure effective implementation. The Slovenian case provides important insights for other Member States facing similar challenges in the multi-level governance of artificial intelligence.¹

Keywords: Artificial Intelligence Act, EU regulation, legally binding vs. policy act, administrative authorities as AI providers/users, Slovenia

1. Introduction

The Artificial Intelligence Act (AIA) is a regulation that was adopted in 2024 after several years of coordination on its content and holders. In view of its purpose and scope, which is directly applicable in all Member States of the European Union (EU), it is a groundbreaking regulation (Fernández-Llorca et al., 2024). In this context, AI is understood as a rapidly evolving group of technologies capable of delivering numerous societal benefits by improving predictions, optimising operations, allocating resources, and providing tailored services (EC, 2021).

An AI system is defined as software that makes it possible to generate predictions, recommendations, or decision-making processes that influence its environment (EC, 2021; Misuraca, Barcevičius & Codagnone, 2020;

¹ The authors gratefully acknowledge the financial support from the Slovenian Research and Innovation Agency (research core funding program No. P5-0093, and project No. J5-50165).

Wischmeyer & Rademacher, 2020). According to the AIA, an AI system is a “machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environment” (Art. 3/1). However, AI systems, especially in the public sector, are only acceptable if they adhere to principles such as protecting human autonomy, ensuring transparency, explainability, and accountability, promoting inclusivity and fairness, and fostering AI development that is both responsive and sustainable (Babšek et al., 2025a), therefore their legal regulation is necessary.

The AIA is a highly complex regulation. It comprises 180 points in the preamble, 113 articles, and 13 annexes. More importantly, the question arises as to how its legal and overall multi-layered or hybrid character is to be understood (Gstrein, Haleem & Zwitter, 2024; Madan & Ashok, 2024; Quintais, 2025). As an EU regulation, the AIA is formally a legally binding act that applies directly in all EU Member States. In terms of content, however, the AIA functions more as a policy guideline for policymakers than as a direct regulatory instrument for implementers, AI providers, and users. The research problem addressed by this article is therefore to analyse the (mis)understanding of the character of the AIA from the perspective of the institutional representatives responsible for its implementation, i.e., primarily the authorities operating at the national level. Namely, if the obliged authorities do not fully understand the objectives and rules of such laws, the (non-)implementation in practice remains an open question.

To investigate the research gap between the legally defined and the actually perceived character of the AIA, a study was designed and addressed to two groups of administrative authorities in Slovenia as an EU Member State. The first group consists of policymakers, the coordinating and line ministries responsible for the establishment of the AI system, i.e., the institutional level of public governance. The second group consists of the operational authorities that apply this system, i.e., the instrumental or implementation level of public governance (Godec, 1993; Madan & Ashok, 2024). Initially, normative, historical, and comparative research methods were applied, followed by the empirical part mainly based on an online survey and a further focus group with representatives of ministries and selected administrative authorities as AI providers and/or users.

The article is structured as follows: after the introduction, the methodology is outlined, starting with a review of the existing scientific literature on legal regulation of AI. The third chapter then provides a theoretical and normative definition of AIA and its context. This is followed by a presentation of empirical research findings among government representatives in practice. Thus, we answer Research Question 1: How do administrative authorities at the national level understand the significance, scope, and content of the AIA? Furthermore, the study addresses Research Question 2: To what extent are the Slovenian administrative authorities aware of and ready to implement the AIA on a systemic and operational level? The article concludes with a discussion chapter in which the main challenges are identified and necessary measures are proposed, followed by the final conclusions.

2. Literature Overview and Methodological Framework

2.1. State of the Art in AIA and the Legal Regulation of AI Studies

Most academic discussions of the AIA are recent (post-2023) and focus on its adoption, definitions, and regulatory challenges. Castán (2024) criticises the lack of societal consensus on the definition of AI, which led the AIA to adopt a narrower legal definition that combines system characteristics with a closed list of techniques. Boone (2023), on the other hand, defends this approach as workable and unambiguous. Fernández-Llorca and colleagues (2024) emphasise the need for definitions that are accessible to both legal and technical experts, and analyse how the AIA defines AI for general purposes and foundational models. An important innovation of the AIA is its risk-based framework (Schuett, 2024). Beck and Burri (2024) highlight the shift from “human control” to “human oversight”, while Peeters (2024) points to shortcomings in areas with less human intervention, such as tax administrations. Despite this progress, various authors express concerns related to unclear provisions for human intervention, weak protections for affected individuals, limited liability mechanisms, and institutional ambiguity (Alfieri, Carocchia & Inverardi, 2022; Wörsdörfer, 2024). Others note that the regulation overemphasises social fairness at the expense of individual rights (Kattnig et al., 2024), does not

set strict requirements for explainability (Panigutti et al., 2023), and is based on an oversimplified understanding of trust in AI (Laux, Wachter & Mittelstadt, 2024).

2.2. Research Design, Data Collection, and Selection of Respondents

A three-stage methodological approach was used in this study: (1) a contextual legal analysis of the AIA and related laws, (2) an online expert survey, and (3) a structured focus group discussion. The first phase comprised a normative and content-related legal analysis, which was well suited to answer the research questions due to its explanatory nature and proximity to content analysis (Korcová & Borská, 2019). Central to this analysis was the multi-layered nature of the AIA, which aims to provide value-based guidance rather than strict requirements for national actors, reflecting the interplay between EU and national law and the broader social and political functions of regulation. In the second and third phases, a mixed-methods approach combined data from an online survey with qualitative findings from focus group discussions. This design captured both the institutional and instrumental levels of governance, and examined the formulation and implementation of AI policy. The survey was divided into two thematic sections. The first section focused on awareness and understanding of the scope of the AIA, its legal character, and links to other EU legislation. Respondents rated the importance of the AIA objectives, identified the key features of AI systems under the AIA, and assessed their familiarity with AIA-related EU legislation. The second part of the survey focused on implementation responsibilities at the EU and national levels. Respondents assessed the readiness of their institution, identified gaps, and prioritised implementation measures. The final focus group sessions addressed six key issues: awareness, perceived importance and readiness for implementation, governance roles, regulatory challenges, and future steps.

Respondents included representatives from both the institutional and instrumental levels of Slovenian public administration (see Table 1). These authorities were selected based on their active use of AI systems (Aristovnik, Kovač & Jukić, 2024; Murko, Babšek & Aristovnik, 2024; Rudolf & Kovač, 2024).

Table 1: *Study respondents in the online survey and the focus group*

Selected specific administrative areas that use AI systems	Institutional public governance	Instrumental public governance
Tax and customs collection	Ministry of Public Administration (MPA), and Ministry of Digital Transformation (MDT)	Financial Administration of the Republic of Slovenia (FARS)
Allocation of social benefits	Ministry of Labour, Family and Social Affairs and Equal Opportunities (MLFSA) ²	Centre for Social Work Ljubljana (CSW)

Source: Authors.

The selection aimed to obtain a balanced overview of policy and practice, central and line ministries, and authorities subject to both national and EU legislation. Although the operational authorities vary in size, both play a crucial role in the delivery of public services and offer insight into the adoption of AI on the ground. Their dual role as providers and users of national digital systems strengthens the generalisability of the results, particularly for similarly structured public administrations in other EU countries.

3. Normative and Social Analysis of the AIA

The AIA was developed over several years of negotiations between various stakeholders, taking into account, among other things, the Commission's policy guidelines for the period 2019–2024 and the White Paper on AI, (COM (2020) 65 final of 19 February 2020). The AIA is legally bound by the EU Charter of Fundamental Rights as well as Art. 16 on the protection of personal data and Art. 114 of the Treaty on the Functioning of the EU.³ The AIA has been in force since 1 August 2024, with the general

² Despite multiple requests, the MLFSA did not participate in the survey or the focus group. Therefore, its role in the implementation of the AIA was analysed from the perspective of the CSW as a subordinate authority and other ministries.

³ Formally, the main steps to raise awareness and further implementation were the following: the publication of the Regulation proposal by the European Commission in spring 2021 (European Commission, 2021), which was also accompanied by a memorandum of more than 100 pages outlining the legal basis and limitations of AI use in general, especially

provisions and the provisions on prohibited practices (Sections I and II) applying from 2 February 2025, the obligations for general AI from 2 August 2025, all AI provisions from 2 August 2026, and Annex II on high-risk systems only from 2 August 2027. This gradual implementation alone shows how important the legislation is, as it must bring about change and strike a balance between the various interests involved.

The AIA undoubtedly has a hybrid character in terms of its objectives and content (Gstrein, Haleem & Zwitter, 2024), as it is a framework that focuses primarily on product safety and standardisation while at the same time containing fundamental rights protection. However, beyond this legal-technical mix, other perspectives need to be considered, such as policy design with macroeconomic dimensions, which involves a balance between an innovative and competitive European market and legal protection through concrete and individually applicable AIA rules. In this context, Musch, Borrelli, and Kerrigan (2023) examined the fragile balance between AI innovation and the protection of individual data rights through the AIA. For example, while the General Data Protection Regulation (GDPR) takes a bottom-up approach, the AIA establishes a risk-based top-down legal framework that primarily emphasises the responsibilities of public authorities (De Gregorio & Dunn, 2022). Essentially, the AIA builds on the GDPR, while the GDPR already serves as the primary existing protection and legal framework that restricts certain AI applications and big data processing in the EU (Rudolf & Kovač, 2024).⁴

The AIA is part of the so-called “new legislative framework” (see point (1) of the AIA), which comprises several different, yet interrelated and interconnected regulations. These include mostly directly legally binding EU regulations, i.e.:

in public administration, according to a pyramidal system to protect EU values and individuals, based on varying levels of risk. This was followed by the approval of the European Parliament in June 2023, adoption on 13 June 2024, and publication in the Official Journal of the EU on 12 July 2024.

⁴ Art. 25 of the GDPR stipulates that all systems processing personal data must be equipped with built-in and default data protection, while at the same time AI systems are strictly limited to ensure compliance with the basic principles of personal data processing. In addition, Article 15 stipulates that any person whose data is processed has the right to obtain information as to whether their data has been processed by automated means, as well as meaningful insight into the underlying logic, significance, and likely consequences of such processing. Art. 22 of the GDPR grants the data subject the right not to be subject to a decision based solely on AI and the right to request not to be subject to such a decision, except under the specific conditions set out in Art. 22/1.

- General Data Protection Regulation (27 April 2016), in force since 25 May 2018;
- European Data Governance Act (30 May 2022), in force since 24 September 2023;
- Digital Markets Act (14 September 2022), in force since 2 May 2023;
- Digital Services Act (19 October 2022), in force since 17 February 2024; and
- Data Act (23 December 2023), in force since 12 September 2025.

In this context, not only the scope of application, the content, and the obligors of these individual legal acts, but also their overlaps and interactions, raise numerous questions. To fully understand the character of the AIA, one must also understand the character and mutual influence of these related legal acts.

When examining the legal character of the AIA, the relationship between EU regulations and national legislation must also be considered. Despite the direct legal effect of EU regulations in Member States, it is not uncommon for national laws to be adopted to implement or supplement these regulations. This is the case in Slovenia, where the GDPR is complemented by the national Personal Data Protection Act (adopted in 2022; see Rudolf & Kovač, 2024). This raises questions about the relationship and hierarchy between the various acts, both in terms of levels of governance and the general principle of the primacy of *leges speciales* prevailing over *leges generales*. The concept of multi-level governance (MLG) and the process of Europeanisation characteristic of the EU have a clear impact on data protection and AI regulation (Benjamin, 2023; Tartaro, 2023). Consequently, the adoption of such EU laws raises critical questions, including the alignment of harmonised EU standards with regulatory requirements, the legitimacy of EU standardisation, and the ability of standards to ensure fundamental rights (Tartaro, 2023). Regarding the relationship between the EU and Member States—or so called autonomy of the latter—a stable principle has emerged: Member States have full discretion in the implementation of EU directives, provided they respect the principles of EU equivalence and effectiveness as well as the rights of defence, in particular the right to be informed, the right to be heard, and the right to legal protection (Galetta & Hofmann, 2023). This principle is important for the use of AI systems in court and administrative procedures. Within the framework of EU regulations, national discretion exists only if an explicit implementation clause is provided or if national law can be applied alongside the direct application of an EU legal act (as in the GDPR). The relationship between

EU law and national law is therefore not strictly hierarchical but follows a pluralistic concept of EU governance.

Finally, the aforementioned institutional and instrumental levels of public governance should be considered, as the AIA and other laws within the new legislative framework act as both regulations and policy guidelines. Many administrative authorities perform these tasks through administrative procedures that reflect, through the disputability of relations with legal remedies and their necessary enforcement, whether the objectives set out in the laws and implementing regulations of supranational authorities or national ministries are properly implemented. If this is not the case, these individual case problems at the overall level point to the need to initiate a new regulatory cycle and adopt better rules. As part of the executive branch, public administration is predominantly limited to operational governance (Godec, 1993; i.e., limited executive according to May & Winchester, 2018), as it is restricted to determining the means to achieve predetermined policy objectives. In contrast, the overarching institutional framework for public policy objectives is determined by the highest authorities such as national parliaments, governments and ministries or, at EU level, by the Commission. This distinction is particularly important when considering the legal character of the AIA, as its implementation in a Member State raises the question of whom it primarily binds and in what capacity.

4. Results of the Empirical Case Study on Understanding the Character of the AIA

In the winter of 2024/2025, a study was conducted among representatives of two central ministries and two operational authorities to examine their understanding of the legal character, scope, and implementation tasks of the AIA. The first part of the survey focused on the definitions of AI, the legal status of the regulation, and its consistency with EU policy objectives and legal frameworks. MDT and FARS demonstrated an accurate understanding of the definitions of AI, while MPA and CSW incorrectly cited dependence on humans as a defining characteristic. Most respondents viewed the AIA as legally binding; however, CSW viewed it primarily as a policy guideline. Ministries emphasised the strategic importance of the AIA, while operational authorities saw it more as an administrative tool (see Table 2).

Table 2: *The importance of AIA objectives according to respondents*

	Very important	Important	Moderately important
Unified legal framework for the entire EU	MDT, MPA, FARS	CSW	
Reliability	MPA, FARS, CSW	MDT	
Legal certainty in the market	MDT, MPA, FARS	CSW	
Innovation	MPA	MDT, CSW	FARS
Protection of fundamental rights (non-discrimination, freedom of expression, privacy, dignity)	MDT, MPA, CSW	FARS	
Excellence		MDT, MPA, CSW	FARS

Source: Authors.

All respondents recognised the link between the AIA and the EU Charter of Fundamental Rights and TFEU. The MPAs correctly identified the unrelated treaties. Table 3 provides an overview of the familiarity with related digital legal acts and the perceived links to AIA.

Table 3: *Knowledge, relevance, and connection to the AIA in the “new legislative framework”*

	MDT	MPA	FARS	CSW
GDPR	Mainly familiar; know the enforcement date; relevant for enforcement; strong connection to AIA	Very familiar; know the enforcement date; relevant for enforcement; strong connection to AIA	Very familiar; know the enforcement date; relevant for enforcement; strong connection to AIA	Very familiar; know the enforcement date; relevant for enforcement; strong connection to AIA
ePrivacy Directive	Mainly familiar; do not know the enforcement date; relevant for enforcement; partial connection to AIA	Mainly familiar; do not know the enforcement date; relevant for enforcement; partial connection to AIA	Mainly familiar; do not know the enforcement date; relevant for enforcement; strong connection to AIA	Mainly familiar; do not know the enforcement date; not relevant for enforcement; strong connection to AIA

DSA (Digital Services Act)	Mainly familiar; know the enforcement date; relevant for enforcement; partial connection to AIA	Mainly familiar; know the enforcement date; relevant for enforcement; partial connection to AIA	Partially familiar; know the enforcement date; not relevant for enforcement; strong connection to AIA	Mainly familiar; know the enforcement date; not relevant for enforcement; strong connection to AIA
DMA (Digital Markets Act)	Partially familiar; know the enforcement date; partially relevant for enforcement; strong connection to AIA	Partially familiar; know the enforcement date; relevant for enforcement; partial connection to AIA	Partially familiar; know the enforcement date; not relevant for enforcement; partial connection to AIA	Not familiar; do not know the enforcement date; not relevant for enforcement; partial connection to AIA
DGA (Digital Governance Act)	Very familiar; know the enforcement date; relevant for enforcement; partial connection to AIA	Mainly familiar; know the enforcement date; relevant for enforcement; strong connection to AIA	Mainly familiar; know the enforcement date; partially relevant for enforcement; strong connection to AIA	Not familiar; do not know the enforcement date; partially relevant for enforcement; strong connection to AIA
Data Act	Mainly familiar; know the enforcement date; relevant for enforcement; partial connection to AIA	Partially familiar; know the enforcement date; relevant for enforcement; strong connection to AIA	Very familiar; know the enforcement date; partially relevant for enforcement; strong connection to AIA	Not familiar; do not know the enforcement date; partially relevant for enforcement; strong connection to AIA

Source: Authors.

FARS and MDT demonstrated the strongest understanding of the AIA's immediate applicability in the EU and its potential for national transposition. MPA and CSW misinterpreted the legal character of the AIA. While all agreed that national legislation could complement the AIA, MPA preferred guidelines to legislation for reasons of flexibility and clarity. Opinions differed on the clarity and legal status of the preamble. Risk-based AI management was generally understood, with references to high-risk categories such as diagnostics and autonomous driving, although the examples remained general. In the second part of the study, participants addressed AI governance responsibilities. All recognised the EU AI Office as the EU-level imple-

menting body, and the Ministry of Digital Transformation as the Slovenian national authority. Views differed on whether central or line ministries should lead policy. Table 4 compares the expected and actual roles in the implementation of the AIA.

Table 4: *Expected vs. actual roles of ministries in implementing the AIA at the national level*

Ministry	Should	Experience up to 2025/1
MDT	1 = for MDT and CSW 2 = for MPA and FARS	1 = for MDT, MPA and FARS 2 = for CSW
MPA	3 = for MDT, MPA, FARS, CSW	1 = for CSW; 4 = for MDT, MPA and FARS
Line ministry (finance, social affairs)	3 = for MDT, MPA, FARS, CSW	2 = for CSW; 4 = for MDT, MPA and FARS

Note: 1 - key, supreme in both content and IT, 2 - central information role, not content-related, 3 - key in content, but supplementary regarding IT, 4 - no role.

Source: Authors.

Awareness and readiness for AI implementation varied. Operational authorities reported a particularly low level of readiness. In the focus group discussions, it was emphasised that digital literacy needs to be improved across society to increase trust in AI. Table 5 presents the self-assessments of the four authorities.

Table 5: *Self-assessment of authorities' awareness and readiness to implement the AIA (content-wise)*

	MDT	MPA	FARS	CSW
Awareness	inadequate but improving	inadequate but improving	(still) too low	(still) too low
Readiness	inadequate but improving	mostly good	inadequate but improving	(still) too low

Source: Authors.

Table 6 presents a ranking of measures to bridge awareness gaps and indicates the status of implementation. While all authorities prioritised

measures such as staff training, collaboration, and defined protocols, implementation was limited or delayed.

Table 6: *Measures to bridge the gap between awareness and readiness*

Measure	MDT	MPA	FARS	CSW
Additional financial, personnel, and informational resources	7	2	3	5
	Implemented by 2024/8	Implemented by 2024/8	No plan yet	No plan yet
Defined procedures/ protocols	2	1	4	6
	Planned in 2025	Planned in 2025	Planned after 2025	No plan yet
Consistent impact assessments (ex ante/ ex post)	1	4	8	4
	Planned in 2025	Planned in 2025	Planned in 2025	No plan yet
More cooperation between national ministries and operational service providers	4	8	5	1
	Planned in 2025	Planned in 2025	No plan yet	No plan yet
More cooperation/ information exchange in the EU at the same authority level	6	7	6	7
	Planned in 2025	Planned in 2025	No plan yet	No plan yet
More cooperation / information exchange between Slovenian authorities using AI systems	5	5	2	2
	Implemented by 2025/1	Planned in 2025	No plan yet	No plan yet
Training of staff	3	3	1	3
	Planned in 2025	Implemented by 2025/1	Planned after 2025	No plan yet
Training or providing more information to users/clients	9	6	9	9
	Planned after 2025	No plan yet	No plan yet	No plan yet
Measuring the perception of risks associated with using AI	8	9	7	8
	No plan yet	Planned after 2025	Planned in 2025	No plan yet

Note: The measures are ranked in order of importance, with 1 and 2 being the most important and 9 the least important.

Source: Authors.

Finally, the respondents assessed Slovenia's AI readiness relative to other EU countries. Most rated it as average or below average, pointing to the slow adoption of AI in both the business and public sectors, particularly in personal data protection and social services. The delays were attributed to limited awareness, unclear responsibilities, and a lack of AI-enabled operational systems.

5. Discussion

The Slovenian case shows a persistent discrepancy between the formal recognition of the AIA and its operational implementation. This gap can be better understood based on the interlinked but different dimensions of awareness, readiness, and application. In the context of AIA, awareness refers to the recognition of the AIA's legal status, its objectives, and its links to related EU legislation (e.g., GDPR, DSA). Readiness refers to the institutional capacity to build organisational structures, procedures, and resources to act on this awareness (Madan & Ashok, 2024). Finally, application involves the integration of AIA provisions into administrative practice. As the findings show, the hybrid legal-policy character of the AIA makes this development difficult, especially at the operational level, where formal awareness is often not translated into actionable readiness or compliant practice (Wörsdörfer, 2024). This hybrid character can be better understood through established EU legal principles, where binding regulatory norms coexist with non-binding policy guidance, reflecting a layered and flexible approach to governance.

From an administrative law perspective, the AIA represents a significant step forward—even though building on an existing framework, such as the GDPR—as it addresses key issues related to automated decision-making (ADM), and the use of AI by public authorities (Fernández-Llorca et al., 2024; Galetta & Hofmann, 2023). To bridge the gap between legal frameworks and real-world ADM practices, Palmiotto (2024) and the European Law Institute (2022) propose extending legal protection through a taxonomy that facilitates the analysis of fundamental rights (Gstrein, Haleem & Zwitter, 2024; Musch, Borrelli & Kerrigan, 2023). The integration of AI into public administration requires a systematic approach that combines big data, remote operations, efficiency gains, and sustainability, and is underpinned by responsible, explainable, and trustworthy systems, as emphasised by Babšek and colleagues (2025b). Ethical dilemmas, user involvement, objectivity, accountability for errors, and transparency must

be considered (Castán, 2024; Linhartova, 2022; State et al., 2025). It is crucial to protect privacy to prevent drifting into a surveillance society in which freedom is compromised.

However, the Slovenian case study shows notable gaps in awareness and understanding of the (legal) character of the AIA. These misinterpretations can lead to various detrimental outcomes, such as administrative inertia, inconsistent implementation by different authorities, delayed policy implementation, and increased legal uncertainty, which can ultimately undermine the protection of fundamental rights and the intended harmonisation of AIA in Member States. Differences persist between the institutional ministerial level and operational tax and social services, but even the institutional authorities often misinterpret the binding nature of the AIA, which undermines effective implementation across the EU (see Lind, 2023; Madan & Ashok, 2024). The complex nomotechnical design of the AIA complicates its implementation and limits the protection of data subjects, contributing to institutional ambiguity (Wörsdörfer, 2024). Systemic improvements are therefore urgently needed to remedy this. In Central Europe, where legal formalism prevails, legislation is still often seen as the most important lever for change. However, practical implementation depends not only on legal texts, but also requires coordinated organisational, managerial, HRM, and IT measures to effectively implement the rules and objectives of the AIA (Amin & Afiqah, 2024). The national analysis shows that while most authorities recognise the AIA as legally binding, some, such as the CSW, mistakenly believe that its obligations apply only to ministries, and not to all administrative authorities. Hereby, smaller states such as Slovenia often face greater challenges in interpreting and applying complex EU legislation. These difficulties have a direct impact on the objectives of important regulations such as the GDPR and the AIA (Bertaina et al., 2025; Rudolf & Kovač, 2024). To avoid implementation gaps, the European Commission and national executive authorities should draw up action plans at an early stage, and introduce mechanisms for monitoring and gap analysis once the AIA comes into force.

A key added value of the AIA, confirmed also by this study, is its risk-based classification system—ranging from unacceptable to minimal risk—coupled with its direct applicability across the EU. This framework is particularly relevant for public services, as it determines whether the use of AI is prohibited, restricted, or permitted (Beck & Burri, 2024). The role of an authority, whether as provider or user, also has a significant impact on its responsibility (Koivisto, Koulu & Larsson, 2024). The Slovenian study highlights transparency and human-centredness as core objectives of the

AIA (Schuett, 2024; Tartaro, 2023), yet it remains unclear whether all administrative authorities fully grasp this. While lower awareness among operational authorities is to be expected, such gaps are concerning at the ministerial level. The study found no national legal provisions addressing specific AIA risk levels, only hypothetical discussions. Despite the use of AI by FARS and CSW in high-volume administrative procedures, the AIA appears to be too general and insufficiently understood. A crucial distinction must be made between AI used for decision support, which can be outsourced, and AI employed for final decision-making, which must remain under control of accountable public authorities (Alfieri, Carocchia & Inverardi, 2022; Galetta & Hofmann, 2023).

The results of the study in relation to RQ 1, how the national administrative authorities understand the significance, scope, and content of the AIA, reveal persistent misunderstandings and contradictory interpretations. Even experienced authorities such as FARS and CSW, which had previously implemented GDPR-compliant systems, struggled with the complexity of the AIA. Although the regulation is formally binding and directly applicable, its structure, particularly the preamble, annexes, and penalty provisions, is unclear to both legal and technical professionals. This confirms the concerns expressed in the literature regarding the AIA's regulatory approach, scope of application, and protective effect (Boone, 2023; Castán, 2024; Fernández-Llorca et al., 2024). The core concept of AI also remains elusive in practice. In view of these challenges, future EU legislation should follow the principle of "less is more". While the study disproves the assumption that the AIA is merely a policy document, responses, particularly from CSW, show that this misunderstanding persists. Commonly cited problems include the lack of enforcement, unclear oversight, limited procedural safeguards, and insufficient consideration of sustainability—issues also highlighted in academic critiques (Wörsdörfer, 2024). These contrast with the more clearly defined procedural mechanisms and greater enforceability of the GDPR. The study also examined the authorities' awareness of institutional responsibilities. While all respondents correctly identified the European AI Office, roles at the national level remain unclear or overlap (Murko, Babšek & Aristovnik, 2024).

RQ 2 examines the extent of awareness and readiness of the Slovenian administrative authorities to implement the AIA, since the mere adoption of a regulation is not enough to bring about change. It must be accompanied by additional measures such as established procedures, impact assessments, staff training, inter-authority cooperation, and user training (Štefanišinová et al., 2021). Unfortunately, the results of this study do

not indicate a systemic positive outcome. The findings suggest that the lack of system awareness and readiness is widely recognised even in core ministries such as the MDT and MPA. To address this gap, ministries emphasise the importance of formalised procedures for the deployment and evaluation of AI systems, while operational authorities prioritise training for their staff. The results also show a discrepancy between the importance attached to certain measures and their planned implementation deadlines. Another problem is the unclear division of responsibilities, which causes operational authorities—particularly the CSW—to wait for guidelines and infrastructural support from the line ministries, resulting in inefficient or delayed implementation of AI.

The Slovenian case provides insights that can be extrapolated. The normative complexity of the AIA, combined with the lack of operational mechanisms, poses procedural challenges across the EU. However, some findings are specific to the small state context of Slovenia, such as the unclear coordination between central and line ministries in areas such as taxation and social services. These results provide a solid basis for further research. The “Brussels effect” expected by the AIA seems overly optimistic and could weaken the EU’s global legislative influence (Almada & Radu, 2024; Pagallo, 2023). The broader EU regulatory framework reflects the growing awareness of digital risks, but effective governance still requires clear legal foundations, proportionate safeguards, and the protection of individual rights (Galetta & Hofmann, 2023; May & Winchester, 2018). Even at the cost of global competitiveness, these safeguards are central to the European principle of the rule of law.

6. Conclusion

The AIA represents an important step in the EU’s AI governance and provides a model for a human-centred, ethical, and balanced regulation that combines fundamental rights and innovation. As a binding regulation, it applies directly in all Member States, but its implementation depends on the national administrative contexts. Its hybrid nature—part legal mandate, part policy guideline—raises questions about practical enforcement. Effective understanding requires both compliance with the legislation and adaptability to technological and institutional circumstances. The Slovenian case study highlights the main challenges in interpreting and implementing the AIA. While institutional actors largely see the AIA as a

binding law, operational authorities often treat it as a strategic guide. This divergence affects awareness and readiness, and shows that regulatory expectations need to be clarified and adjusted. Although the importance of the AIA is widely recognised, practical enforcement is hampered by vague procedures, limited coordination, and insufficient training. Structured measures are needed to address these issues, such as formal impact assessments, clearer role definitions, and greater inter-institutional cooperation at both the national and EU levels. Looking ahead, the integration of AI regulation into public administration must strike a balance between flexibility and the rule of law principles to preserve rights, accountability, and legal certainty. Bridging the gap between regulatory intent and operational practice is crucial. This case study thus offers valuable lessons for other EU countries in dealing with the complex, multi-level implementation of AI governance. Furthermore, Slovenia's experience illustrates how different national interpretations and levels of readiness can lead to friction in cross-border AI applications, underlining the need for greater coordination through mechanisms such as the European AI Office.

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THE ARTIFICIAL INTELLIGENCE ACT BETWEEN THE EU AND NATIONAL LEVELS: THE SLOVENIAN CASE STUDY

Summary

This article examines the complex legal and policy dimensions of the European Union's Artificial Intelligence Act (AIA), focusing on its implementation in Slovenia. Although the AIA is a binding regulation directly applicable in all EU Member States, its hybrid nature—part legal mandate, part policy guideline—creates interpretative and practical challenges, especially for national administrative authorities. Using a three-stage methodology (normative analysis, expert survey, and focus group discussions), the study examined how Slovenian authorities perceive the AIA's legal character, scope of application, and implementation obligations. Respondents included both institutional (ministries) and operational (tax and social services) authorities. While most recognised the formal status of the AIA as law, significant discrepancies were found in terms of awareness and readiness. Operational authorities such as the Centre for Social Work often viewed the AIA as a guideline rather than a binding regulation. Knowledge of related EU legislation (e.g., GDPR, Digital Services Act) varied from authority to authority, which impacted implementation strategies. The findings reveal three critical gaps: legal misinterpretation, institutional readiness, and actual application. Despite a shared understanding of the importance of the AIA, implementation measures, such as training, clear role definitions, and inter-agency collaboration, were insufficient or delayed. In addition, the authorities did not sufficiently recognise their role and the need for national coordination. The study concludes that effective implementation of the AIA requires not only legal clarity, but also structured action plans, sustained intergovernmental cooperation, and practical support mechanisms. These findings are especially relevant for smaller EU states, where legal formalism and limited resources hinder policy implementation. Slovenia's experience serves as a cautionary tale and a learning opportunity for other Member States grappling with the multi-level governance of AI regulation.

Keywords: Artificial Intelligence Act, EU regulation; legally binding vs. policy act, administrative authorities as AI providers/users, Slovenia

AKT O UMJETNOJ INTELIGENCIJI IZMEĐU EUROPSKE UNIJE I NACIONALNE RAZINE: STUDIJA SLUČAJA SLOVENIJE

Sažetak

Članak ispituje složene pravne i političke dimenzije Akta o umjetnoj inteligenciji (AUI) Europske unije s naglaskom na njegovu implementaciju u Sloveniji. Iako je AUI obvezujući propis koji je izravno primjenjiv u svim državama članicama EU-a, njegova hibridna priroda, koja se sastoji od pravnih odredbi i političkih smjernica, stvara interpretativne i praktične izazove, posebno za nacionalna upravna tijela. Koristeći trodijelnu metodologiju (normativna analiza, anketiranje stručnjaka i rasprave u fokus grupama), studija ispituje kako slovenska javnopravna tijela percipiraju pravni karakter, opseg primjene i provedbene obveze AUI-ja. Ispitanici predstavljaju i institucionalna (ministarstva) i provedbena (porezne i socijalne službe) tijela. Iako je većina prepoznala formalni status AUI-ja kao zakona, utvrđene su značajne razlike u pogledu svijesti i spremnosti za njegovu provedbu. Provedbena tijela poput Centra za socijalni rad često AUI smatraju smjernicom, a ne obvezujućim propisom. Poznavanje srodnog zakonodavstva Europske unije (npr. Opće uredbe o zaštiti osobnih podataka i Akta o digitalnim uslugama) razlikuje se od tijela do tijela što utječe na strategije provedbe. Nalazi otkrivaju tri kritična nedostatka: pogrešno pravno tumačenje, institucionalnu spremnost i stvarnu primjenu. Unatoč sličnom razumijevanju važnosti Akta o umjetnoj inteligenciji, provedbene mjere poput obuke službenika, jasne definicije uloga i međuorganizacijske suradnje, bile su nedovoljne ili su kasnile. Osim toga, vlasti nisu dovoljno prepoznale svoju ulogu i potrebu za nacionalnom koordinacijom. Studija zaključuje da učinkovita provedba AUI-ja ne zahtijeva samo pravnu jasnoću, već i strukturirane akcijske planove, održivu međuorganizacijsku i međurazinsku suradnju, koordinaciju te praktične mehanizme podrške. Navedeni zaključci posebno su relevantni za manje države Europske unije gdje pravni formalizam i ograničeni resursi ometaju provedbu politika. Iskustvo Slovenije služi kao opomena i prilika za učenje drugim državama članicama koje imaju poteškoća s višerazinskim pristupom reguliranju umjetne inteligencije.

Ključne riječi: Akt o umjetnoj inteligenciji, uredba Europske unije, pravno obvezujući akt / policy dokument, upravna tijela kao pružatelji i korisnici umjetne inteligencije, Slovenija

The Role of Electronic Records Management Systems in Enhancing Accountability in Educational Institutions: Evidence from Indonesian Senior High Schools

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This study aims to explore how Electronic Records Management Systems (ERMS) can strengthen accountability in schools through three main objectives: analysing the role of ERMS in supporting school accountability, measuring the quality of ERMS based on user responses, and assessing the impact of ERMS use on archivist performance. Data were collected from 40 ERMS users and observations of 20 archivists. The results showed that ERMS has excellent quality in terms of reliability, information quality, service, objectivity, user satisfaction, and net benefits. Analysis of document availability based on eight national education standards revealed a high level of document availability and completeness, which supports school accountability. ERMS has been shown to improve the efficiency and accuracy of archivists' work and their ability to find documents in less than a minute. The study concludes that ERMS is a very valuable tool in supporting user tasks, strengthening accountability and transparency in education management.

Keywords: electronic records management systems, school accountability, document management, information system quality, archivist work efficiency, Indonesia

1. Introduction

Advancements in Information and Communication Technology (ICT), especially the Internet, have triggered significant digital transformations in various sectors, including educational administration. This digitalization includes major changes in the way records are managed, from creation to storage, which was previously done manually with paper records. Today, electronic records have replaced these old methods, introducing new, more efficient and organized ways of managing information (Meru & Kinoti, 2022; Newa & Mwantimwa, 2019). The application of ICT in records management not only increases accessibility and efficiency, but also has a profound impact on the administrative system in the education sector.

Even though the implementation of electronic records has grown, most archiving practices in many Indonesian schools and universities are still done manually. These traditional records management systems often face

various problems such as limited accessibility, the possibility of errors, and the risk of data loss. This reliance on manual methods hinders schools' ability to achieve effective accountability, which is critical in ensuring that resources are managed well and policies are implemented according to established standards (Guffin, 2020; Wamukoya & Mutula, 2005; Issa & Wamukoya, 2018; Setyawan, Sugiyono & Yuliana, 2024). Paper-based record management is still widely used, especially for maintaining legacy documents due to their physical authenticity. However, this approach is increasingly seen as unsustainable and inefficient.

Accountability is a fundamental element in management and public policy, including in the educational context. Accountability is important for various reasons, including accreditation assessments determined by accreditation agencies. Thus, accountable institutions can provide evidence of performance that has been carried out during the assessment period. Macheridis and Paulsson (2021) argue that accountability is emerging as a strengthened requirement in two areas of education: quality assurance systems inspired by new public management, especially evaluation and accreditation; and performance measurement, including financial evaluation and assessment. Carey (2007) argues that external accreditation as a source of accountability can be very close to self-accountability because it is a process of internal and external learning and review.

Cochran-Smith (2021) states that accountability has long been considered a powerful policy tool for improving the quality of education, including in terms of accreditation requirements. Hoffman (2013) also affirms that implementing accountability and accreditation will provide better added value and innovation capacity to respond to global challenges. Therefore, accountability will always be closely attached to the accreditation of educational institutions, as various pieces of information and evidence are needed to measure institutional performance during accreditation assessments.

However, without the support of modern technology such as Electronic Records Management Systems (ERMS), achieving effective accountability becomes a major challenge. Although ERMS are necessary for organizations to improve their performance, many organizations have not started their implementation, while some others try to implement them without a proper model, thereby leading to ineffective and erroneous implementation (Mukred et al., 2022). Manual document management systems are often inadequate to ensure the transparency and accuracy required for good accountability (Bovens, 2007).

To address these issues, ERMS offer significant solutions. By using ERMS, schools can gain benefits such as faster and easier access to doc-

uments, reduced risk of errors and data loss. In addition, ERMS provides better tracking and monitoring features, as well as a clear and measurable audit trail, which can increase transparency in records management (Wahid et al., 2022). Implementation of this system has the potential to improve accountability by providing a consistent and integrated platform for document management.

In support of this, Brooks, Yeadon-Lee and Gill (2024) state that computational archival science has become an urgent necessity and should be included in educational curricula to equip graduates with the skills necessary for handling, analysing, preserving, and accessing digital archives using relevant technologies. The importance of ERMS also appears in sensitive fields like health care, where digital archiving systems are critical for protecting patient privacy and data security (Jakhar et al., 2024). However, in many developing countries like South Africa, challenges such as lack of skills, management support, resources, and legislative frameworks still hamper effective implementation. Matlala and Ncube (2024) found that although electronic records are vital for service delivery, current record management programs are inefficient, ineffective, and do not comply with legal standards.

Given the increasing importance of digital archiving, continuous testing of ERMS security and accuracy is being conducted using various software tools (Shekgola & Ngoepe, 2025). Meanwhile, empirical studies on archival practices in higher education are still rare in developing countries, making field-based assessments necessary (Bajwa & Rafiq, 2023). Archives and records are important resources for individuals, organizations, and states. Academic records are created and maintained to support effective functioning of educational and corporate institutions (Moid et al., 2024). Digital transformation of paper-based records is also recognized for contributing to sustainable development by reducing paper use and thus supporting environmental conservation (Bravo et al., 2025).

Standardization is also essential in this digital transformation. According to Katuu (2024), standardization aims to establish consistent rules that ensure uniformity across time and jurisdictions through mutual agreement. This consistency is critical for interoperability and compliance. The vital role of technology advancement in society has consistently emerged in the education sector. Digital records management is becoming the transitional path for delivering content, materials, and institutional data for educational purposes (Huda et al., 2023).

Based on these considerations, we see that Semarang City is a strategic research location to represent the Central Java province. Central Java has

a total of 868 public and private high schools, with Semarang City having the highest concentration of 72 schools and a school population of around 31,289 individuals. This generates a large volume of both personal and institutional documents, demanding transparent and accountable record management practices. Therefore, although our sample of 40 archivists may seem limited, they were selected purposively based on their direct involvement in archival management in a complex archival environment. This gives the study strong contextual depth, even with limited generalizability, and provides a basis for further extended and longitudinal research. This article aims to explore how ERMS can strengthen accountability in schools through three main objectives. First, we will analyse the role of ERMS in supporting school accountability, focusing on how this technology improves archiving and document management processes. Second, this article will measure the quality of the ERMS that has been developed by evaluating user responses as the main indicator of the quality of the system. Third, we will assess the impact of using an ERMS on the performance of archivists by comparing their performance before and after implementing the system. This performance measurement is important to assess the effectiveness of ERMS in providing documents as evidence of accountability.

2. Literature Review

2.1. Educational Accountability in Indonesia

Educational accountability in Indonesia is a crucial issue that continues to attract attention from various stakeholders. It refers to the responsibility of educational institutions to report their performance and outcomes to the government, parents, and the broader community. In response, the government has introduced several policies, such as national education standards and teacher performance assessments to enhance transparency and accountability in the education sector.

Despite these efforts, the practical implementation of educational accountability still faces significant challenges. These include a lack of transparency and information openness in many schools (Androniceanu, 2021; Ramirez-Montoya, 2020), as well as limitations in the capacity and competence of educational personnel (Saniuk, Caganova & Saniuk, 2023).

In this context, technological integration is seen as a critical solution. The current study views the adoption of Electronic Records Management

Systems (ERMS) as a strategic approach to overcoming these challenges, as mentioned by Mukred and colleagues (2019). ERMS can facilitate structured documentation, efficient data management, and real-time reporting, which are essential for ensuring accountability. As Davies and West (2013) argue, school management information systems based on technology can enhance the speed and accuracy of reporting processes. This study specifically investigates how ERMS supports the documentation needed to provide evidence of school accountability.

2.2. ERMS Concept to Support School Administration

Electronic Record Management Systems (ERMS) is an increasingly important concept in supporting school administration. ERMS is a system used to manage and store various types of documents and data electronically, which allows more efficient and structured access to and management of information. In the context of school administration, ERMS can be used to manage student data, academic records, financial documents, and various other types of reports (Bravo, Nistor & Ramírez, 2021; Saputra, 2020).

The use of ERMS in school administration provides various benefits. One of the main benefits is increased operational efficiency, where administrative processes can be carried out more quickly and with a lower error rate (Mohamed et al., 2022). Apart from that, ERMS also allows for safer and more protected data storage, reducing the risk of loss or damage to physical documents (Hopkin, 2018). Implementing ERMS can also support transparency and accountability in school administration. With this system, all data and information can be accessed and monitored by authorized parties more easily, thereby enabling better monitoring of administrative performance. Apart from that, ERMS also makes the audit and assessment process easier, because all documents and data are well structured and documented (Kiu et al., 2024).

2.3. ERMS to Support School Accountability

Electronic Record Management Systems also play an important role in supporting school accountability. With ERMS, schools can manage and store all documents and data related to performance and administration electronically, which simplifies the reporting and evaluation process (Oktarina et al., 2023). This is essential for ensuring that schools can provide accurate and transparent reports to interested parties.

One of the main advantages of ERMS in the context of accountability is its ability to increase transparency. With this system, all data and information can be accessed in real-time by authorized parties, making it easier to monitor and assess performance (Ngcobo et al., 2024). Apart from that, ERMS also allows for more secure and structured data storage, reducing the risk of data manipulation or loss (Bravo, Nistor & Ramírez, 2021). Apart from that, ERMS also facilitates the audit and inspection process by external parties. With all documents and data stored electronically, the audit process can be carried out more quickly and efficiently. This also helps in identifying areas that need to be repaired or improved, so that schools can continue to make improvements and improve quality on an ongoing basis (Wahid et al., 2022). Ultimately, implementing ERMS to support school accountability requires commitment from all parties, including school management, teachers and administrative staff (Mohamed et al., 2022). Adequate technological support and continuous training for all system users are also very important to ensure that ERMS can function optimally in increasing school accountability (Mahama, 2017).

3. Methodology

Mixed qualitative and quantitative methods were applied in this research. Mixed methods research is an approach that combines quantitative and qualitative research methods in the same research investigation. Such work can help develop rich insights into a variety of interesting phenomena that cannot be fully understood using only quantitative or qualitative methods (Venkatesh, Brown & Bala, 2013). Qualitative methods are applied to answer RQ1 and RQ3, while quality is determined in RQ2 through questionnaire analysis. An analysis of the interaction between quantitative and qualitative methodologies in mixed methods research pays attention to the differences in meanings commonly used to describe description, combination, and integration. These interactions are analysed in the context of the phases that occur before the results and their interpretation.

3.1. Participants

This study involved 40 archivists (27 women and 13 men) from both public and private senior high schools in Semarang City, Central Java. Participants were selected using purposive sampling, a method appropriate for qualitative inquiry as outlined by Patton (2014). Semarang was chosen

as the study site because it has the highest concentration of senior high schools in Central Java: 72 out of a total of 868, serving approximately 31,289 students and staff. The volume and diversity of records generated in this context, including both personal and institutional documents, present complex archival challenges. Despite the relatively small sample size, the strategic selection of participants in a city with high archival demands offers meaningful contextual insights. This focused approach allows for an in-depth examination of electronic records management system (ERMS) implementation within a representative urban educational setting and provides a valuable foundation for future research with broader or longitudinal scopes.

Sampling was carried out using the purposive sampling method, which is commonly applied in qualitative research to select information-rich cases that are especially relevant to the research objectives (Patton, 2014). In this study, participants were selected based on specific inclusion criteria to ensure relevance and expertise. These criteria included:

- 1) individuals currently serving as archivists or personnel responsible for managing school records;
- 2) having a minimum of one year of experience in archival duties within a high school setting;
- 3) representing a diverse range of institutions, including both public and private senior high schools.

The selection aimed to capture variations in archival practices and challenges across different administrative and organizational contexts. By focusing on individuals directly engaged in record management activities, the study sought to obtain deep, contextually grounded insights into the implementation of ERMS in the education sector.

3.2. Data Collection

Data was collected using three main techniques: interviews, questionnaires, and observation. Interviews were used as the main data source to capture phenomena in the field, conducted with 20 archivists in several schools. Questionnaires were distributed to 40 archivists to assess the quality of the existing archiving system. Observations were carried out randomly on 20 archivists to understand changes in their performance patterns. The data obtained is summarized in research results, which are considered representative for all participants.

Data analysis was carried out using the analysis model developed by Miles and Huberman (1984), which consists of three stages: data reduction, data display, and conclusion drawing or verification. In addition, the data in this research has undergone a triangulation process to increase the credibility and validity of the findings. Triangulation aims to reduce, eliminate, or compensate for the weaknesses of a single strategy, thereby increasing the interpretability of findings (Thurmond, 2001).

3.3. Instruments

In this study, we used three main measurement approaches to evaluate various aspects of the ERMS. These approaches are designed to provide a comprehensive picture of system effectiveness from various perspectives, including the quality of the system itself, its support for accountability, and its impact on archivist performance.

First, we assessed the quality of the ERMS from the user's perspective. For this purpose, we adopted instruments that have been developed by several leading researchers, including DeLone and McLean (1992; 2003) and Lutfi (2023). This instrument allows us to evaluate various dimensions of system quality such as reliability, usability, and user satisfaction. We also paid attention to aspects of validity and reliability in measurements to ensure that the assessments we carry out are accurate and consistent.

Second, we measured ERMS support for accountability. Based on the views of Königstorfer and Thalmann (2022) and Bennett and Hatfield (2012), good documentation is an important source of audit evidence and serves as a tool to ensure accountability. The instruments used in this measurement were adapted from Cavalluzzo and Ittner (2003), Akbar et al. (2012), and Wang (2002), with special adjustments for the Indonesian context. This measurement aims to evaluate how well the ERMS supports the audit process and organizational transparency.

Third, we analysed the performance of archivists by comparing conditions before and after using ERMS. This measurement focuses on speed and accuracy in retrieving the required archives, in accordance with the theory proposed by Gie (2000). This evaluation helps us to understand how ERMS affects archivists' work efficiency in terms of searching and managing records.

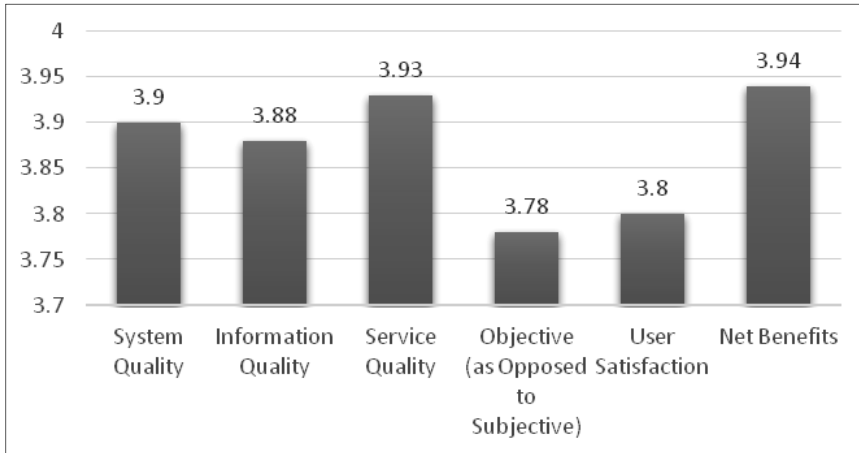
4. Results and Discussion

4.1. Results

The results of this research are described in accordance with the research objectives. First, we analysed questionnaires distributed to 40 archivists to get a direct assessment of the quality of the ERMS from the user's perspective. This assessment aims to evaluate the extent to which the existing system meets the needs and expectations of users in managing records electronically. Respondents were asked to rate various aspects of the system, including ease of use, reliability, and operational efficiency. The data obtained from this questionnaire provides an initial picture of user assessments of ERMS quality, as well as areas that require further improvement.

Practitioners are advised to implement a success measurement program that includes six dimensions of Information Systems (IS) success: System Quality, Information Quality, Service Quality, Objective (as opposed to Subjective), User Satisfaction, and Net Benefits. In the context of this research, assessing the quality of ERMS does not only look at the technical aspect, but also the impact it produces on individual and organizational performance as a whole. System Quality includes aspects such as reliability, usability, and efficiency. Information Quality assesses how accurate, relevant, and timely the information produced by the system is. User Usage and Satisfaction reflect how frequently and satisfactorily the system is used, while individual and organizational impact assesses the positive changes the system produces on performance and productivity. We present the results of the questionnaire analysis below.

Figure 1: Analysis of ERMS quality according to user perspective



Source: Authors.

Table 1: Analysis of ERMS quality according to user perspective

Measurements	Description
System Quality	Users recognize that ERMS has high system quality. It covers aspects such as reliability, ease of use, and overall performance of the system.
Information Quality	Users admit that the quality of information produced by ERMS is very good. This includes accuracy, relevance, completeness, and ease of understanding the information provided by the system.
Service Quality	Users acknowledge that ERMS provides excellent service quality and meets their needs. This includes technical support, responsiveness and service availability.
Objective (as Opposed to Subjective)	Users feel that ERMS provides an objective assessment to use. This means that this system is assessed based on clear data and facts, not based on subjective opinions or perceptions.
User Satisfaction	Users feel that ERMS provides adequate satisfaction. This includes satisfaction with the features, usability, and results obtained from using the system.
Net Benefits	Users experience significant benefits from using ERMS. This includes increased efficiency, productivity, and other benefits derived from the system.

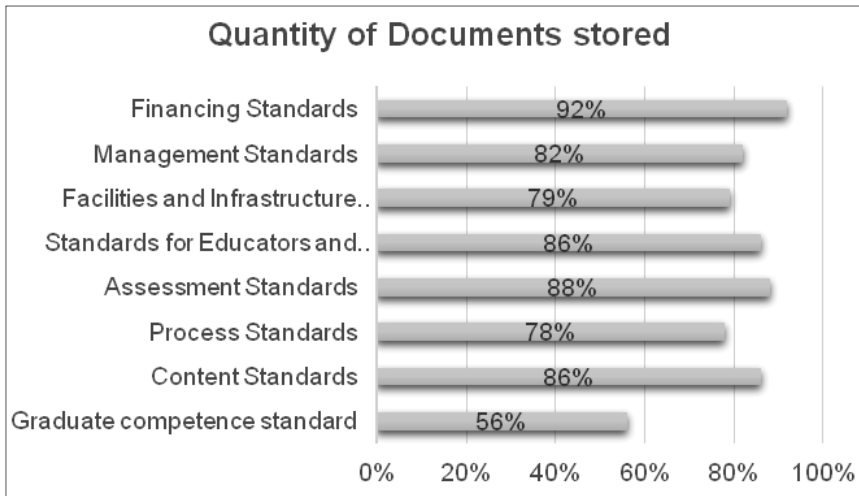
Source: Authors.

Based on Figure 1, it was found that measurements from 40 ERMS users showed that this system had very good quality in various important aspects. System Quality received an average score of 3.90, indicating that users highly value the system's reliability, ease of use, and overall performance. Information Quality was also rated high with an average of 3.88, reflecting that users feel that the information provided by ERMS is accurate, relevant, complete and easy to understand. Furthermore, Service Quality received an average score of 3.93, indicating that the service provided by the ERMS support team is very satisfying and in accordance with user needs. The Objective aspect of ERMS received an average score of 3.78, indicating that users feel this system provides objective assessments based on clear data and facts. In terms of User Satisfaction, ERMS received an average score of 3.80, which indicates a fairly high level of user satisfaction regarding the features, usability and results obtained from the system. Lastly, Net Benefits from using ERMS received the highest score with an average of 3.94, reflecting that users experience significant benefits, including increased efficiency and productivity. Overall, these data show that ERMS successfully meet and even exceed user expectations in various aspects of performance and quality, making them an invaluable tool in supporting user tasks and goals.

Next, we attempted to analyse the availability of documents kept by schools based on eight national education standards in Indonesia, which resulted in several important findings. Our analysis corroborates the views of Königstorfer and Thalmann (2022) and Bennett and Hatfield (2012), which emphasize that good documentation is an important source of audit evidence and serves as a tool to ensure accountability. The instrument used in this measurement was adapted from research by Cavalluzzo and Ittner (2003) and Akbar, Pilcher and Perrin (2012), with special adjustments for the Indonesian context.

The purpose of this measurement is to evaluate how well the ERMS support the audit process and organizational transparency. Results show that ERMS play an important role in document storage and management, which in turn supports accountability and ensures that national education standards are met. ERMS support to the audit process not only helps in providing the necessary evidence, but also increases the overall transparency of the organization, which is a crucial aspect in educational management. The results are presented in the table below.

Figure 2: Analysis of Document Availability in ERMS



Source: Authors.

Our analysis of document availability based on eight national education standards in Indonesia shows variations in the level of availability and completeness that supports school accountability. The Graduate Competency Standards have 56% of the documents available but are incomplete, indicating a need for improvement. Content Standards (86%) and Standards for Educators and Education Personnel (86%) have very complete documents, ensuring good curriculum and teaching staff management. Process Standards (78%) and Facilities and Infrastructure Standards (79%) have complete documents, support the learning process and adequate facilities. Assessment Standards (88%), Management Standards (82%), and Financing Standards (92%) have very complete documents, enabling accurate student evaluation, good school management, and transparent financial management. Overall, high document availability in most standards indicates that the school has a good documentation system, supporting accountability, transparency, and enabling an effective audit process.

Finally, we observed 20 school archivists. The purpose of this measurement is to evaluate the speed and accuracy in rediscovering the required archives, in accordance with the theory proposed by Gie (2000). This evaluation helps us understand how ERMS affect archivists' work efficiency in searching and managing records.

Good documentation is an important source of audit evidence and thus a tool for ensuring accountability. By measuring the work efficiency of archivists through ERMS, we can assess the extent to which this system supports accurate and fast records recording and tracking, which ultimately contributes to school transparency and accountability.

Table 2: *Analysis of Archivists performance using ERMS*

Performance	Results Analysis
Timeliness	20 archivists were tested, and all were able to retrieve the required digital records in less than one minute, demonstrating high efficiency in archive search using the ERMS.
Accuracy	18 out of 20 archivists successfully identified and corrected at least two intentional filing errors or document mix-ups, indicating a high level of precision in record retrieval and error detection.

Source: Authors.

Table 2 shows the results of the analysis, which indicates that of the 20 archive officers, all were able to find the required archives in less than one minute, showing very high speed. In terms of accuracy, 18 out of 20 archive officers were able to find the archives correctly, while two officers made mistakes or were confused. Good documentation is an important source of audit evidence and thus a tool for ensuring accountability. By measuring the work efficiency of archivists through ERMS, we can assess the extent to which this system supports accurate and fast record recording and tracking, which ultimately contributes to school transparency and accountability.

4.2. Discussion

This study offers meaningful theoretical and practical contributions to understanding how ERMS reinforce accountability frameworks in the education sector, particularly within schools. The findings confirm that ERMS demonstrate high quality across several dimensions: system reliability, information accuracy, service responsiveness, objectivity, user satisfaction, and perceived net benefits. These align with the DeLone and McLean (1992; 2003) Information System Success Model, which suggests that information system success is driven by the quality of the system, the information it generates, and the services provided to users.

Building on this model, the study adopts a user-centred perspective as emphasized by Lutfi (2023), acknowledging that in public sector institutions like schools, system success is measured not just by technical performance, but also by its ability to enhance institutional governance, documentation integrity, and user empowerment. In this sense, ERMS function as more than an administrative tool; they become strategic mechanisms that embed accountability into everyday school operations.

Empirical evidence from the study illustrates that ERMS implementation significantly supports compliance with Indonesia's Eight National Education Standards (*Standar Nasional Pendidikan, SNP*), particularly in areas such as Content Standards, Teacher and Education Personnel, Assessment, Management, and Funding. The consistent availability and completeness of relevant documents indicate that ERMS promote structured documentation, thereby strengthening institutional accountability. These findings are consistent with Cavalluzzo and Ittner's (2003) argument that accurate documentation forms the backbone of transparency and accountability in public organisations.

Operationally, ERMS enhance the efficiency of archival management. Observations involving 20 school archivists show improvements in the speed and accuracy of document retrieval and storage. This leads to increased administrative productivity and better support for decision-making. Gie (2000) has long emphasized that efficient records management is key to institutional transparency and service delivery. In schools, which are frequently audited and monitored, these capabilities are vital for enabling real-time access to data, supporting internal evaluations, and responding promptly to external oversight requirements.

Moreover, accountability remains a central pillar in educational management and policy. Accreditation bodies and regulators require institutions to provide evidence of performance over time (Chisita & Tsabedze, 2021). Macheridis and Paulsson (2021) identify accountability as essential in two key areas: quality assurance systems based on new public management principles, and performance measurement, including financial and learning outcomes. Carey (2007) suggests that external accountability processes such as accreditation often mirror internal accountability mechanisms, while Cochran-Smith (2021) views accountability as a longstanding and powerful tool for enhancing education quality.

Crucially, ERMS also serve as enablers of governance legitimacy, with digital records functioning not just as administrative outputs, but as reliable audit trails. This supports the work of Bennett and Hatfield (2012), who highlight how well-maintained documentation fosters public trust in

organisational processes and strengthens mechanisms for monitoring and evaluation. In the school context, this translates to greater credibility during inspections and more transparent engagement with stakeholders. In addition to institutional impacts, the adoption of ERMS produces clear operational benefits. It enables centralized document storage, reduces redundancy, prevents data loss, and streamlines routine workflows. These efficiencies allow staff to reallocate time and resources towards teaching and student learning. ERMS also equip school leaders with actionable data, promoting evidence-based decision-making and policy implementation.

While the study focuses on internal system success, it is equally important to consider external environmental factors that influence ERMS adoption and sustainability. These include regulatory mandates, government funding, technical infrastructure, professional development policies, and support from local education authorities. For instance, the availability of internet connectivity, IT personnel, and consistent training can significantly shape the effectiveness of ERMS in rural versus urban schools. Moreover, external pressure from accreditation bodies and education ministries acts as both a motivator and benchmark for ERMS compliance and performance.

The long-term impact of ERMS also warrants greater attention. Beyond immediate operational efficiency, ERMS have the potential to transform school management practices over time. They enable longitudinal data collection, trend analysis, and institutional learning. As schools accumulate digital records, they build an organisational memory that can inform strategic planning, curriculum improvements, and responsiveness to emerging educational needs. Furthermore, over the long term, ERMS can enhance resilience by enabling institutions to adapt more swiftly to crises such as the COVID-19 pandemic, when remote access to documents becomes essential.

From a policy standpoint, these insights advocate for integrating ERMS within broader national digital education strategies. Ministries of Education and local governments can leverage ERMS as part of a comprehensive Monitoring and Evaluation (M&E) system that enhances transparency, strengthens governance, and supports the achievement of education-related Sustainable Development Goals (SDGs), particularly SDG 16 on strong institutions.

Our study contributes to the literature on information system success by showing that the effectiveness of systems like ERMS is realised when they:

(1) improve managerial efficiency; (2) support accountability through robust documentation; (3) facilitate compliance with regulatory standards; (4) are supported by enabling external factors; and (5) generate sustainable, long-term benefits for school governance. These findings reinforce the relevance of data-driven governance and digital transformation in education (Königstorfer & Thalmann, 2022; Akbar, Pilcher & Perrin, 2012). As such, ERMS should be viewed not only as a tool for record-keeping but as a catalyst for institutional strengthening and policy innovation.

5. Conclusion

This research successfully explores how ERMS can strengthen accountability in schools through three main objectives. First, the analysis shows that ERMS significantly improve the archiving and document management process, which is supported by the results of observations of 20 archivists. Second, the quality of the ERMS is assessed as very good based on user responses, which include system reliability, information quality, services provided, objectivity, user satisfaction and net benefits obtained. Third, the impact of using ERMS on archivist performance shows increased efficiency and accuracy, with most archivists being able to find documents quickly and precisely, which supports the school audit and accountability process.

Based on these findings, we recommend that schools continue to adopt and optimize the use of ERMS to improve document management and accountability. Ongoing training for archivists is required to ensure that they can make maximum use of this system. Additionally, regular evaluations of system performance and user satisfaction should be conducted to identify areas requiring improvement. Further research could focus on the long-term impact of ERMS use on school academic and operational performance, as well as further exploration of the integration of these systems with other educational technologies.

The primary strength of this study lies in its provision of strong empirical evidence on the role of Electronic Records Management Systems (ERMS) in enhancing institutional accountability in Indonesian secondary schools. The research employs a multidimensional evaluation framework based on the DeLone and McLean's (1992; 2003) Information System Success Model, measuring system quality, information quality, service responsiveness, objectivity, user satisfaction, and net benefits. This comprehensive

approach enables the study to offer insights into both technical performance and administrative impact. Notably, the study addresses a novel area of inquiry by evaluating document availability in alignment with Indonesia's *Standar Nasional Pendidikan* (SNP), a regulatory framework that is unique to the Indonesian education system. To date, very few empirical studies have examined the relationship between ERMS and compliance with the SNP. This contextual focus enhances the originality of the research and fills a significant gap in both domestic and international literature, where analyses of ERMS applications have typically overlooked localized education quality standards such as SNP. Furthermore, the integration of document-based performance metrics with user-centred system evaluations contributes to both scholarly advancement and practical policy recommendations in the field of digital education governance.

Despite its contributions, this study has several limitations. First, it only covers senior high schools in Semarang City, which, although recognized for having the highest concentration of such schools in Central Java, limits the generalizability of the findings to other regions with different contextual characteristics. Second, the sample size comprising 40 purposively selected archivists offers depth but not broad representation, which may not fully capture the diversity of archival practices across various institutional types and geographic areas. Third, the study's mixed-method approach, while providing rich data, remains exploratory in nature and depends significantly on subjective user perceptions. Fourth, the research does not comprehensively examine the influence of external organizational factors, such as institutional support, regulatory enforcement, or professional development policies, which may play a critical role in the successful implementation and sustainability of ERMS. These limitations suggest the need for future studies employing larger, more diverse samples across multiple regions and incorporating more objective performance indicators to further validate and expand the findings presented here.

Future research should expand the geographic scope and sample size to enhance representativeness. Employing advanced quantitative methods such as SEM or PLS can strengthen the analysis of variable relationships. Additionally, studies grounded in the TOE (Technology-Organization-Environment) framework could explore the role of external factors in ERMS success. Longitudinal research is also recommended to assess the long-term impact of ERMS on accountability and archivist performance in the education sector.

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THE ROLE OF ELECTRONIC RECORDS MANAGEMENT SYSTEMS IN ENHANCING ACCOUNTABILITY IN EDUCATIONAL INSTITUTIONS: EVIDENCE FROM INDONESIAN SENIOR HIGH SCHOOLS

Summary

This paper aims to explore how Electronic Records Management Systems (ERMS) can strengthen accountability in schools. We have three main objectives: analysing the role of ERMS in supporting school accountability, measuring the quality of ERMS based on user responses, and assessing the impact of ERMS use on archivist performance. Data were collected from 40 ERMS users and observations of 20 archivists. The results showed that ERMS has excellent quality in terms of reliability, information quality, service, objectivity, user satisfaction, and net benefits. Analysis of document availability based on eight national education standards revealed a high level of document availability and completeness, which supports school accountability. ERMS has been shown to improve the efficiency and accuracy of archivists' work, where the majority of archivists are able to find documents in less than a minute. The study concluded that ERMS are a very valuable tool in supporting user tasks, strengthening accountability, and transparency in education management. The study also recommends that schools continue to adopt and optimize the use of ERMS to improve document management and accountability. Continuous training for archivists is needed so that they can utilize these systems optimally. In addition, periodic evaluation of system performance and user satisfaction is needed to identify areas for improvement. Further research is recommended to explore the long-term impact of ERMS use on school academic and operational performance, as well as the integration of these systems with other educational technologies.

Keywords: *electronic records management systems, school accountability, document management, information system quality, archivist work efficiency, Indonesia*

ULOGA ELEKTRONIČKOG UPRAVLJANJA ZAPISIMA U PODIZANJU ODGOVORNOSTI U OBRAZOVNIM INSTITUCIJAMA: PRIMJERI IZ INDONEZIJSKIH SREDNJIH ŠKOLA

Sažetak

U ovom radu želimo istražiti kako elektronički sustavi za upravljanje zapisima (ESUZ) mogu ojačati odgovornost u školama. Imamo tri glavna cilja: analizirati ulogu ESUZ-a u podršci odgovornosti u školama, izmjeriti kvalitetu ESUZ-a na temelju odgovora korisnika i procijeniti utjecaj korištenja ESUZ-a na radni učinak arhivista. Istraživački podaci prikupljeni su od 40 korisnika ESUZ-a i opažanja 20 arhivista. Rezultati pokazuju da ESUZ posjeduje iznimnu kvalitetu u smislu pouzdanosti, kvalitete informacija, usluge, objektivnosti i zadovoljstva korisnika. Analiza dostupnosti dokumenata na temelju osam nacionalnih obrazovnih standarda otkrila je visoku razinu dostupnosti i potpunosti dokumenata što jača odgovornost škola. Pokazalo se da ESUZ poboljšava učinkovitost i točnost rada arhivista te većina arhivista može pronaći potrebne dokumente za manje od minute. Studija zaključuje da je ESUZ vrlo dragocjen alat za podršku korisničkim zadacima te za jačanje odgovornosti i transparentnosti u obrazovnom menadžmentu. Studija također preporučuje da škole nastave usvajati i optimizirati korištenje ESUZ-a kako bi poboljšale upravljanje službenim zapisima i dokumentima te osnažile odgovornost. Potrebna je kontinuirana obuka arhivista kako bi mogli optimalno koristiti ovaj sustav. Osim toga, potrebna je periodična evaluacija karakteristika sustava i zadovoljstva korisnika kako bi se utvrdila područja za poboljšanje. Preporučuje se daljnje istraživanje kako bi se istražio dugoročni utjecaj korištenja ESUZ-a na akademsku i provedbenu izvedbu škola, kao i integracija ovih sustava s drugim tehnologijama u sustavu obrazovanja.

Ključne riječi: elektroničko upravljanje zapisima, odgovornost škola, kvaliteta informacijskih sustava, radna učinkovitost arhivista, Indonezija

Reforming Military Law and Service in Ukraine: Lessons from the Military Police of Other Countries

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This article analyses military police systems in various countries, including the gendarmerie, and proposes reforms for Ukraine's military legislation and order. It highlights the need to strengthen the role of the military police in maintaining discipline, given its current limitations in criminal investigations and operational activities. Currently, military personnel must transfer cases to civilian law enforcement, causing procedural delays and weakening internal oversight. By examining models from the United States, Spain, France, and Turkey, the study demonstrates the benefits of granting military police greater investigative powers and specialised training. These international examples integrate military and civilian law enforcement methods to enhance discipline and legal order. The article proposes reforms to empower Ukraine's military police, including independent investigations, operational intelligence, and preventive measures. Strengthening these capabilities would improve discipline, prevent offenses, and enhance law enforcement within Ukraine's armed forces, ensuring a more effective and autonomous system of military justice.

Keywords: legislation, justice, enforcement, defence, security, military police

1. Introduction

The military actions launched by the Russian Federation against Ukraine drastically reshaped the landscape of Ukraine's legal, military, and secu-

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rity institutions. Facing an existential threat, Ukraine's government and armed forces have had to navigate a range of challenges, including military strategy, territorial defence, and the functioning of its justice system during wartime. The need for a resilient and effective military justice system, capable of maintaining discipline and ensuring accountability, has become increasingly urgent.

Ukraine's law enforcement framework is intricate (Polivanyuk, Zavis-tovskiy & Aslamov, 2024). A recent draft law, introduced on the website of the Ukrainian Parliament, represents a significant step toward formalising and professionalising military policing (Ukraine's lawmakers on..., 2024). As Ukraine undergoes this transformation, it has looked to various models of military justice and law enforcement worldwide for guidance.

One of the most influential models under consideration is that of the United States of America (U.S.). The American military justice system, as explored by Breen and Johnson (2018), offers a comprehensive structure that has been honed through decades of experience across different conflict zones. This analysis focuses on how Ukraine can draw from the U.S. system to build a military judicial apparatus that aligns with the European Union (EU) and the North Atlantic Treaty Organization (NATO) standards. The U.S. system, which combines strict legal oversight with a clear chain of command, provides a framework that ensures discipline, fairness, and efficiency in military operations. Given the complexities of Ukraine's current conflict, adopting certain aspects of this system could help address the challenges of maintaining order and discipline within its armed forces, especially under the strain of active warfare.

The abolition of military courts in 2010 was based on the assumption that Ukraine's peaceful coexistence with its neighbours made such a system redundant. However, as Vashakmadze (2018) points out, the unforeseen perspectives of full-scale war have fundamentally altered this perception. The paralysis of Ukraine's civilian judicial system during the first days of the invasion exposed the vulnerabilities of a state lacking a specialised military justice apparatus. In this context, the restoration of military courts is viewed as essential for ensuring legal oversight and operational integrity within Ukraine's armed forces.

Kaplina, Kravtsov and Leyba (2022) argue that the revival of the Ukrainian military justice is not merely a wartime necessity but a critical component of long-term state-building. Their research emphasises that military courts play a pivotal role in ensuring that legislation and order work, especially during peacetime. By examining international precedent and case

law from the European Court of Human Rights, the researchers provide a strong argument for the reintroduction of military courts, noting that their absence in a conflict-ridden nation creates gaps in accountability and undermines the overall legal system.

Beyond military justice, the organisation of Ukraine's broader security forces, including the police officers and additional enforcement organisations, also requires reform. The French gendarmerie, as discussed by Zarosylo and colleagues (2020), provides an interesting model for Ukraine to consider. The gendarmerie operates as a hybrid institution, combining military and civilian law enforcement functions. This duality allows it to be flexible in peacetime and wartime operations, contributing to public order, crime prevention, and internal security.

De Maillard and Skogan (2020) examine the complexities of policing in France, highlighting the competition and cooperation between the police and gendarmerie within a centralised system. Their research demonstrates how these institutions, while often at odds, can function effectively within a pluralised security framework. For Ukraine, which is currently managing both internal unrest and external aggression, understanding the balance between different security institutions is critical.

Turkey presents yet another interesting case study for Ukraine as it reforms its security institutions. Yilmaz (2020) examines the historical tension between the military and the police, particularly during the country's period of military dominance in domestic affairs. Analysis reveals that internal power struggles among security institutions can pose significant challenges to state stability, but these struggles can also lead to clearer definitions of institutional roles and responsibilities.

The psychological and political dimensions of military justice hold considerable importance for the Ukrainian nation, particularly due to the moral and ethical challenges posed by wartime conditions. Fearer (2023) provides an in-depth analysis of American prisoners of war (POWs) during the Korean War and the impact of brainwashing on national security perceptions. This historical example raises important questions about how military justice systems handle issues of loyalty, indoctrination, and betrayal during times of conflict and build a robust military justice system.

MacDonald (2023) highlights the long, tumultuous evolution of Spain's police system, emphasising the close relationship between the military and police forces during Franco's regime. While Spain's journey toward democracy involved the gradual separation of military and civilian roles, the historical overlap between these institutions is a reminder of how deeply intertwined they can become.

The analysis of these sources revealed that Ukraine's military and security reforms must address both immediate wartime needs and long-term state-building goals. Drawing on international models, the revival of military courts and restructuring of security forces are critical to enhancing legal oversight, accountability, and operational effectiveness in a conflict-driven environment. Our research aimed to explore international models of military justice and law enforcement and provide recommendations for Ukraine's military justice reform by achieving the following: assessing the modern state of Ukrainian armed forces judiciary and analysing the role of military justice during wartime.

2. Materials and Methods

The research was conducted between January and July 2024, focusing on analysing the military police forces in various countries, including Turkey, U.S., Spain and France, and applying these insights to propose reforms for Ukraine's Military Law and Order Service, and identifying practices that may be adapted to enhance the effectiveness of Ukrainian military justice system, particularly in the areas of investigation and maintaining internal discipline.

The study was conducted as a comprehensive comparative analysis. The research utilised a wide range of sources, including legislative documents, military regulations, academic articles, and government reports from several countries. The primary materials included national laws and regulations governing military police systems, such as the Uniform Code of Military Justice (U.S.) from 2019, Spain's military police framework (Law No. 11/2007), the French gendarmerie system (de Maillard & Skogan, 2020; Zarosylo et al., 2020), and Turkey's military police regulations (Kocanlı & Kasapoglu, 2021; Turkish Gendarmerie, 2024). These documents were obtained from online legal repositories, defence ministry publications, and academic libraries. In addition, Ukrainian legislation, including the 2002 legislation on the legal and order service in the Ukrainian army and various draft laws on military police reform, were analysed to understand the existing legal structure and limitations of the system of military legislation and order.

The research process was divided into several key phases. The first phase involved an extensive literature review, which included a historical analysis of military policing in Ukraine and other countries. This provided a found-

dation for understanding how military police forces evolved, and how they function in different legal and administrative environments. The historical context of military policing in post-Soviet Ukraine was a particular focus, with emphasis on the dissolution of military justice structures in 2012, and the impact this has had on military discipline and law enforcement.

The second phase involved the comparison of the military police systems in the U.S., Spain, France, and Turkey, which were carefully examined to identify their structure, powers, and operational roles. An investigation of each framework was conducted in terms of its administrative framework, the level of investigative authority granted to military police, their interaction with non-military law enforcement authorities, and the effectiveness of these systems in maintaining discipline and order within the armed forces. This comparison was used to draw attention to the divergences and commonalities between these states' systems and the existing Ukrainian system of military legislation and order service.

The third phase of the research focused on synthesising the comparative analysis findings with Ukraine's current needs. The analysis was used to develop a set of proposals aimed at reforming Ukraine's Military Law and Order Service, with specific recommendations for granting it greater investigative powers and operational independence.

3. Results and Discussion

3.1. France

Throughout history, the military justice systems of various states have grappled with complex issues related to the detection and prosecution of criminal offenses committed by military personnel. Initially, the military was treated as a distinct entity, largely isolated from civilian legislation due to its operation within closed environments and minimal interaction with the general populace. Consequently, when military personnel committed crimes, the responsibility for investigating and addressing these offenses often fell upon the leadership within military units and garrisons.

Despite this system, instances of minor offenses and crimes among servicemen were not uncommon. Traditionally, such offenses were managed internally by military commanders, who enforced penalties according to military statutes. However, significant changes began to emerge as societies around the world underwent democratisation. In Ukraine, factors

such as the continuous military action by Russia, the broader democratisation of society, and a re-evaluation of legal education and philosophy within the Armed Forces contributed to evolving approaches to military justice.

Globally, particularly in countries like the U.S., Germany, and France, the establishment of formal military justice and military police systems demonstrated a crucial evolution in the handling of military offenses (Maurer, 2023). These systems were created to address the unique nature of crimes committed by military personnel within a dedicated framework. In many developing countries, gendarmerie units were established to enhance military justice by investigating offenses and maintaining order. Historically, gendarmes were elite soldiers renowned for their heavy arms and mounted cavalry, a tradition dating back to the medieval period. The term gendarmerie originates from *gens d'armes* (literally “men-at-arms”) and has evolved to describe a specialised police force with military characteristics (Dahlberg & Stevnsborg, 2021).

Over time, various states' military justice systems have faced intricate challenges in detecting and prosecuting crimes committed by military personnel. Initially, the military operated as a separate entity, largely insulated from civilian laws, due to its confined environment and limited engagement with the general public. As a result, when military personnel committed offenses, it was often up to the leadership within military units and garrisons to investigate and handle these matters.

Today, gendarmes are understood in two primary contexts: in a strict sense, as a police force with formal military status that is partially answerable to the ministry of defence, and in a broader sense, as any police force possessing military traits related to organisational structure, institutional affiliation, doctrine, or weaponry, regardless of formal military status. The concept of the gendarmerie first emerged in the French Republic in the medieval period and gradually spread to other European countries such as Denmark, Italy, Spain (Dahlberg & Stevnsborg, 2021), and Hungary (Pihana, 2022). Originally created to maintain public order and conduct investigations, the gendarmerie served as a link between military and civil law enforcement.

In modern times, France continues to uphold its gendarmerie as a prominent institution with military status, operating alongside other law enforcement agencies, particularly the Police Nationale (Dahlberg & Stevnsborg, 2021). Gendarmes in France are responsible for investigating all offenses perpetrated by armed service members, and handling traffic

accidents and other events involving the military (de Maillard & Skogan, 2020). The gendarmerie's dual role as both a military and civilian police force highlights its unique position in enforcing law and order while adhering to military discipline and structure.

Despite this structure, minor offenses and crimes among soldiers were relatively frequent. Traditionally, these issues were addressed within the military hierarchy, with commanders enforcing penalties based on military rules. However, as global societies moved towards democratisation, significant shifts began to occur. In most countries of continental Europe, these units were subordinated to the command of the gendarmerie and were not under the direct command of military leaders (de Maillard & Skogan, 2020). Additionally, in European countries, separate units within the prosecutor's office were created to investigate criminal offenses committed by the military. The gendarmerie also tracked political criminals, identified them, and investigated offenses committed by the military.

The initial steps towards creating a force structure to address military offenses in France were taken during the Napoleonic Wars (Emsley, 2021). Napoleon recognised that his policies faced resistance from civilians and from within the military. Consequently, the gendarmes undertook operational measures not only in cities and villages among civilians but also within the army itself. This historical context underscores the evolution of military policing and its adaptation to both internal and external challenges.

The functions of the gendarmerie were extended to participation in peacebuilding missions. For instance, the French gendarmerie participated in a peacebuilding mission in Bosnia and Herzegovina and Kosovo territory in the 1990s (Duclos & Jouhanneau, 2019; Jagiełło-Szostak, 2019; Emous, 2023). The concept of the gendarmerie, a military force charged with police duties, has been adapted and adopted across various European and non-European countries, each tailoring it to fit their specific needs and contexts.

To enhance Ukraine's military justice framework, the establishment of a gendarmerie-like institution, modelled after the systems in France and other European nations, could prove beneficial. A specialised military police force would serve as an intermediary between military and civilian law enforcement, addressing offenses committed by military personnel within a structured legal framework. Such a system, which operates under the Ministry of Defence but retains partial autonomy, could promote adherence to both military discipline and civil law, ensuring accountability and transparency.

Furthermore, the creation of specialised prosecutorial units dedicated to investigating military offenses, as seen in numerous European countries, would provide Ukraine with an essential mechanism for upholding military legal standards. These units would be responsible for conducting thorough investigations and ensuring that military personnel are held accountable for any infractions, thus fostering a culture of legal integrity within the armed forces.

Additionally, incorporating a gendarmerie force into international peace-keeping operations, following the example of French participation in Bosnia and Herzegovina and Kosovo, would not only bolster Ukraine's global military standing but also enhance its capacity for conflict resolution and stabilisation missions. By adapting this model to its specific security and governance needs, Ukraine would further align with European legal and military norms, thus strengthening its domestic and international position in military governance.

3.2. Turkey

One of the examples of non-European countries with a developed gendarmerie system includes Turkey. The Turkish gendarmerie, a significant component of its law enforcement framework, reflects a complex and historical evolution of military-police functions. The Turkish gendarmerie is one of four key law enforcement services in Turkey, each with distinct responsibilities and operational domains (Kocanlı & Kasapoglu, 2021). These services include the Military Gendarmerie, Urban, Traffic Control, and Market Law Enforcement.

The Military Gendarmerie is the largest and most comprehensive branch among Turkey's law enforcement organisations. Its primary mandate is to uphold stability and enforce laws in remote and mountainous regions where the reach of city police forces is limited. The Military Gendarmerie operates across the entire country, excluding urban centres, and is responsible for overseeing military units stationed in these regions. Its expansive jurisdiction means that it contributes to ensuring security and stability in areas that are less accessible and more challenging to patrol. As a branch of the Turkish military, the gendarmerie operates under a military structure but performs civilian police functions (Turkish Gendarmerie, 2024). The Turkish Gendarmerie, also known as *Jandarma Genel Komutanlığı*, is a unit constituting the law enforcement system together with the Turkish General Directorate of Security (Madenüs, 2024). It is integrated into

the Armed Forces of Turkey, reflecting its military roots and structure. The head of the gendarmerie is directly accountable to the head of Home Affairs, highlighting the close coordination between military and civilian leadership in managing law enforcement responsibilities (Yilmaz, 2020).

The Turkish Gendarmerie represents a sophisticated model of military-police integration, combining traditional military discipline with civilian law enforcement duties. Its extensive jurisdiction and specialised functions across remote and metropolitan areas illustrate the versatility and importance of this institution in upholding societal stability and ensuring national protection. By drawing on historical precedents and adapting them to modern needs, Turkey's gendarmerie system remains pivotal in the country's law enforcement landscape, embodying a unique blend of military rigor and civilian oversight.

Drawing on the Turkish Gendarmerie model, Ukraine could significantly enhance its law enforcement framework by developing a similar military-police institution tailored to rural and hard-to-reach areas. Such a system would provide a robust mechanism for maintaining public order in regions where conventional police forces face operational limitations, particularly in rural and conflict-affected zones. The Turkish Gendarmerie's integration of military discipline with civilian law enforcement roles demonstrates a versatile and adaptive approach, which Ukraine could replicate to improve security and governance in geographically challenging regions.

Additionally, establishing clear distinctions between various law enforcement agencies, akin to Turkey's division of responsibilities between the military gendarmerie, city police, traffic police, and market police, would enable Ukraine to address specific security issues more efficiently. A specialised and segmented law enforcement structure allows for targeted responses to different types of threats, thereby optimising resource allocation and enhancing overall operational effectiveness.

Moreover, fostering coordination between military and civilian authorities in the management of law enforcement, as demonstrated by the Turkish model, would enhance accountability and operational oversight. By implementing these strategies, Ukraine could strengthen its law enforcement capacity, ensuring greater resilience in maintaining public order while aligning its security institutions with international standards for military-police integration.

3.3. The United States of America

Military police have been established in several other nations. The U.S. Military Police are considered the most famous and experienced military police. The establishment of military policing institutions started over two centuries ago. However, as an independent unit, the American Military Police Corps (2024) began performing tasks only in September 1941. At that time, America was already participating in World War II.

The practical tasks addressed by military police units have been refined and adapted based on the lessons learned from various contemporary armed conflicts involving American servicemen. In addition to these tasks, the military police have also taken on critical responsibilities, such as securing troop movement routes, conducting patrols in demilitarised zones, and facilitating the exchange and care of captured soldiers. Notably, during the early stages of the Korean War (1950–1953), the 55th Company of the U.S. Army's Armed Forces Law Enforcement was deployed to the region. In the initial months of combat, additional personnel from the American defence law enforcement, previously stationed in Japan as part of the occupation forces after World War II, were redeployed from Japan to support operations in Korea (Military Police Corps, 2024; Willbanks, 2008).

It is worth pointing out that the Military Police of the United States of America already after World War II began to encounter rather specific offenses committed by servicemen of the defence sector. For example, while the Korean War was ongoing, crimes such as the illegal sale of military equipment, fuel, food, etc., became quite widespread among American servicemen (Fearer, 2023).

During the Vietnam War, the spectrum of operations executed by the American armed forces law enforcement increased. Its establishment started to focus on combat-related tasks aimed at supporting and facilitating troop operations. This included overseeing the movement of refugees, safeguarding convoys and transport routes, dismantling enemy underground passages, and participating in defensive engagements (Allison, 2007; Hester et al., 1968).

In the present context, the significance of the military police in the U.S. has increased even more. As reported by American sources, during the Operations Desert Shield and Desert Storm, military police played a crucial role in ensuring security in combat zones and overseeing Iraqi prisoners of war (Carmichael & Anderson, 2021). Additionally, military police

units were actively involved in the operations of the American armed forces in Somalia, Haiti, and Bosnia and Herzegovina.

Following the Iraq invasion, units of the U.S. Armed Forces policing institutions guarded prisoners of war held by coalition forces, provided assistance to the troops during raids, provided convoys, and performed patrol functions. Currently, they are involved in rebuilding the local police in this country and training its personnel in community engagement and managing inmates in correctional facilities (Military Police Branch, 2024).

A key responsibility of these units during military conflicts is the work of maintaining discipline among military personnel and providing for captured soldiers. The tasks of the military police in peacetime are determined by carrying out a set of measures related to maintaining discipline and stability and legal authority in the troops, ensuring internal security, and sometimes eliminating the consequences of natural disasters. The legal power of the U.S. military police today also includes the task of investigating crimes committed by military personnel outside of their professional duties. In wartime, the U.S. military police is responsible for ensuring security and protection at division and corps command posts, managing traffic, overseeing the movement of refugees, and apprehending deserters.

As outlined in the governing documents, in a combat scenario, the U.S. military police are assigned several key responsibilities. These include facilitating troop movements during military operations, maintaining law and order throughout these operations, safeguarding critical areas and assets, assisting refugees and displaced individuals, and conducting operational intelligence activities (Demographics of the..., 2020).

Therefore, throughout its entire history, this force structure has had to tackle some of the most challenging tasks, and it continues to be one of the most essential branches of the U.S. Armed Forces. Each branch of the U.S. Armed Forces forms its own military police force. In addition, its own law enforcement structure was created as part of the Coast Guard. Simultaneously, the coordinated authority of military police units is absent in America.

The active personnel of the military, including the military police, comprised 1.9 million in 2019 (Babikov et al., 2024). A vast majority of people who have graduated from the Military Academy are recruited to the armed forces law enforcement institutions.

Candidates for service in the U.S. military police undergo appropriate basic training before taking up primary positions in the military police. This

foundational course spans 20 weeks and consists of both classroom instruction and practical field training. Throughout the programme, candidates undergo rigorous military training while also exploring various legal subjects. Aspiring military policemen study criminal and civil law, develop investigative techniques, learn how to collect evidence, understand crowd management, and practice the procedures for detaining suspects.

Based on the operational framework of the U.S. military police, Ukraine can implement several aspects to strengthen the effectiveness of military justice. Firstly, similar to the U.S. model, Ukraine should formalise a distinct military police corps with clearly defined roles and responsibilities. This structure would facilitate specialised training and operational effectiveness tailored to military contexts. Secondly, Ukraine can implement rigorous training programmes for military police personnel, mirroring the U.S. 20-week basic training course. This should encompass military operations, legal studies, crowd control, evidence gathering, and investigative techniques to prepare them for the diverse challenges faced in both times of peace and times of war. Thirdly, Ukrainian government can adapt the U.S. approach by integrating law enforcement functions within the military police, including the examination of crimes involving serving members, ensuring discipline, and managing internal security. This would allow for a more holistic approach to maintaining order within the armed forces. Besides, Ukraine can emphasise the importance of maintaining discipline within the armed forces, akin to the U.S. military police's focus on internal security, and establish clear mechanisms for addressing misconduct and ensuring accountability to build trust and integrity within the military police ranks.

3.4. Spain

The units of the armed forces policing institutions of Spain perform the same duties as the U.S. military police. The military police was created in the country in 1960. The entire personnel strength of the military police of the Spanish military structure is about 4,000 servicemen (Makeev, 2016). In peacetime and wartime, units of the Spanish military police perform the following tasks: maintaining peace and discipline within the military; organisation of security at armed forces' facilities, territory patrolling, protection of servicemen and their relatives; control over the behaviour of personnel and the operation of vehicles on the territory of compounds, parts, and subdivisions; prevention, identification, resolution, and re-

porting of offenses within the scope of expertise; ensuring the safety of the road traffic of military vehicles in the areas of military facilities, and outside the protected facilities during the advance of military echelons (columns) with equipment; searching, guarding, detaining and arresting servicemen who have committed disciplinary offenses or criminally punishable acts, to institutions of temporary detention and (or) execution of punishments; conducting inquiries or urgent investigative actions without the presence of policing authorities and under their mandatory mandate to carry out such measures; preparation of reports on the state and conditions of security at military facilities (MacDonald, 2023). Besides, the Spanish Civil Guard has exclusive authority in the areas of fiscal protection, custody of land communication routes, ports, and borders, and the inter-urban transport of prisoners (Europol Member States..., 2023). The duties of the Spanish military police also involve the country's safety in extraordinary cases, including the referendum initiated by the Catalan Parliament in 2017 (Bernat & Whyte, 2020).

The units of the Spanish military police do not have a common structure. Organisationally, they are part of the land forces, aerial forces, and maritime forces. In addition, in wartime, the Civil Guard (*Guardia Civil*) comes under the operational control of the primary headquarters of the Spanish ground forces and performs the functions of the armed forces policing institutions.

The Spanish armed forces institutions, including law enforcement, also participate in peacemaking missions and missions on establishing security to the world's poorest regions (de Castro et al., 2024). Spain has played a significant role in Operation Enduring Freedom, the International Security Assistance Force (ISAF), and the Resolute Support Mission, with the latter two being led by NATO forces (Rosendo, 2020). The initial group of 350 Spanish service members was dispatched in January 2002, in the aftermath of the September 11 attacks, signifying the start of a significant effort that eventually engaged more than 27,100 individuals devoted to promoting peace and stability in Afghanistan.

Throughout the ISAF operation from 2002 to 2014, the Spanish military made various contributions, involving elements from the army, navy, and air force to support the Afghan interim administration in upholding security. The army led the Badghis Provincial Reconstruction Team in Qalae-Naw, integrating both military and civilian staff via the Spanish Agency for International Development (AECID). The navy sent Tactical Air Control Teams (TACPs) and Mentor and Liaison Teams (OMLTs), while the

air force oversaw the Forward Air Base in Herat and the Medical Unit for Deployment Support.

The *Guardia Civil* also contributed to enhancing the functionality of the Afghan police through various contingents. Their efforts focused on training and mentoring local law enforcement, which made efforts to create the overall stability of the region and supported the Afghan government's initiatives to improve security infrastructure.

In 2015, NATO's Resolute Support Mission shifted focus to providing training, counsel, and assistance to Afghan security institutions and military forces. The Spanish government adjusted its participation in this operation in 2018 by deploying a special operations force, which has since been withdrawn. This comprehensive engagement highlights Spain's commitment to international security and its collaborative efforts in Afghanistan (Last Spanish Troops..., 2021). The last military troops, including police deployed from Afghanistan, returned to Spain in 2021.

In light of the operational framework and contributions of the Spanish military police, several strategic recommendations can be proposed for Ukraine to enhance its military policing capabilities and overall security infrastructure. Firstly, Ukraine should consider establishing specialised military police units that reflect the operational structure seen in Spain. These units would be tasked with enforcing law and order within the armed forces, ensuring security at military installations, and conducting regular patrols to maintain public order. Such an approach would facilitate a more disciplined military environment, contributing to overall stability within the armed forces.

Moreover, comprehensive training programmes tailored for military police personnel are essential. These programmes should emphasise investigative techniques, crowd control strategies, and effective law enforcement practices. By collaborating with international partners, including Spanish military police, Ukraine can enhance the training curriculum, incorporating the best practices and lessons learned from international deployments.

Inter-agency collaboration between military police and civilian law enforcement agencies is another crucial area of focus. This cooperation would ensure a coordinated response to security challenges, enabling effective prevention and investigation of crimes and disciplinary offenses. The establishment of a national civil guard or gendarmerie could further enhance this effort, allowing for operational flexibility in both civilian and military contexts.

Engagement in international peacekeeping missions, similar to Spain's contributions to ISAF and the Resolute Support Mission, would not only improve operational readiness but also foster experience among Ukrainian military police. Additionally, adopting community policing strategies that prioritise relationship-building with local populations can significantly enhance trust and cooperation between military and civilian entities.

To support these initiatives, a solid approach for monitoring and evaluating the impact of military police actions should be implemented. This would ensure continuous improvement based on empirical evidence and best practices from both domestic and international contexts.

3.5. From Soviet Legacy to Modern Military Law: Analysing Ukraine's Military Justice System

Before Ukraine's independence in 1991, its military justice bodies, including the prosecutor's Department of Armed Forces Affairs, were under Soviet control, with no independent Ukrainian entities overseeing military offenses or legal matters (Law No. 328-I..., 1989). After independence, the *Verkhovna Rada* (Ukraine's parliament) passed legislation to continue military courts for addressing military legal issues (Resolution of the Supreme Council of Ukraine No. 2979-XII..., 1993). Between 1993 and 2010, specialised military courts operated as part of Ukraine's general court system (Vashakmadze, 2018). However, the creation of a military police force was not addressed.

The increasing size of Ukraine's military after independence highlighted the need for a specialised body to handle traffic offenses by servicemen. The regular police lacked jurisdiction and expertise for such cases. In 1999, Ukrainian deputies passed legislation creating the Military Automobile Inspection, which created the Military Traffic Safety Inspection under the Ministry of Defence (Law of Ukraine No. 557-XIV..., 1999). This body was empowered to handle military traffic offenses and impose fines or refer cases for disciplinary action under the armed forces' Disciplinary Statute (Code of Ukraine..., 2024).

Despite these measures, a wider range of administrative offenses in the military remained unaddressed. Unit commanders, focused on operational duties, struggled to manage internal discipline. In response, Ukraine enacted the legislation, which regulated law enforcement within the armed forces in 2002, establishing the service system of armed forces leg-

isolation and order (Law of Ukraine No. 3099-II..., 2002). This special law enforcement unit was tasked with upholding stability, enforcing discipline, and guaranteeing servicemen's rights within the military (Kaplina, Kravtsov & Leyba, 2022).

A key component of Ukraine's military justice system is the dedicated prosecutor's office for issues concerning the military and defence sector, which handles pre-trial investigations of war crimes and prosecutes these cases (Kaplina, Kravtsov & Leyba, 2022). However, the office faces challenges due to martial law and ongoing Russian aggression, which complicates case management. The broader military justice system also lacks a dedicated military police force, and military courts remain underdeveloped, raising concerns about balancing human rights with military discipline (Maican, 2022).

The Military Law and Order Service plays a crucial role in military law enforcement. It prevents crime and administrative offenses within military settings, ensures public order in military units, enforces curfews, and handles military traffic safety. The service also handles specialised tasks such as guarding duty enforcement, administering criminal punishments, and overseeing prisoners of war. However, its authority and structure have limitations, particularly regarding its investigative functions. There have been calls to grant the law and order enforcement service in the military investigative powers similar to those of Ukraine's National Police, as its current framework is insufficient for addressing serious military offenses (Niebytov et al., 2022).

The post-independence development of Ukraine's military justice system has been slow, and improvements are needed in preventing, detecting, and addressing criminal offenses in the military. The Ukrainian legislation, which regulates the work of the prosecuting system, preserved the system of military prosecutors and courts (Law of Ukraine No. 1789-XII..., 1991). However, significant changes occurred in 2012 when a new Criminal Procedure Code eliminated the prosecutor's office for issues concerning the military and defence sector, affecting the management of legal matters pertaining to the armed forces (Law of Ukraine No. 1697-VII..., 2015).

In 2014, amidst Russian aggression, the Ukrainian legislation regulating the prosecuting sphere reintroduced prosecutors within the defence sector (Ignatieva, 2021; Criminal Procedure Code..., 2013). Despite this restoration, military courts remain absent, and serious military cases are adjudicated in regular district courts, impacting the efficiency of legal

proceedings in war crimes cases. Efforts to establish military courts have stalled, although their necessity is recognised in light of the ongoing conflict (van Landingham, 2023). Creating military courts would enhance legal proceedings, particularly for war crimes, drawing on the experiences of countries like the U.S., France, and Spain (Mihir, 2024).

Discussions about creating a military police force to replace the legal and order enforcement service in the military have occurred in the Verkhovna Rada, and several draft laws have been introduced (Draft Law of Ukraine No. 1805..., 2015; Bogutskyi et al., 2022; Zarosylo et al., 2020). However, none have advanced. Establishing a military police force is considered urgent, as it would formalise a full-fledged law enforcement body with investigative powers and strengthen Ukraine's military justice system.

To address these issues effectively, Ukraine must pass a comprehensive law on the military police to replace the Military Law and Order Service. This new law should define the armed forces policing as a regulatory institution with the authority to conduct pre-trial investigations and apply investigative techniques used by the National Police. Additionally, the establishment of armed force judiciary and the restoration of the office dedicated to prosecuting matters should be prioritised for enhancing the defence judiciary. Implementing these reforms, informed by international models, would enhance the efficiency of Ukraine's military justice system during a time of war (Baker, 2023).

Lastly, the handling of military violations during wartime requires careful consideration. Publicising the work of the legal and order enforcement service in the defence and other military law enforcement agencies should be limited to prevent the enemy from exploiting this information in propaganda efforts.

4. Conclusions

The trajectory of military justice and law enforcement in Ukraine, from its Soviet-era roots to its current state, underscores the significant need for reform to address both historical challenges and contemporary demands. The evolution of the defence judiciary system has been marked by efforts to modernise and adapt to the realities of an independent Ukraine, but it remains encumbered by inefficiencies and overlapping responsibilities.

Initially, Ukraine's military justice system was tightly controlled and integrated with Soviet practices, which centralised authority and constrained

the autonomy of Ukrainian institutions. This system, characterised by the office dedicated to prosecuting matters and defence judiciary institutions, was intended to maintain order and address criminal activities within the armed forces. However, the collapse of the Soviet state and the rise of Ukraine as a sovereign state necessitated a reconfiguration of these institutions to align with new national and military priorities.

The enactment of the Ukrainian legislation regulating the legal and order enforcement service in the army in 2002 was a pivotal step in reforming the military justice system. This law established the legal and order enforcement service, responsible for upholding law and order within the military, protecting the rights of servicemen, and safeguarding military property. Despite these advancements, the service has struggled with overlapping functions and inefficiencies that have impeded its effectiveness.

Significant legislative changes, such as the 2012 Criminal Procedure Code, which excluded the institution dedicated to prosecuting matters, further complicated the situation. Although defence prosecutors were reintroduced in 2014, the lack of dedicated military courts has meant that serious military-related cases are adjudicated by ordinary district courts, compromising the quality and efficiency of legal proceedings.

International experience provides valuable insights for Ukraine's reform efforts. The U.S. Military Police, with its extensive history of handling duties both during war and peace, offers a model of how specialised military law enforcement units can operate effectively within a broader military structure. Similarly, Spain's Military Police, though integrated within the branches of its armed forces and the Civil Guard, demonstrates a decentralised approach that could be adapted to Ukraine's context.

The demand for a specialised military police force in Ukraine is urgent. By addressing current inefficiencies, learning from international practices, and implementing necessary reforms, Ukraine can enhance its military justice system to better manage discipline, ensure security, and uphold legal standards within its Armed Forces. These reforms are essential for strengthening military governance and effectively addressing the complex challenges faced by Ukraine's military today. The limitation of this study involves the absence of investigation of the police systems of Eastern European and Asian countries with structures more similar to Ukraine's.

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REFORMING MILITARY LAW AND SERVICE IN UKRAINE: LESSONS FROM THE MILITARY POLICE OF OTHER COUNTRIES

Summary

This article offers an in-depth analysis of the military police systems in various countries, including the gendarmerie, and provides concrete proposals for reforming the Ukrainian system of military legislation and order. The study underscores the urgent need to strengthen the service's role in maintaining law and order within the Ukrainian Armed Forces, particularly given its current limitations in conducting criminal investigations and engaging in operational activities. At present, when criminal offenses are identified, military personnel are compelled to hand over cases to civilian law enforcement bodies such as the main police institution or the State Bureau of Investigation. This has not only caused procedural delays but also limits the military legislation and order system's ability to ensure effective oversight and discipline within the military ranks. By drawing on the experiences of military police structures in countries such as the United States, Spain, France, and Turkey, the article demonstrates the advantages of granting military police forces greater investigative powers and specialised training to handle military-specific offenses. The analysis highlights how these international models combine military and civilian law enforcement techniques to maintain discipline and legal order. The article proposes a series of reforms aimed at empowering Ukraine's system of military legislation and order, including granting it the authority to conduct independent investigations, engage in operational intelligence activities, and implement preventive measures. These reforms were intended to enhance the service's capacity to maintain discipline, prevent offenses, and improve the overall effectiveness of law enforcement within Ukraine's armed forces.

Keywords: legislation, justice, enforcement, defence, security, military police

REFORMA VOJNOG ZAKONODAVSTVA I VOJNOPOLICIJSKE SLUŽBE U UKRAJINI: ŠTO SE MOŽE NAUČITI OD VOJNIH POLICIJA DRUGIH ZEMALJA

Sažetak

Članak nudi dubinsku analizu organizacije sustava vojnih policija u raznim zemljama te daje konkretne prijedloge za reformu ukrajinskog sustava vojnog zakonodavstva i poretka. Studija naglašava hitnu potrebu za jačanjem uloge vojnopolicijske službe u održavanju zakona i reda unutar Oružanih snaga Ukrajine, posebno s obzirom na trenutna ograničenja u provođenju kaznenih istraga i sudjelovanju u operativnim aktivnostima. Trenutno, kada se utvrde kaznena djela, vojno osoblje prisiljeno je predati slučajeve civilnim represivnim tijelima kao što su policija ili Državni istražni ured. To ne samo da je uzrokovalo proceduralna kašnjenja nego ograničava i sposobnost vojnog zakonodavstva i sustava reda da osigura učinkovit nadzor i disciplinu unutar Oružanih snaga. Oslanjajući se na iskustva organizacije vojne policije u zemljama poput Sjedinjenih Američkih Država, Španjolske, Francuske i Turske, članak ukazuje na prednosti osiguravanja snagama vojne policije većih istražnih ovlasti, kao i specijalizirane obuke za rješavanje vojnih prekršaja. Analiza ističe kako navedeni komparativni modeli kombiniraju vojne i civilne tehnike provedbe zakona kako bi održali disciplinu i pravni red. Članak predlaže niz reformi usmjerenih na jačanje ukrajinskog sustava vojnog zakonodavstva i reda, uključujući davanje ovlasti za provođenje neovisnih istraga, sudjelovanje u operativnim obavještajnim aktivnostima i provedbu preventivnih mjera. Cilj je ovih reformi poboljšati sposobnost vojnopolicijske službe da održava disciplinu, sprječava prekršaje i poboljšava ukupnu učinkovitost provedbe zakona unutar ukrajinskih oružanih snaga.

Ključne riječi: zakonodavstvo, pravda, provedba, obrana, sigurnost, vojna policija

Prava građana u Krbekovoj doktrini upravnog prava

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Predmet rada znanstvena je djelatnost profesora upravnog prava Ive Krbeka u dijelu koji se odnosio na prava građana. Cilj je rada utvrditi osnovne postavke Krbekove doktrine o pravima građana te utvrditi eventualne promjene i prilagodbe stavova tijekom četrdesetogodišnje znanstvene karijere. U istraživanju su analizirana Krbekova djela nastala od početka njegova znanstvenog rada početkom dvadesetih godina 20. stoljeća pa sve do završne faze njegova rada šezdesetih godina 20. stoljeća. Autor je u radu utvrdio da je tijekom druge polovine 1930-ih godina Krbek napustio liberalnu doktrinu u pogledu prava građana, da je relativizirao koncepciju subjektivnih prava te da je prihvatio ideju o objektivnoj zakonitosti kao glavnoj svrsi pravnog poretka. Autor je u radu pokazao da je Krbek ove pozicije dodatno radikalizirao nakon Drugoga svjetskog rata kad je u skladu sa socijalističkim shvaćanjima prava građana učinio

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ovisnim o dužnostima te o općedruštvenim interesima socijalističke zajednice.

Ključne riječi: Ivo Krbek, prava građana, upravno pravo, subjektivna prava, socijalizam

1. Uvod

Ivo Krbek (1890. – 1966.) bio je gradonačelnik grada Zagreba (1932. – 1934.) te podban Banovine Hrvatske (1939. – 1941.), no ponajprije profesor upravnog prava i akademik. Nastavničku karijeru na Pravnom fakultetu u Zagrebu započeo je 6. kolovoza 1928. godine kad je izabran za docenta upravnog prava, zamijenivši na katedri profesora Vinka Kriškovića koji je upravno pravo predavao do 1926. godine (Ivančević, 1998).¹ Od tad pa sve do umirovljenja 1961. godine Ivo Krbek radi na Pravnom fakultetu Sveučilišta u Zagrebu. Iznimku predstavlja razdoblje Nezavisne Države Hrvatske (NDH) tijekom koje su vlasti NDH Ivu Krbeka uklonile s Pravnog fakulteta već tijekom svibnja 1941. godine. Iako je vraćen na Fakultet 27. siječnja 1944. godine, Krbek je ponovno izbačen s Fakulteta 24. srpnja 1944. godine (Hrvatski biografski leksikon, 2013, str. 87).

Profesor Krbek ostvario je bitan utjecaj na suvremenike kao i na kasnije naraštaje pravnika koji su se bavili upravnim pravom, bilo u znanstvenom ili u praktičnom radu. Krbekov rad u području upravnog prava doista je impresivan. Tek letimičan pogled na njegovo djelo ukazuje na činjenicu da je Krbek napisao mnoštvo knjiga te znanstvenih i stručnih radova u području upravnog prava.² Od kapitalnih djela treba istaknuti knjigu *Stranka u upravnom postupku* iz 1928. godine (Krbek, 1928), zatim dvije knjige naziva *Upravno pravo* iz 1929. odnosno 1932. godine (Krbek, 1929; Krbek, 1932), knjigu *Diskreciona ocjena* iz 1937. godine (Krbek, 1937), *Sudsku kontrolu naredbe* iz 1939. godine te sustavna djela o pravu javne uprave nastala tijekom 1950-ih i početkom 1960-ih godina (Krbek, 1939a; Krbek, 1950; Krbek, 1955; Krbek, 1960b; Krbek, 1961; Krbek, 1962). Također, treba izdvojiti i knjigu o ustavnom sudovanju iz 1960. godine te dvije knjige o suverenitetu iz 1964., odnosno iz 1965. godine (Krbek, 1960a; Krbek, 1964; Krbek, 1965).

¹ O Vinku Kriškoviću i njegovu radu vidi: Pavić (1997).

² Sumarni popis glavnine Krbekovih radova vidi u: Hrvatski biografski leksikon (2013, str. 88–8). Vrlo detaljan popis Krbekovih radova nastalih do 1961. godine priredio je profesor Ivančević (1961).

No, osim velikog broja radova, intrigantna je aktualnost Krbekovih djela koja su često nastajala kao odgovor na trenutne potrebe pravne struke. U tom smislu, možemo navesti Krbekov rad o samoupravi u vrijeme kad je ta problematika bila aktualna uslijed osnivanja Banovine Hrvatske (Krbek, 1939b), zatim njegovu studiju o državljanstvu nastalu neposredno nakon Drugoga svjetskog rata kad je pitanje državljanstva bilo naročito važno (Krbek & Ocokoljić, 1948b) ili primjerice monografiju o ustavnom sudovanju koja je nastala neposredno prije osnivanja ustavnih sudova u Jugoslaviji, odnosno Hrvatskoj (Krbek, 1960a).³ Aktualnost Krbekovih djela čini ih pogodnim za smještanje u širi društveno-politički kontekst.

Među mnoštvom tema Krbek se u znanstvenom radu bavio i pravima građana, materijom koja predstavlja predmet našeg rada. Cilj je rada utvrditi osnovne postavke Krbekove doktrine o pravima građana te utvrditi eventualne promjene i prilagodbe stavova tijekom četrdesetogodišnje znanstvene karijere. Analiza ovih pitanja pokazuje se važnom zbog toga što je Ivo Krbek djelovao u vremenu kad su prava građana doživljavala bitne promjene. Naime, već tijekom 30-ih godina 20. stoljeća u javnom diskursu vidljiv je znatan otklon od liberalne doktrine prava građana. Drugim riječima, posrijedi je bilo napuštanje stavova prema kojima je glavna svrha pravnog poretka, pa tako i upravnog prava, zaštita individualnih prava građana od državnih vlasti. Suprotno tome, tijekom 1930-ih sve je učestalije naglašavanje interesa zajednice i javnog interesa nauštrb individualnih prava građana (Kosnica, 2024). Isticanje kolektivnih interesa nacije i obitelji nasuprot individualnih interesa i individualnih prava građana bitno je naglašeno i tijekom Drugoga svjetskog rata u NDH (Gavella et al., 2005). Konačno, naglašavanje kolektivnih interesa te uopće stavljanje težišta na kolektivistički svjetonazor bilo je važno obilježje socijalističkoga pravnog poretka (Kosnica, 2022; Gavella et al., 2005).

Navedene okolnosti predstavljaju osnovni društveno-politički i pravni kontekst u kojem je djelovao Ivo Krbek pa se stoga opravdanim postavlja pitanje o odrazima takvih društveno-političkih i pravnih promjena na Krbekovo djelo. Dodatni poticaj za provedbu istraživanja pronalazimo u činjenici da su u modernoj komparativnoj pravno-povijesnoj znanosti, u njemačkoj doktrini, slične promjene već analizirane. U tom smislu navodimo rad pravnog povjesničara Stolleisa koji je vrlo detaljno analizirao promjene u njemačkoj doktrini upravnog prava nastale nakon dolaska nacista na vlast 1933. godine. Stolleis tako ističe da su se promjene u doktrini upravnog prava očitovale u kritici liberalizma te koncepta subjektivnih prava.

³ Ustavni sud SFRJ kao i Ustavni sud SRH osnovani su 1963. godine.

Također, naglašava da je usporedno s kritikom tih koncepata došlo do jakog naglašavanja koncepata zajednice i nacionalne zajednice kao glavne svrhe i ishodišta svih individualnih prava. Stolleis također primjećuje da je u takvom sustavu položaj pojedinca u društvu trebao biti određen prije svega dužnostima, a ne pravima (Stolleis, 1998).

Rad započinje prikazom društveno-političkog konteksta te osnovnih obilježja uređenja prava građana u razdoblju Krbekova znanstvenog djelovanja, odnosno od početka 1920-ih do 1960-ih godina. U tri cjeline analizira se Krbekov rad u dijelu koji se odnosi na prava građana. U prvoj cjelini analizirano je Krbekovo djelo koje se odnosi na prava građana u hrvatskim područjima od početka Krbekova znanstvenog rada početkom 1920-ih pa sve do početka Drugoga svjetskog rata. U drugoj cjelini analiziran je Krbekov rad koji se odnosio na prava građana tijekom Drugoga svjetskog rata, dok se treći dio bavi analizom Krbekova rada o pravu građana od završetka Drugoga svjetskog rata pa sve do 1960-ih godina. U završnom dijelu rada ukazuje se na pomak u Krbekovom radu od koncepcije subjektivnih prava prema koncepciji objektivne zakonitosti.

2. Društveno-politički kontekst i osnovna obilježja uređenja prava građana od 1920-ih do 1960-ih

Za vrijeme Krbekova znanstvenog rada od početka 20-ih do sredine 60-ih godina 20. stoljeća dogodile su se važne promjene društveno-političkog uređenja te bitne promjene u uređenju prava građana. Početkom 1920-ih Kraljevina Srba, Hrvata i Slovenaca (SHS) bila je unitarna parlamentarna monarhija u kojoj su građanska, politička i socijalna prava bila uređena Ustavom iz 1921. godine, novom regulativom te također i propisima koji su na pojedinim pravnim područjima doneseni do 1918. godine, a ostali su na snazi i u novoj državi.⁴ U osnovi je uređenje prava građana u Ustavu Kraljevine SHS bilo liberalno, dok su na zakonodavnoj razini te u praksi bili prisutni jaki autoritarni elementi (Kosnica & Protega, 2019).

Ustavno razdoblje trajalo je do proglašenja diktature 6. siječnja 1929. godine kad je kralj Aleksandar Karadorđević raspustio Narodnu skupštinu i ukinuo Ustav. Kralj je tad donio novi Zakon o zaštiti javne bezbednosti i poretka u državi kojim je zabranio udruživanje i političku aktivnost na „plemenskoj“ i vjerskoj osnovi, a također je promoviran koncept integralnog jugoslavenstva (Čepulo, 2023). Tijekom diktature zabranjen je rad političkih

⁴ O pravnom partikularizmu u sferi političkih prava vidi: Kosnica & Protega (2019).

stranaka i većine građanskih udruga, bitno su ograničene građanske slobode, a politički protivnici diktature izloženi su teroru vlasti (Šokčević, 2016). Otvorena diktatura trajala je do 3. rujna 1931. godine kad je kralj oktroi-
rao Ustav Kraljevine Jugoslavije. Novi Ustav sadrži listu građanskih i poli-
tičkih prava, no pri tome i dalje inzistira na integralnom jugoslavenstvu te
također zabranjuje udruživanje na plemenskoj i vjerskoj osnovi. Ustav, za
razliku od Vidovdanskog ustava iz 1921. godine, vrlo šturo regulira socijal-
na prava. No to nije značilo i indiferentnost države u socijalnim pitanjima.
Upravo suprotno, nakon što je donesen Ustav Kraljevine Jugoslavije tije-
kom 1930-ih godina došlo je do većeg upliva državnih vlasti u socijalnim,
a također i u ekonomskim pitanjima. Državni intervencionizam postao
je posebno izražen nakon osnivanja Banovine Hrvatske, odnosno nakon
izbijanja Drugoga svjetskog rata u Europi. Pri tome se državni interven-
cionizam u području prava građana očitovao tako što su u većoj mjeri
uzimani u obzir interesi zajednice nasuprot individualnih interesa i prava
građana (Kosnica, 2024).

Nakon izbijanja Drugoga svjetskog rata u Kraljevini Jugoslaviji, na hrvat-
skim područjima uspostavljena je Nezavisna Država Hrvatska kao tota-
litarna država pod vlašću poglavnika i ustaške organizacije. Novi režim
davao je očitu prednost kolektivnim interesima nacije i obitelji nasuprot
individualnim interesima građana (Gavella et. al., 2005). Odnos vlasti
prema pravima građana u toj državi bio je represivan i obilježen državnom
politikom koja je bila neprijateljska prema Židovima, Romima, Srbima i
drugim protivnicima režima (Goldstein, 2008; Blažević & Alijagić, 2010;
Šokčević, 2016). Bitna karakteristika pravnog razvoja u području prava
građana bilo je i smanjenje, odnosno ukidanje procesnih jamstava zaštite
građanskih prava. U tom smislu, Medvedović navodi da je za vrijeme
NDH Upravni sud nastavio s radom, no da je nadležnost tog Suda već
tijekom 1941. godine bitno sužena. Riječ je o tome da su vlasti NDH
donijele niz propisa kojima su izrijekom isključile upravni spor pa tako
vođenje upravnog spora više nije bilo moguće u nizu predmeta u kojima se
odlučivalo o osobnim i imovinskim pravima (Medvedović, 2003).

Usporedno s formiranjem NDH, na područjima okupirane Kraljevine
Jugoslavije formiran je partizanski pokret koji je tijekom rata izgrađivao
svoje institucije vlasti te je poduzimao mjere kojima su ograničavana pra-
va građana. U tom smislu, već Deklaracija o osnovnim pravima naroda i
građana demokratske Hrvatske donesena na III. zasjedanju Zemaljskog
antifašističkog vijeća narodnog oslobođenja Hrvatske 1944. godine govori
o tome da građani politička prava ostvaruju isključivo u sklopu narodnoo-
slobodilačkog pokreta (Kosnica, 2022). Na taj je način čitav politički život

trebao biti stavljen pod kontrolu Komunističke partije Jugoslavije koja je vodila narodnooslobodilački pokret.

Po završetku rata, vlasti su se represivnim mjerama obračunale s političkim protivnicima (Čepulo, 2023; Šokčević, 2016). Također je uspostavljen komunistički poredak koji je veliku važnost pridavao dužnostima građana. Osim toga, velika je važnost pridana kolektivu kao i uopće ovlastima države prema građanima (Kosnica, 2022; Mihajević, 2011). Naknadno donesene ustavne odredbe iz 1953. i 1963. godine također naglašavaju interese kolektiva nasuprot individualnih prava građana (Kosnica, 2022).

Iako je nedvojbeno razvoj uređenja prava građana tijekom četrdesetak godina Krbekova djelovanja bio kudikamo kompleksniji od ovog vrlo sumarnog prikaza, ipak je na vrlo apstraktnoj razini, uz puno uvažavanje različitosti pojedinih pravnih poredaka, u području prava građana moguće uočiti razvojnu tendenciju koja se očitovala u sve većoj zaštiti kolektivnih interesa nasuprot individualno definiranih prava građana. Osim tendencije ka kolektivizmu, sve je režime karakterizirao u većoj ili manjoj mjeri autoritaran odnos prema pravima građana.

3. Prava građana u Krbekovim radovima međuratnog razdoblja

Prvi Krbekov rad u području prava građana predstavlja knjižica o izbornom redu za odbore seoskih upravnih općina u Hrvatskoj i Slavoniji sa Srijemom iz 1927. godine. U toj je knjižici Krbek obradio izborni sustav za lokalne izbore uključujući materiju biračkog prava (Krbek, 1927). Riječ je, međutim, tek o parcijalnoj obradi jednog političkog prava.

Bitno sustavniji pristup materiji prava građana Krbek je ostvario u knjizi *Upravno pravo* iz 1929. godine obradivši materiju prava građana u cjelini „Subjektivno javno pravo“. U toj cjelini Krbek naglašava da je pravna konstrukcija subjektivnoga javnog prava korisna u situacijama kad građanin ima određeni pravni zahtjev prema vlastima. U ovoj cjelini Krbek je izložio sisteme subjektivnih javnih prava pa tako i sistem Georga Jellineka koji o subjektivnim javnim pravima također govori ponajprije u kontekstu zahtjeva građanina prema državi (Krbek, 1929). Krbek izlaganje o subjektivnom javnom pravu završava ekspezeom o pravima slobode kao vidom subjektivnih javnih prava posebno karakterističnih za liberalnu građansku državu. Pri tome ističe da je riječ o pravima koja ograničavaju vlast, dok joj ne nameću nikakvu pozitivnu činidbu. Među prava slobode Krbek ubraja pravo osobne slobode, slobodu kretanja, nepovredivost stana i slobodu vlasništva. Tako-

der i pravo slobodnog izražavanja misli u što ubraja slobodu vjere i savjesti, slobodu tiska, slobodu javnog okupljanja, slobodu nauke i umjetnosti, slobodu komuniciranja putem pisama, telegrafa i telefona (Krbek, 1929, str. 156). No, osim što je izložio navedena prava, Krbek u izlaganju uzima u obzir nove socijalne momente te ističe da je uslijed djelovanja tih momenata došlo do dopuna i revizije liste građanskih i političkih prava. Kako navodi, cilj tih izmjena jest omogućiti da ta prava građaninu ne osiguraju samo apstraktnu slobodu nego „da mu osiguraju i relativnu gospodarsku i socijalnu slobodu i pruže izvjesnu materijalnu podlogu“. Krbek također ističe da se „zbog ovog višeg ideala zajednice ograničuju (se) i neka stara prava slobode ili im se barem daje neka druga formulacija“ (Krbek, 1929, str. 157). Za primjer Krbek spominje ograničenja prava vlasništva sadržana u Vidovdanskom ustavu prema kojima „iz vlasništva proizlaze i obaveze“ te prema kojima upotreba vlasništva ne smije biti na štetu cjeline (Krbek, 1929, str. 157; čl. 37. Ustava Kraljevine Srba, Hrvata i Slovenaca, 1926).

U drugoj knjizi *Upravnog prava* iz 1932. godine u kojoj je obradio organizaciju javne uprave Krbek problematici prava građana također pristupa iz motrišta subjektivnih javnih prava. Tako kad govori o monopoliziranoj javnoj službi i o pravu građanina na njezino korištenje, Krbek naglašava da pravo građanina na uživanje te službe može dobiti važnost subjektivnoga javnog prava. Pri tome smatra da je razvoj u smjeru priznavanja tog i sličnih subjektivnih javnih prava bitna karakteristika moderne pravne države (Krbek, 1932). O subjektivnom javnom pravu Krbek progovara i u sklopu rasprave o koncesioniranoj javnoj službi i to tako što smatra da koncesionar koncesioniranu javnu službu vrši kao svoje subjektivno javno pravo (Krbek, 1932, str. 63). No, osim što upotrebljava koncept subjektivnih javnih prava, Krbek i u ovoj knjizi govori o ograničenjima subjektivnih javnih prava koja su posljedica „solidarističke ideje“. Tako Krbek ističe da se koncesionirana javna služba temelji na solidarističkoj ideji koja brani pojedincu da „grubo eksploatira poduzeće od opće važnosti po javni interes u svom osobnom interesu“. Na taj su način subjektivnom javnom pravu na obavljanje koncesionirane javne službe nametnuta bitna ograničenja u svrhu zaštite javnog interesa i općeg dobra. Takav je razvoj, prema Krbeku, odraz toga što „živimo u socijalnom vremenu“ te što „socijalna ideja preobražava od reda sve pravne institute“ (Krbek, 1932, str. 64-65).

Za raspravu o pravima građana vrlo je važna Krbekova *Diskreciona ocjena* tiskana 1937. godine. U toj knjizi Krbek piše o dva suprotstavljena „idejna kompleksa“, o „individualizmu i racionalizmu“ s jedne te o „univerzalizmu i emocionalizmu“ s druge strane (Krbek, 1937, str. 5). Pri tome individualizam i racionalizam karakterizira shvaćanje prema kojem je u središtu pravnog poretka pojedinac, građanin, s nizom individualnih prava, dok uni-

verzalizam i emocionalizam karakterizira shvaćanje prema kojem u središtu pravnog poretka trebaju biti zajednica i općedruštveni interesi. Opća razmatranja o sukobima između individualizma i univerzalizma Krbek prenosi na područje upravnog spora tako što upućuje na usku povezanost između subjektivističkog (individualističkog) shvaćanja i subjektivnoga upravnog spora te između objektivističkog (univerzalnog) shvaćanja i objektivnoga upravnog spora. Krbek ističe da je u području upravnog sudovanja, kao važnog instrumenta zaštite prava građana, s vremenom došlo do pomaka od individualističkog prema univerzalnog shvaćanju te sukladno tome od subjektivnog prema objektivnom upravnom sporu. Krbek navodi da je do takvog pomaka došlo i u onim pravnim sustavima koji su se izvorno temeljili na individualističkoj koncepciji kao što su bili austrijsko pa i jugoslavensko upravno sudovanje.⁵ Za jugoslavensko upravno sudovanje Krbek tako tvrdi da je pomak od individualnog prema univerzalnog shvaćanju vidljiv u tome što je prema važećim propisima upravnosudsku tužbu ovlaštena podići i država onda kad je povrijeđen materijalni interes u korist građana, ali također i u svim situacijama kad je upravnim aktom povrijeđen zakon u korist građana (Krbek, 1937, str. 115–116). Krbek u knjizi iznosi i osobni stav u pogledu izbora između objektivnog ili subjektivnog upravnog spora i to tako što smatra da bi u slučaju izbora između ovih alternativa prednost trebalo dati objektivnom upravnom sporu (str. 127).

Krbekova sklonost univerzalizmu nasuprot individualizma odnosno liberalizma vidljiva je i na drugim mjestima u knjizi. Krbek tako ističe da je liberalizam imao velik utjecaj na izgradnju pravne države, pravnih ideja i niza pravnih instituta, no da te ideje i instituti danas dobivaju drugo značenje zbog utjecaja univerzalističke ideje. Krbek konstatira da univerzalizam zadržava većinu instituta nastalih u razdoblju liberalne pravne države, no da ih „nadahnuje posve drugim duhom“ i da „univerzalna potiskuje individualnu“. U tom smislu, Krbek naglašava da interes zajednice i opće dobro postaju glavne svrhe pravnih instituta (Krbek, 1937, str. 285-286). Univerzalističko gledište Krbek zastupa i prilikom analize načela zakonitosti uprave pa tako ističe da se „uprava veže zbog objektivnog razloga valjanog vođenja posala, a ne zbog subjektivnog razloga interesa pojedinaca“ (Krbek, 1937, str. 293). Na taj način Krbek pridaje veću važnost načelu objektivne zakonitosti nasuprot koncepciji subjektivnih prava građana. Na tragu prijašnjih navoda su i Krbekova promišljanja o načelu jednakosti. Krbek tako smatra da je sagledavanje načela jednakosti kao

⁵ O tome da je glavna svrha austrijskoga upravnog sudovanja bila zaštita subjektivnih javnih prava vidi: Čepulo (2003).

subjektivnog prava odraz individualističke koncepcije te odraz liberalnog shvaćanja. Nasuprot tome, sagledavanje načela jednakosti kao objektivnoga pravnog načela odražava univerzalističku koncepciju te demokratsko shvaćanje. Pri tome Krbek smatra da smo u tijeku „(...) razvojnog procesa, u kome se jednakost pred zakonom od izvorno subjektivnog prava slobode pretvara u objektivno pravno načelo, pa se danas promatra više sa stajališta zajednice, čiji je pojedinac samo član“ (Krbek, 1937, str. 333). U nastavku Krbek kritizira individualističko-liberalno shvaćanje jednakosti kao krajnje formalističko te neodgovarajuće u sprečavanju socijalnih, ekonomskih i kulturnih nejednakosti (Krbek, 1937, str. 334). Krbek stoga zagovara univerzalističko shvaćanje prema kojem načelo jednakosti nije puko formalno načelo nego načelo koje podrazumijeva ideju pravde uključujući i socijalnu pravdu (Krbek, 1937, str. 334–335).

Krbek o pravima građana piše i u *Nauci o samoupravama*. Riječ je o knjizi tiskanoj 1939. godine u nakladi Kluba slušača prava. Ova knjižica prati sadržaj njegovih predavanja iz područja samouprave koja je držao na Pravnom fakultetu u Zagrebu u zimskom semestru akademske godine 1939/1940., u vrijeme kad je već djelovao kao podban Banovine Hrvatske. U navedenoj knjižici Krbek ističe da sloboda u moderno vrijeme gubi usku individualnu podlogu te da „individualnu demokraciju“ zamjenjuje „kolektivna demokracija“. Krbek naglašava da u „kolektivnoj demokraciji“ građanske slobode „unošenjem socijalnih ideja, a poglavito idejom socijalne pravde i jednakosti, dobivaju novi socijalni oblik“ (Krbek, 1939b, str. 33). Krbek govori o samoupravi kao subjektivnom pravu te se tako suprotstavlja tezama o nepostojanju subjektivnih prava koje su zastupali Kelsen i Duguit te njemačka nacionalsocijalistička literatura (Krbek, 1939b, str. 35–36). Krbek, međutim, prihvaća tezu koju su zagovarali Kelsen i njemački nacionalsocijalisti da svako subjektivno javno pravo ujedno znači i dužnost. Krbek tako zauzima kompromisan stav koji ne znači napuštanje koncepta subjektivnoga javnog prava, ali predviđa njegovu modifikaciju navođenjem dužnosti. Koncept subjektivnih prava tako kod Krbeka dobiva bitno drugačije značenje nego što je to bio slučaj u vrijeme kad je liberalna doktrina o pravima građana bila dominantna.

4. Prava građana i Krbekov rad tijekom Drugoga svjetskog rata

Krbekovu znanstvenu djelatnost tijekom Drugoga svjetskog rata moguće je razvrstati u dva dijela, ovisno o tome je li nastala u sklopu NDH ili

u sklopu narodnooslobodilačkog pokreta. Pri tome u literaturu nastalu u NDH ubrajamo tek knjigu *Dioba vlasti*, tiskanu u nakladi Hrvatskoga izdavačkog bibliografskog zavoda (Krbek, 1943). Riječ je o raspravi koju je Krbek napisao za Ujevićevu *Hrvatsku enciklopediju*, a koja je zbog svoje opsežnosti tiskana zasebno.⁶ U ovoj raspravi Krbek detaljno je analizirao koncept diobe vlasti u raznim režimima. Problematika prava građana, međutim, u ovom djelu nije zasebno obrađivana.

U sklopu narodnooslobodilačkog pokreta Krbeku su objavljena dva rada. Prvi od radova jest *Pravni komentar sporazumu Tito-Šubašić* te u njemu nema govora o pravima građana (Krbek, 1944a). Drugi rad nastao u sklopu narodnooslobodilačkog pokreta jest materijal o narodnooslobodilačkim odborima. U tom materijalu Krbek raspravlja o organizaciji i radu narodnooslobodilačkih odbora, ali također zahvaća i problematiku prava građana. Krbek tako ističe da su narodnooslobodilački odbori „strogo narodna vlast“ te da je riječ o strukturama koje omogućavaju puno sudjelovanje naroda u vlasti, odnosno oživotvoruju načelo prema kojem vlast proizlazi iz naroda (Krbek, 1944b, str. 2–3). Takav razvoj, smatra Krbek, sušta je suprotnost razvoju država na europskom kontinentu nakon Francuske revolucije tijekom koje je narod bio zastupljen samo u zakonodavnoj vlasti putem narodnog predstavništva ili je eventualno u parlamentarnom sustavu ostvarivao utjecaj i na upravnu vlast preko odgovornog ministra.

Pored navedenog, Krbek je u materijalu o narodnooslobodilačkim odborima iznio i vrlo interesantna promišljanja o pravnim lijekovima. Krbek tako smatra da pravni lijekovi protiv akata narodnooslobodilačkih odbora imaju subjektivno i objektivno značenje. Subjektivno se značenje pravnih lijekova očituje u tome što pravni lijek omogućava građaninu da zaštiti svoje „opravdane interese“, dok se objektivno značenje pravnog lijeka očituje u tome što pravni lijek omogućuje višoj vlasti da dozna za „nepravilno postupanje nižih vlasti i da u općem interesu ukloni ovu nepravilnost“ (Krbek, 1944b, str. 19). Krbek, dakle, zastupa stav o dvostrukoj, subjektivnoj i objektivnoj, svrsi pravnih lijekova. Pri tome je važno primijetiti dvije stvari. Prvo, kad govori o subjektivnoj svrsi pravnih lijekova i o zaštiti „opravdanih interesa“ građana, Krbek ne koristi termin subjektivna prava. Drugo, Krbek veću važnost pridaje zaštiti objektivne zakonitosti, ali i državnih i javnih interesa, nasuprot zaštiti „opravdanih interesa“ građana. Na tom je tragu Krbekov stav prema kojem viša nadzorna vlast može odluku narodnooslobodilačkog odbora izmijeniti i na štetu žalitelja ako je potrebno

⁶ Autor je za *Hrvatsku enciklopediju* priredio kraći izvadak (*Hrvatska enciklopedija*, 1945, str. 31–34).

zaštiti javni interes (Krbek, 1944b, str. 20). Također i stav prema kojem svaki birač narodnooslobodilačkog odbora može protiv općih akata tog odbora uložiti predstavku na višu vlast ako smatra da su ti akti protivni „postojećim zakonima, zakonitim propisima i odredbama viših vlasti“, ali također i „narodnim odnosno državnim interesima“ (Krbek, 1944b, str. 20).

5. Prava građana u Krbekovim radovima od 1945. do 1960-ih

Po završetku rata Ivo Krbek nastavlja aktivno djelovati u akademskom i javnom životu, bavi se nizom tema, pa tako i pravima građana. Prvi sustavan rad u području prava građana predstavlja članak *Prava građana FNRJ* objavljen u Arhivu 1948. godine. U tom radu Krbek zastupa stajalište da prava građana u Federativnoj Narodnoj Republici Jugoslaviji imaju bitno drugačije značenje nego u građanskim državama. To je zato što nova Jugoslavija predstavlja novi tip države koja, za razliku od građanskih država, nije eksploatatorska nego je „prava i istinska narodna država“. On naglašava da se u takvoj državi mijenja čitavo pravo pa se tako mijenjaju i prava građana (Krbek, 1948a). Krbek dalje obrazlaže da se u građanskim državama posebno značenje pridaje pravima slobode. Pri tome su ta prava usko individualistička te koncipirana tako da se građaninu prizna i sačuva slobodna sfera zaštićena od državnog uplitanja. Suprotno tome, u Jugoslaviji kao i u drugim socijalističkim državama, kaže Krbek, građanska prava ne predstavljaju više klasne interese eksploatatorske manjine nego predstavljaju interese čitavog naroda (Krbek, 1948a). Krbek dalje tvrdi da je u građanskoj eksploatatorskoj državi važna proturječnost između interesa društva i interesa pojedinaca te da se u toj državi građani i društvo odnosno država shvaćaju kao zasebne pojave. Odras takvog shvaćanja predstavlja i francuska Deklaracija o pravima čovjeka i građanina. Suprotno tome, u socijalističkoj Jugoslaviji ne stoje više prava građana nasuprot državi niti se pojedinci i društvo odnosno država shvaćaju kao odvojene i suprotne pojave. Krbek dalje tvrdi da u socijalističkom društvu „nema više antagonizma između individualnih i kolektivnih interesa“ te da se u takvom društvu ne mogu „dualistički suprotstavljati subjektivna i objektivna prava“ (Krbek, 1948a, str. 190). U takvoj su državi prava građana usko povezana s kolektivnim interesom, a ostvarivati prava građana znači „provoditi društveni pravni poredak, ostvarivati objektivno pravo i zakonitost“ (Krbek, 1948a, str. 191). Izloženo shvaćanje negira samostalnu egzistenciju pojedinca te ostvarenje prava građana smješta u širi okvir ostvarenja objektivne zakonitosti i interesa kolektiva.

Krbek o pravima i dužnostima građana raspravlja i u knjizi *Osnovi upravnog prava FNRJ* iz 1950. godine. On tu uvodno citira predizborni govor Edvarda Kardelja iz veljače 1950. godine u kojem Kardelj tvrdi da socijalizam daje bitno više osobne slobode nego najrazvijenija građanska demokracija. Pri tome Kradelj naglašava da socijalizam jedino ne dopušta iskorištavati drugoga „na račun vlastitoga džepa“ (Krbek, 1950, str. 265). U nastavku teksta Krbek ponavlja stav koji je zastupao već u članku o pravima građana iz 1948. godine o tome da u socijalizmu „ne stoji pravo građana nasuprot državi, niti se više građani i društvo ili država javljaju kao dvije strogo odvojene i suprotne pojave“. Krbek također tvrdi da su u socijalizmu „prava i dužnosti građana (...) u punom skladu s funkcijama i zadacima države“ te da „jačanjem tih prava i dužnosti jača i socijalistička izgradnja države, kao što i obrnuto ta prava postaju sve bogatija, sadržajnija i efikasnija izgradnjom socijalizma“ (Krbek, 1950, str. 266). Krbek ističe da je u socijalizmu važno razviti sadržajna i djelotvorna građanska prava za razliku od građanske države u kojoj su građanska prava samo formalna. Krbek polazi s kolektivističkih i socijalističkih pozicija kad tvrdi da su „individualna prava (su) posve fiktivna, ako su narodne mase politički i društveno-ekonomski ugnjetene“ (Krbek, 1950, str. 266).

U nastavku ekspozee Krbek naglašava da su u socijalističkom društvu prava i dužnosti građana usko povezani s općedruštvenim interesima. Također ističe da u socijalizmu naglasak treba biti na izvršavanju objektivnog prava i na provođenju zakonitosti te da se na taj način ujedno štite i prava građana. Upravo zato građanima dana pravna sredstva, osim subjektivne svrhe, imaju jaku objektivnu svrhu osiguranja zakonitosti rada državnih organa (Krbek, 1950, str. 267).

Krbek je vrlo kritičan prema pravima slobode u građanskom društvu zato što smatra da su se u praksi građanskog društva ta prava pretvorila u prava imućnijeg građanstva. Krbek k tome naglašava da u socijalizmu prava slobode imaju bitno drugačije, šire društveno značenje. Drugim riječima, ta prava ne smiju biti shvaćena individualistički nego kroz kolektivističku prizmu na način da je njihovo uživanje ograničeno i u skladu sa širim općedruštvenim interesima. U tom smislu, Krbek ističe da Ustav Federativne Narodne Republike Jugoslavije iz 1946. godine zabranjuje upotrebu prava slobode na način koji bi bio protivan interesima socijalističkog društva. Također, Krbek doseg prava slobode u socijalističkom društvu relativizira koncepcijom svrhe pravnih propisa pa tako kaže da se u socijalističkom društvu prava slobode daju „samo radi jačanja društvenih interesa“. To znači da je svako korištenje prava slobode koje je protivno općedruštvenim interesima ujedno i nezakonito (Krbek, 1950, str. 267).

Konačno, Krbek tvrdi da prava građana ne mogu postojati bez dužnosti te da „vršeći dužnosti prema državi građanin u socijalističkom društvu vrši i dužnost prema samom sebi, svojoj porodici i svome društvu“ (Krbek, 1950, str. 269). Ovakvo shvaćanje odražavalo je dogmu o pretežnoj važnosti općedruštvenih interesa te je negiralo relevantnost interesa građanina izvan te općedruštvene sfere.

U prethodno analiziranim radovima Krbek je formulirao osnovne postavke doktrine prava građana u socijalističkom društvu. Iste stavove o pravima građana Krbek izlaže u knjizi *Upravno pravo FNRJ* iz 1955. godine. Također i u prvoj knjizi *Pravo javne uprave FNRJ* iz 1960. godine u kojoj ponavlja tezu da u socijalističkom društvu „nema oštrog i načelnog proturječja između interesa zajednice i opravdanih interesa pojedinaca“ (Krbek, 1960b, str. 204). U tom smislu, Krbek također naglašava da je u socijalizmu osobni interes građanina u harmoniji s općedruštvenim i državnim interesom (Krbek, 1960b, str. 205). Krbek i ovdje zastupa stav da se u socijalističkom društvu prava građana ostvaruju tako što se provodi društveni poredak, odnosno tako što se izvršavaju objektivno pravo i zakonitost (Krbek, 1960b, str. 205). Također, on i ovdje upućuje na usku vezu između prava građana i dužnosti te ponavlja stav da prava građana ne mogu postojati bez njihovih dužnosti (Krbek, 1960b, str. 212).

Intrigantno je da u knjizi *Pravo javne uprave FNRJ* iz 1960. godine Krbek govori i o koncepciji subjektivnog prava te o odnosu između subjektivnog i objektivnog prava. Krbek tako ističe da u pravnoj teoriji postoje dva oprečna gledišta, jedno „strogo individualističko gledište“ koje daje prednost subjektivnim pravima nad objektivnim pravom i drugo „strogo objektivističko gledište“ koje uopće negira koncept subjektivnih prava. Krbek smatra da ni jedno od ovih gledišta nije ispravno nego se priklanja srednjem gledištu koje pretpostavlja koegzistenciju tih dviju kategorija. U tom smislu, Krbek kaže: „(...) nužna je politička konsekvencija našeg demokratskog socijalizma naglašavati usku pojmovnu povezanost objektivnog i subjektivnog prava, marksistički izraženo, dijalektičko jedinstvo te dvije kategorije“ (Krbek, 1960b, str. 99–100). Krbek, dakle, ni u socijalizmu nije napustio koncept subjektivnog prava, iako je doseg tog koncepta mogao biti kudikamo manji nego je to bio slučaj u građanskom društvu. Ključni ograničavajući čimbenici u tom smislu bile su odredbe o interesima socijalističkog društva kao i doktrinarni stavovi koji su građanina i njegova prava smještali u širi kolektivistički narativ.

6. Od zaštite subjektivnih prava prema zaštiti objektivne zakonitosti i općih društvenih interesa

Sadržajno gledano, Krbekov pristup materiji prava građana, kako je izložen u knjizi *Upravno pravo* iz 1929. godine, temeljio se na koncepciji subjektivnih javnih prava. Ta je u osnovi liberalna koncepcija podrazumijevala postojanje pravnih zahtjeva građana u odnosu prema državi te pravo na njihovu zaštitu u odgovarajućem upravnom, upravnosudskom ili drugom postupku. Kako smo pokazali, Krbek je takav subjektivistički pristup pravima građana zadržao i u drugoj knjizi *Upravno pravo* objavljenoj 1932. godine. No, istraživanje je također pokazalo da je usporedno s koncepcijom subjektivnih javnih prava Krbek već tad ukazivao na trend socijalizacije pravnog poretka. Navedene pozicije podrazumijevale su stoga promoviranje koncepcije subjektivnih javnih prava uz uvažavanje modernih trendova koji su pridavali važnost i interesima zajednice.

Vrlo važnom za analizu Krbekova rada pokazala se njegova knjiga *Diskrecciona ocjena* iz 1937. godine. U toj knjizi Krbek ukazuje na opreku između individualizma i univerzalizma te se tako uključuje u tada prisutne rasprave o odnosu pojedinca i zajednice (Kljaić, 2017). Pri tome se Krbek priklanja univerzalističkom gledištu koje naglasak stavlja na zajednicu i općedruštvene interese. S tim u svezi, već je tad kod Krbeka primjetna relativizacija koncepta subjektivnih prava te je vidljivo veće pridavanje važnosti konceptu objektivne zakonitosti. Određena relativizacija koncepta subjektivnog prava primjetna je i u Krbekovoj *Nauci o samoupravama* u kojoj on doduše ne odstupa od koncepta subjektivnog prava, ali tom konceptu daje ponešto drugačiju važnost prihvaćajući tezu da pravo na samoupravu nije samo subjektivno pravo nego predstavlja i dužnost.

Analiza Krbekovih radova nastalih tijekom 1930-ih godina ukazala je na jasan pomak od individualizma prema univerzalizmu te na pomak od koncepcije subjektivnih prava prema koncepciji objektivne zakonitosti. Generalno gledano, pomaci u Krbekovu pisanju odražavali su dublje pomake u pravnom poretku i u javnom diskursu koji su se događali na hrvatskim i jugoslavenskim područjima tijekom 1930-ih godina.

Tijekom Drugoga svjetskog rata napisani materijal o narodnooslobodilačkim odborima također ukazuje na pomak u smjeru zaštite objektivne zakonitosti. No, osim toga, ukazuje i na pomak u smjeru zaštite općih i društvenih interesa. Takvo usmjerenje dodatno je naglašeno po završetku rata kad je Krbek posve usvojio socijalističku doktrinu o pravima građana. Analiza je pokazala da Krbek u tada napisanim radovima ukazuje na usku

povezanost između opravdanih pojedinačnih i općedruštvenih interesa te da inzistira na koncepciji objektivne zakonitosti i općedruštvenih interesa u području prava građana. Iako Krbek nije posve napustio koncepciju subjektivnih prava, što je vidljivo na primjeru knjige *Pravo javne uprave FNRJ* iz 1960. godine, ipak je ta koncepcija u okolnostima socijalističkog društva i kolektivističkih nazora imala kudikamo skućenije dosege nego što je to bio slučaj u međuratnom razdoblju.

Vidljivo je, dakle, da je u području prava građana Krbek prošao put od koncepcije primarne zaštite subjektivnih prava pa sve do koncepcije zaštite objektivne zakonitosti i općedruštvenih interesa. Takav razvoj u osnovi je korelirao sa širim trendovima razvoja pravnih poredaka u kojima je Krbek djelovao. Istraživanje je pri tome ukazalo na činjenicu da pomaci u Krbekovu pristupu navedenoj problematici nisu bili radikalni, nego ih je moguće promatrati kao evolutivan proces sve većeg uzimanja u obzir općih društvenih interesa, odnosno interesa zajednice. Ova konstatacija relevantna je za razdoblje 30-ih godina 20. stoljeća kad je Krbek postupno relativizirao koncepciju subjektivnih prava te je prihvaćao moderne utjecaje koji su naglašavali potrebu očuvanja interesa zajednice te potrebu zaštite objektivne zakonitosti, nasuprot individualnih prava građana. S vremenom je, međutim, po završetku Drugoga svjetskog rata, Krbek stavove o pravima građana radikalizirao te ih je učinio u potpunosti ovisnim o općedruštvenim interesima uklopivši se tako u socijalističku doktrinu prava građana. Uostalom, tad je i u drugim područjima znanstvenog rada Krbek usvojio marksistički pristup pravu (Harašić, 2005).

7. Zaključak

Uvodni prikaz širega društveno-političkog i pravnog konteksta u području prava građana u kojem je djelovao Ivo Krbek ukazao je na činjenicu da je društveno-politički i pravni razvoj karakterizirao odmak od individualizma i liberalne koncepcije prava građana te prelazak na kolektivističku orijentaciju kada je riječ o pravima građana. To je ujedno značilo da je veća važnost trebala biti pridana interesima zajednice i društva nasuprot individualnih prava građana. Kulminaciju tog procesa predstavlja uspostava socijalističkog društva u kojem je negirano dvojstvo individualne i društvene sfere te su prava građana učinjena bitno ovisnim o općedruštvenim interesima.

Analiza Krbekova znanstvenog rada u području prava građana pokazala je da je Krbek u svom znanstvenom radu u značajnoj mjeri pratio opće

trendove društveno-političkog i pravnog razvoja. Pa tako, osim što u knjizi *Upravno pravo* iz 1929. godine izlaže koncept subjektivnih javnih prava kao pravnih zahtjeva građana prema državnim vlastima, Krbek već tad ukazuje na trend socijalizacije pravnog poretka kao važnu karakteristiku pravnog razvoja. Također i kasnije, u drugim radovima nastalima tijekom međuratnog razdoblja, Krbek ukazuje na moderne trendove socijalizacije pravnog poretka te na utjecaj tog razvoja na prava građana. Istraživanje je pri tome pokazalo da je u *Diskrecionoj ocjeni* Krbek prihvatio stavove o većoj važnosti interesa zajednice nasuprot individualnih prava građana te stav o zaštiti objektivne zakonitosti kao glavnoj svrsi pravnog poretka. Također, Krbek je u *Diskrecionoj ocjeni* bio vrlo kritičan prema liberalizmu. S tim u svezi, Krbek već tad relativizira koncepciju subjektivnih prava, a takav je pristup vidljiv i u *Nauci o samoupravi* u kojoj on zadržava koncepciju subjektivnog prava, no prihvaća tezu da subjektivno pravo znači i dužnost.

Analiza materijala o narodnooslobodilačkim odborima, nastalog tijekom Drugoga svjetskog rata, pokazala je da je Krbek tad bio vrlo kritičan prema građanskim demokracijama te da je narodnooslobodilačke odbore prikazao kao poželjnu „strogo narodnu vlast“. I u ovom materijalu Krbek zadržava stajalište o potrebi zaštite objektivne zakonitosti kao glavnoj svrsi pravnog poretka. Kasnije pak, tijekom socijalističkog razdoblja, Krbek je navedene teze dodatno razradio te je promovirao socijalistička gledišta o pravima građana. Bitna karakteristika tih stajališta bilo je isticanje interesa zajednice i općedruštvenih interesa kao primarnih, dok su individualni interesi građana učinjeni posve ovisnim od tom širem sklopu. Drugim riječima, to je značilo da su prava građana bila posve ovisna o interesu socijalističke zajednice. Taj širi normativni i ideološki okvir ujedno je limitirao i doseg prava građana poput prava slobode jer su sad ta prava trebala biti shvaćena u kolektivističkom kontekstu. Ista opservacija vrijedi i za subjektivna prava koja su, iako spomenuta, također bila ograničena širim socijalističkim kontekstom.

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PRAVA GRAĐANA U KRBEKOVOJ DOKTRINI UPRAVNOG PRAVA

Sažetak

Predmet rada jest znanstvena djelatnost profesora upravnog prava Ive Krbe-ka od početka njegova znanstvenog rada početkom 1920-ih pa sve do kraja njegove znanstvene karijere 1960-ih godina u dijelu koji se odnosio na prava građana. Cilj je rada utvrditi osnovne postavke Krbebove doktrine o pravima građana te utvrditi eventualne promjene i prilagodbe stavova tijekom četrdesetogodišnje znanstvene karijere. Analiza Krbekova rada podijeljena je u tri vremenska sklopa: međuratno razdoblje, djelatnost tijekom Drugoga svjetskog rata i djelatnost nakon Drugoga svjetskog rata. U sklopu međuratnog razdoblja kao posebno važne analizirane su knjige o upravnom pravu iz 1929. i 1932. godine, knjiga o diskrecijskoj ocjeni iz 1937. godine te knjiga o samoupravama iz 1939. godine. U analizi djelatnosti tijekom Drugoga svjetskog rata bitnim za analizu pokazao se materijal o narodnooslobodilačkim odborima. Krbekova znanstvena djelatnost u području prava građana u razdoblju nakon Drugoga svjetskog rata analizirana je na temelju članka o pravima građana iz 1948. godine te poglavlja u knjigama o upravnom pravu koje je Krbek napisao tijekom pedesetih i početkom šezdesetih godina dvadesetog stoljeća. Autor je u radu utvrdio da je tijekom druge polovine 1930-ih godina Ivo Krbek napustio liberalnu doktrinu u pogledu prava građana, da je relativizirao koncepciju subjektivnih prava te da je prihvatio ideju o objektivnoj zakonitosti kao glavnoj svrsi pravnog poretka. Autor ukazuje na činjenicu da je Krbek već tad naglašavao važnost većeg uzimanja u obzir općih društvenih interesa nasuprot individualnih prava i interesa građana. Autor je u radu pokazao da je Krbek ove pozicije dodatno radikalizirao nakon Drugoga svjetskog rata kad je sukladno socijalističkim shvaćanjima prava građana učinio ovisnim o dužnostima te o općedruštvenim interesima socijalističke zajednice.

Ključne riječi: Ivo Krbek, prava građana, upravno pravo, subjektivna prava, socijalizam

THE RIGHTS OF CITIZENS IN KRBEK'S DOCTRINE OF ADMINISTRATIVE LAW

Summary

The subject of the paper is the scientific activity of the professor of administrative law Ivo Krbek from the beginning of his scientific work in the early 1920s until the end of his scientific career in the 1960s in the part related to the rights of citizens. The aim of the paper is to establish the basic tenets of Krbek's doctrine on the rights of citizens and to determine any changes and adjustments of attitudes during his forty-year scientific career. The analysis of Krbek's work is divided into three time periods: the interwar period, his activities during World War II and his activities after World War II. Within the interwar period, the books on administrative law from 1929 and 1932, the book on discretionary assessment from 1937 and the book on self-government from 1939 are analysed as particularly important. In the analysis of the activities during World War II, the material on national liberation committees proved to be essential for the analysis. Krbek's scientific activity in the field of citizens' rights in the period after World War II is analyzed on the basis of an article on citizens' rights from 1948 and chapters in books on administrative law that Krbek wrote during the 1950s and early 1960s. The author establishes in the paper that during the second half of the 1930s Ivo Krbek abandoned the liberal doctrine regarding citizens' rights, that he relativized the concept of subjective rights and that he accepted the idea of objective legality as the main purpose of the legal order. The author points to the fact that Krbek already then emphasized the importance of taking greater account of general social interests as opposed to individual rights and interests of citizens. The author shows in the paper that Krbek further radicalized these positions after World War II when, in accordance with socialist understandings, he made citizens' rights dependent on duties and on the general social interests of the socialist community.

Keywords: Ivo Krbek, rights of citizens, administrative law, subjective rights, socialism

Instructions to Authors

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CCPA publishes peer-reviewed papers dealing with various aspects of public administration issues.

These include:

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1. The journal Croatian and Comparative Public Administration uses in- text citation, while the footnotes are used for further explanations (APA Format 6th edition – details could be found at <https://owll.massey.ac.nz/referencing/apa6-interactive.php>).

Upute autorima

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Časopis objavljuje recenzirane radove koji s različitih aspekata osvjetljavaju pitanja i probleme javne uprave.

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Prikazi sudske i upravne prakse te pojmovnici ograničeni su, u pravilu, do maksimalno 30 000 znakova, uključujući i praznine. Konačni opseg ovih priloga određuje glavni urednik.

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Koprić, I., Marčetić, G., Musa, A., Đulabić, V., & Lalić Novak, G. (2014). *Upravna znanost: javna uprava u suvremenom europskom kontekstu*. Zagreb, Hrvatska: Pravni fakultet.

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Manning, N., & Lau, E. (2016). Public management reforms across OECD countries. U T. Bovaird, & E. Loeffler (eds.) *Public Management and Governance* (3rd ed.) (str. 39-54). London (UK), & New York (USA): Routledge.

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