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Selflessness: An International Comparative Analysis of a Much-Needed Public Value

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ABSTRACT

The purpose of this paper is to investigate how selflessness is to be measured and how it is to be explained.

Adopting an innovative approach to measure selflessness, we assess its prevalence in different regions across the world. We also investigate the factors that explain its emergence and how they interact in predicting it. The level of selflessness differs significantly across the world. Considering the factors predicting it, we find that the likelihood of an individual exhibiting selflessness largely depends on the region they live in. Workplace also plays a crucial role – in OECD countries, working in the public sector increases the propensity for selflessness, but it has the opposite effect in Africa.

The research design involves a multivariate analysis of data from the World Values Survey using both straight-forward regression analyses and binary logistic regression.

The main findings show that the impact of factors traditionally considered important, such as religious affiliation and employment in the public, private, or not-for-profit sectors, varies across regions. These region-specific interaction effects are seen, for instance, in the influence of one's workplace on their propensity for selflessness. Public sector employees are significantly more likely to be selfless than their private sector counterparts. However, while working in the public sector increases the likeli-

hood of being selfless in OECD countries, this relationship is reversed in Africa.

In previous academic studies, little attention was paid to such interaction effects and the impacts of religious affiliation, public sector employment, gender, etc. were assumed to be stable all over the world. This study shows otherwise.

As per **practical implications**, the results of our analyses suggest that research on values needs to be contextualized. This is particularly important when research aims at offering advice to practitioners. Our investigation has shown that the same factors that enhance selflessness in one part of the world may decrease its presence in other regions. A one-size-fits-all approach is therefore not adequate.

Keywords: public values, selflessness, comparative analysis, interaction effects, regional impact

JEL: Z00

1 Introduction

Bryson, Crosby, and Bloomberg (2014) argued that public values play a fundamental role in the promotion of public governance. According to these authors, although Public Administration tended to hold on to the goals of efficiency and effectiveness, which played an important role for the New Public Management model, the field is now expanding to include “the full range of democratic and constitutional values” (p. 446). This new movement in Public Administration is based on the idea of good governance, which assumes that businesses, NGOs, and the public at large share the responsibility for solving public problems. According to this view, good governance is facilitated when social actors hold democratic values. This movement has striking similarities to the “New Public Administration”, the movement put in motion by Dwight Waldo and colleagues in the 1960s, which contested the “value-free” outlook of classical public administration and demanded its return to true democratic values, i.e. participation and social equality (Gruening, 2001). Thus, after the dawn of New Public Management, the movement of Public Value Governance is bringing the normative dimension of Public Administration back into focus.

Public values are not restricted to governmental institutions, but also include the values sponsored by the typical citizen, being ingrained in the fabric of society (Jørgensen and Bozeman, 2007). Thus, public values encompass altruism, responsiveness, honesty, ethical consciousness, and other values that may be expressed in government actions as well in the actions of the public in general. Governments worldwide have endeavored to promote public values within the public service through ethical guidelines, but these efforts have faced challenges in their implementation. A notable example is the Nolan Principles of Public Life in the United Kingdom. Although the public has

shown support for these principles, they were less readily embraced by politicians (Bew, 2015).¹

From the perspective of the Policy Coalition Framework, the outcome of policies is largely affected by shared socio-cultural values (Sabatier, 1988; Sabatier and Wieble, 2007). While factors determining the outcome of policy collaboration may vary depending on the level of conflict within policy subsystems (Weible et al., 2018), the ability to trust one's partners—a fundamental requirement for collaboration (Axelrod, 1984, 1997; Ostrom, 1998)—requires a considerable level of shared values (Gillespie and Mann, 2004).

Batson and Powell (2003) have argued that altruism is a motivational concept; thus, it may be a cause of prosocial behavior, but the latter may emerge due to factors other than altruism. They define altruism as "(...) the motivation to increase another person's welfare" (p. 463). Moreover, altruism—or *selflessness*—is the opposite of *egoism* (MacIntyre, quoted by Batson and Powell, 2003). We will employ the term selflessness throughout this article to steer clear of the connotations of self-sacrifice often linked to the term altruism. In this context, we embrace the notion that altruism revolves around a commitment to the well being of other individuals, irrespective of its impact on oneself, whereas selflessness denotes a reduced emphasis on one's own outcomes (Van Lange, 2008). Consequently, selflessness does not imply neglecting self-concern, but rather encompasses a focus on the well being of others as part of one's concerns. Thunström et al. (2020) conducted a survey in the United States and observed that the majority of individuals in their sample (70%) were willing to undergo a COVID-19 test to prevent the spread of the virus, even if it meant having to self-isolate. This kind of prosocial behavior represents the anticipated result of individuals holding selflessness as a value, which, in turn, is expected to contribute to good public governance. Given the erosion of public values resulting from organizational changes introduced through the New Public Management model (Jurkiewicz and Mujkic, 2021), the focus back to public values becomes increasingly critical.

A test for public governance capacity on a global scale is the implementation of the Sustainable Development Goals (SDGs) agenda. In 2015, the vast majority of the world's countries (193 out of 195) agreed to implement the Sustainable Development Goals agenda, which includes 17 goals related to several matters, from gender equality to climate change (United Nations, 2015). The need for intense collaboration within and across countries is clear enough: "Achieving the 2030 Agenda requires immediate and accelerated actions by countries along with collaborative partnerships among governments and stakeholders at all levels." (Guterres, 2018, p. 3). In 2021, this challenge remains in place: "A recommitment by Governments, cities, businesses, and industries to ensure that the recovery [from the effects of the COVID-19 pandemic] reduces carbon emissions, conserves natural resources, creates better

¹ One of the most prominent examples illustrating the challenge of holding politicians accountable to the Nolan Principles is the scandal involving celebratory parties that took place at Downing Street 10 during the COVID-19 lockdowns. Subsequently, former Prime Minister Boris Johnson resigned from his position for providing misleading information to Parliament (Castle, 2023).

jobs, advances gender equality and tackles growing poverty and inequalities is a further imperative” (Guterres, 2021, p. 2). At this point, it would be fair to say that the global response to the COVID-19 pandemic has shown that this much-needed collaboration is still a work in progress.

This line of reasoning carries several implications. To attain the SDGs, global collaboration is essential, as stated by the United Nations (2015): “Since this is a universal agenda, fostering mutual trust and understanding among all nations will be of utmost importance” (p. 36). Governments in developed countries have to acknowledge that the problems that developing countries face are also their problems; people working inside and outside governments need to cooperate. Public employees and private citizens need to care about those living in poverty, impacted by climate change, or suffering from any kind of discrimination. Thus, it is plausible to infer that a value in high demand for the implementation of the SDGs is selflessness. Not only intense collaboration and successful governance are needed, but it also should be pointed out that the countries adopting the SDGs agenda have pledged, “(...) that no one will be left behind” (United Nations, 2015, p. 5).

This study aims to investigate whether the public and especially public officials in a range of countries adhere to the value of selflessness and what could explain the variance in this adherence. This information could help in addressing possible weaknesses in governance and collaboration in the implementation of the SDGs. To answer this research question, the following sub-questions are also addressed in the present investigation:

- What is already known from previous research about the determinants of selflessness?
- How to measure the adherence to the value of selflessness?
- How is the frequency of selflessness spread around the world?
- Which factors can explain selflessness?

The empirical analysis is based on the data provided by the World Value Survey, a global network of social scientists studying values and their impact on social and political life (WVS, s.d.). To situate our empirical investigation within the scholarly landscape, the next section examines the theoretical approaches on the role of values in civil society and the public service in particular. In section 3, we describe the research design and methods and, in section 4, we present and discuss the results of the investigation. Finally, in the last section, we put forth the conclusions that can be drawn from our investigation and suggest governmental interventions that can facilitate the implementation of the SDGs.

2 Values, Public Service, and Civil Society

In social sciences research, prosocial behavior, selflessness, and generosity are seen as the opposite of egotism and of the selfish maximizing of one’s utility function. As generosity has been the value most frequently studied in the so-

cial sciences, we start our discussion examining the empirical findings of the factors may yield generosity, as well as the limitations involved in measuring it.

Generosity may be defined as that behavior of “(...) freely giving one’s time, talents, and treasure to others” (Collett and Morrissey, 2007, p. 23). Machan (1998) sees generosity as benevolence toward others, as a trait in those holding moral virtues, which can be cultivated. According to the author, generous people are benevolent because of their character, not because of deliberation or calculation. Individual generosity corresponds to one’s concern about other individuals that is not confined to the utilitarian dimensions of life. Social generosity is the generosity shown towards a cause —the arts, wildlife, sports, the moral education of youngsters, etc.— without the expectation of receiving benefit or self-gratification, and not to fulfill an obligation or duty.

Generosity also has a political dimension. Because benevolence is based on free choice, it can only exist in societies that can guarantee individual freedom:

No law can guarantee perfect virtue; perfect guarantees are never available. But the law can create the framework within which free and responsible individuals can work together to achieve virtue. Experience has shown that the virtue of generosity flourish best when individuals are free. (Machan, 1998, p. 92)

Kasser (2005, pp. 358–359) defines generosity as “(...) the extent to which individuals share their money and possessions. Generous people are willing to give away or share their possessions and money, and they make life choices that help other people even if their earnings are diminished.” Generosity also emerges as philanthropy and helping behavior, such as assisting a stranger in an emergency, donating an organ to a relative, or making a donation to charitable organizations (Bekkers and Wiepking, 2011).

The empirical studies exploring the explanations for selfless behavior are often focused on individuals’ willingness to donate money to charitable causes. In these studies, the factor most often mentioned as an explanation for the emergence of selflessness and generosity is religious involvement. Although this association is not found in every context, “[p]ositive relations between church membership and/or the frequency of church attendance with both secular and religious philanthropy appear in almost any article in which this relation was studied” (Bekkers and Wiepkin, 2011). However, it is still an open question whether it is religiosity in itself or rather the involvement (church attendance), the religious context, the specific denomination, and orthodoxy that can be accounted as the explanation for the inclinations to the acting with benevolence towards others (cf. Berger, 2006; Feldman, 2010; Lunn et al., 2001; Wuthnow, 1991).

Education is also frequently mentioned as an explanation for generosity in donations (Bekkers and Wiepkin, 2011; Yen, 2002). However, in this case, there are still doubts on whether it is education as such that results in more generosity, or the type of education. A few studies have shown that *alumni* in social sciences, history, and law are more generous in their giving than *alumni* in eco-

nomics, but not all studies have been consistent regarding these findings (cf. Bekkers and Wiepkin, 2011). In addition, the level of education of donors may be positively associated with donations to some social problems, but negatively associated with others (Bekkers and Wiepkin, 2011; Srnka et al. 2003). Giving appears to be associated with generalized social trust, verbal intelligence, and enhanced confidence in charitable organizations, while education appears to be a mediator in these associations (Bekkers and Wiepkin, 2011).

Studies on the factors influencing the level of generosity also have examined factors such as income (high earners tend to donate more); age (older individuals tend to donate more than the young); marital status and having children (those married with children donate more), and gender (women give to more causes, but men tend to make larger donations) (Bekkers and Wiepkin, 2011). The findings, however, are mixed; there is no clear-cut conclusion on whether these factors can indeed explain the emergence of generosity. Thus, many other factors need to be explored.

We shall point out that selflessness is not always expressed as generosity in making monetary donations. As far as the SDGs are concerned, other aspects of selflessness are more relevant to the success of the agenda. In particular, selflessness among public servants is especially relevant.

Within the discipline of Public Administration, Public Service Motivation has been the most influential approach to the role of values in public service (Perry and Wise, 1990). At the center of the theory stands the proposition that individuals expressing higher levels of values associated with the dimensions of “self-sacrifice”, “compassion”, and “attraction to public policy-making” tend to seek employment in governmental organizations. In their review of 20 years of PSM research, Perry, Hondeghem, and Wise (2010, p. 683), argued that “[p]ublic administration research on this proposition is limited but generally supportive”. However, as in the sociological research on generosity, they had to acknowledge that the results are mixed. Perry (1997) sought to find out whether parental socialization, religious socialization, professional identification, political ideology, and individual demographic characteristics could explain the level of PSM found in individuals. His initial hypothesis was that the values associated with PSM are developed during initial socialization experiences (family and religion) and through professional identification. He tested these hypotheses through five regression models and found that all yielded weak regression coefficients (ranging from 0.18 to 0.07). For the most part, the PSM levels lacked a strong explanation through early socialization, religiousness, or professional identification. Further empirical studies indicated that the organizational context was a stronger explanation for variation for PSM levels. Kjeldsen and Jacobsen (2013) performed a rare longitudinal study and found no evidence that PSM levels had influenced career choices. They did find that PSM declines more among individuals who entered the private sector than for those who choose to work in the public service, a result suggesting that socialization in the context of organizations was the main factor influencing the levels of PSM. This hypothesis was further sustained

by an investigation conducted by Camilleri (2007). He performed a study to investigate whether personal attributes, role states (conflict and ambiguity due to roles within organizations), job characteristics, employee-leader relations, and employee perception of the organization affected PSM. He noted that positive employee-leader relation had a positive association with PSM, and the factor was relatively strong for the dimensions “commitment to the public interest”, “attraction to policy-making” and “self-sacrifice”. In addition, Camilleri found that positive job characteristics —assumed to increase job satisfaction— also presented a positive association to PSM levels. The role of context in boosting or decreasing PSM is indirectly reinforced by studies focusing on Self-Determination Theory, which has shown the importance of context in the promotion of intrinsic motivation (Andrews, 2016).

The growing popularity of PSM within the field of Public Administration prompted researchers to investigate other social and psychological phenomena, such as altruistic motives, work-related preferences, and prosocial behavior (Bozeman and Su, 2015). These studies have shown that PSM values were not exclusive to public employees but were disseminated in the population at large (Perry, Hondeghem, and Wise, 2010; Bozeman and Su, 2015). Despite the abundance of empirical investigations on PSM, Bozeman and Su (2015) note that more investigations taking the concept as a dependent variable are in need.

One way of dealing with the dependent/independent problem in PSM is to establish a more precise definition of values. Bozeman (2007, p. 117) specified a value as “a complex and broad-based assessment of an object or set of objects (where the objects may be concrete, psychological, socially constructed, or a combination of all three)”. The assumptions accompanying the definition are: “(1) values expressing evaluative judgments; (2) values having both cognitive and emotional aspects; (3) values being relatively stable; (4) values having strong potential to affect behavior; (5) values changing (if at all) only after deliberation; (6) values helping define one’s sense of oneself” (Bozeman, 2007, p. 17). He argues that “public values” correspond to the normative consensus about: “(a) the rights, benefits, and prerogatives to which citizens should (or should not) be entitled; (b) the obligations of citizens to society, the state, and one another; and (c) the principles on which governments and policies should be based” (p. 132).

Bozeman (2007) argues that a society’s public values do not correspond to the aggregate sum of individual public values. However, he ends up not providing clues as to how one could assess public values as a feature of a given society as a whole. He acknowledges that one way of identifying the presence of public values is through public opinion surveys, which aggregate individual opinions to represent the opinion of the population.² Bozeman sees that values carry an emotional component. As we know, since ancient times, politicians have played the emotions of the public to gain support to certain policies; this may be seen as both legitimate and manipulative. However, pol-

² While public opinion surveys can be used as a method to examine values in a large population, the method is without its drawbacks. For an exploration of the limitations of public opinion surveys and strategies to address them, see Perrin and McFarland (2011).

iticians also seek to persuade the public to support the values themselves. Civil society's institutions also compete with one another to reach the "heart and minds" of the public and governmental decision-makers. Thus, different values are offered to the public and the "competing values" are then sorted out through elections (Bozeman, 2007). However, elections do not directly express the public values that the majority of the population holds. As we know, elections more often express how well or how bad the incumbent government is doing, and not which values the population holds. Thus, when it comes to the legitimacy and effectiveness of public policies, elections cannot provide adequate answers.

The idea that the population at large holds public values—as the concept of PSM has mostly assumed— dovetails with the idea of "public value governance". Bryson, Crosby, and Bloomberg (2014) regard as "public values" those values associated with democracy and the common good. They argue that public administration is changing in "response to the challenges of a networked, multi-sector, no-one-wholly-in-charge world and the shortcomings of previous public administration approaches" (p. 445). In this dynamic context, public administration is seen as the main warrantor of public values, but citizens, businesses, and nonprofit organizations also are required to participate in problem-solving, a perspective that follows the steps of the governance/network approach (Peters and Pierre, 1998; Rhodes, 1997; Vigoda, 2002).

Another attempt to clarify the definition of values is Schwartz's Theory of Basic Values (Schwartz, 2012). He argues that values present six characteristics: (1) values are beliefs that generate feelings (affection); (2) values move individuals to pursue goals that they regard as desirable; (3) values transcend specific contexts and apply to a broader array of situations; (4) values serve as standards or criteria for action, which are not necessarily conscious to the actor; (5) there is a hierarchy of values—some values are more important than others; (6) because values may conflict with one another, the relative importance of each value is what can move individuals into action. According to Schwartz (2012), "basic values" are values broadly shared among people of different cultures. Among these is "universalism", i.e. the desire to pursue the goals of "understanding, appreciation, tolerance, and protection for the welfare of *all* people and nature" (p. 7). Schwartz (2012) also notes that values can be bundled as dimensions; benevolence and universalism form the "self-transcendence" dimension, which is in opposition to the "self-enhancement" dimension, comprised of values "that emphasize the pursuit of one's own interests and relative success and dominance over others" (p. 8). In Schwartz's view, conflicting values are not mutually exclusive; individuals are likely to pursue all the ten basic values, but the more importance one attaches to one dimension, the less one attaches importance to the opposing dimension.

We can say that public values (Bozeman, 2007) and universalism (Schwartz, 2012) are analogous. Public values entail one's caring for the welfare of *all* individuals. On the other hand, the concept of generosity is not necessarily universal. Some individuals can be generous to family and friends, but still

have little regard for strangers. Even considering that the research discussed above assumes generosity as the willingness to help individuals other than one's kin, the concept of generosity still misses the public character that the concepts of public values and universalism have strived to emphasize.

To bring about social change it is not only necessary that public servants at all levels of government share the values that would make this social change possible, but it is also necessary that a significant part of the population share these same values. As we argued above, the SDGs bring high demands on collaboration between countries and among the several stakeholders involved. Thus, one can expect more difficulties to implement the SDGs in countries where the needed values—especially selflessness—are in short supply. Thus, it is relevant to know what factors are associated with selflessness and whether these factors may be fostered by governmental action.

3 Methods

The empirical analysis of the present investigation is based on data provided by The World Values Survey (Inglehart et al., 2014). Although a more recent WVS survey has been released (Haerpfer et al., 2022), the questionnaire for wave 7 has excluded some variables that are relevant to assess selflessness. Because socio-cultural features tend to change only on the long run, we assume that the data for wave 6 is still capable to show differences between world regions. The WVS collects data about values and political attitudes, such as support for democracy, tolerance of foreigners and ethnic minorities, support for gender equality, attitudes toward the environment, work, family, and politics, among other topics. The survey in question (2014) collected data in 60 countries, composing a sample of 85,000 respondents.

The first issue that this research tackles is establishing a reliable way of measuring selflessness. The Schwartz Value Survey scale uses items such as "It is important to this person to do something for the good of society" and "It is important to help people living nearby; to care for their needs" to measure self-transcendence (altruism). On the other hand, items such as "It is important to this person to be rich; to have a lot of money and expensive things", "It is important to this person to have a good time; to 'spoil' oneself", and "Adventure and taking risks are important to this person; to have an exciting life" are used to measure self-enhancement (egoism) (Fontaine et al., 2008; Schwartz and Boehnke, 2004; Spini, 2003; Welzel, 2010). As seen above, according to Schwartz (2012), self-enhancement (power, achievement) is in opposition to self-transcendence (benevolence, universalism).

A problem in this kind of measurement is that the survey questions ask whether and to what extent the statement in each item applies to the respondent. This measures the identification with such values but does not tell us anything about the hierarchy values in the value system of the respondent. Rokeach (1973) noted that a value change entails a change in the whole system of values, i.e., a change in the importance of one value would entail a change in

the whole hierarchy of values. Thus, the best way to investigate which values are central to an individual is simply asking which values are important for the respondent.

The WVS includes a question that allows identifying the values regarded as important by the respondent. It is stated as follows:

"Here is a list of qualities that children can be encouraged to learn at home. Which, if any, do you consider to be especially important? Please choose up to five!"

V12. Independence

V13. Hard work

V14. Feeling of responsibility

V15. Imagination

V16. Tolerance and respect for other people

V17. Thrift, saving money, and things

V18. Determination, perseverance

V19. Religious faith

V20. Selflessness³

V21. Obedience

V22. Self-expression"

The response categories are 'Mentioned' and 'Not mentioned'. The WVS interviewer does not mention to the interviewees what are the possible response options; the respondent has to choose spontaneously which values are important in children's upbringing.

The WVS 2014 survey shows that 19% of the respondents do mention selflessness as one of the most important qualities to encourage in children while simultaneously saying that they do not identify with the statement "It is important for this person to help the people nearby; to care for their well-being" (WVS questionnaire, V74B).⁴ This is a strange outcome, possibly indicating a misunderstanding of the question or that the respondent is not answering the questions carefully. On the other hand, 36% of the respondents that do identify with the statement nevertheless do not mention selflessness as one of the most important qualities to encourage in children. Although this result appears to be more reasonable—people can see selflessness as an important quality to encourage in children but do not see themselves as selfless—it also indicates a problem in identifying how individuals rank values.

To obtain a more precise measurement of the centrality of selflessness, we opted to examine two groups: Group A – individuals who mention selflessness as one of the most important qualities to encourage in children *and* identify with the statement that it is important to help people living nearby, to care for their needs (these respondents get score '1'); and Group B – individuals who do not mention selflessness as one of the most important values in children's education *and* do not identify with the statement that it is important

³ This variable is translated into Spanish as *generosidad*, or "generosity" in English.

⁴ Possible answers to this statement include: "very much like me", "like me", "somewhat like me", "a little like me", "not like me", and "not at all like me". The WVS questionnaire is available at <http://www.worldvaluessurvey.org/WVSDocumentationWV6.jsp>

to help people living nearby, to care for their needs (these respondents get score '0'). Group A respondents are regarded as clearly "selfless", while respondents in group B are regarded as clearly "selfish". The frequency of selflessness and selfishness are presented in Table 1; it has also added a column showing the percent of individuals—named "doubtful"—that includes all the other respondents that are not in groups A or B.

Table 1. Frequency of selflessness

Region	% selfless	% doubtful	% selfish	N
Central and Eastern Europe	1.6	4.5	93.9	8,708
OECD*	7.8	9.9	82.3	7,271
Asia	12.2	12.2	78.0	15,674
Africa	15.6	11.8	72.6	6,135
Latin America	17.2	10.7	72.1	7,736
The Middle East and Northern Africa	29.0	27.1	43.9	11,274
Total	14.4	12.7	72.9	56,798

* Obs.: Data exclude those countries included in the other categories, such as Poland (Eastern and Central Europe) and Turkey (Middle East).

This measurement shows that, on average, 14.4% of people all over the world can be classified as selfless. However, there are huge differences between regions. Whereas 29% of the respondents in the Middle East and Northern Africa region are classified as selfless, only 1.6% in Eastern and Central Europe and 7.8% in the OECD countries are selfless. In Latin America, Africa, and Asia about 15% of the population can be classified as selfless.

In general, selflessness (or generosity) is among the least often mentioned qualities among the five most important to be encouraged in children in developed countries. In Germany, only 5.7% of the respondents do mention selflessness. In contrast, more than half of the respondents in India do mention it. Countries that are in the middle position include: USA (33%), Brazil (32%), China (29%), and Russia (23%).

Economic superpowers—USA, China, Russia, and Germany—show the lowest adherence to selflessness. On the other hand, developing countries appear to be holding on to universalist values, as far as selflessness demonstrates.

Our next step is to run first a straightforward logistic regression analysis to estimate the relationship between explanatory variables and the single output binary variable, i.e. selflessness without controlling for interaction effects. We then follow with logistic regression analysis to examine the interactions

effects between the explanatory variables on selflessness. The results and discussion are presented in the next section.

4 Outcomes of the analyses

As mentioned above, most empirical studies on explanatory factors for generosity were based on data about individuals making donations. This method has several limitations, including the fact that studies using it rarely allow comparative studies. Departing from the approach of measuring the centrality of selflessness on one’s value system, we then select variables from the WVS that are commonly mentioned in the academic literature in the fields of public administration and sociology and, using straightforward regression analysis, we test these as possible explanations for “selflessness” (dependent variable). The list of possible explanatory factors and the correlation results are presented in Table 2.

Table 2. Straightforward binary regression analysis of known factors on selflessness

Independent variables	B	Sig.	Exp(B)*
Being non-religious (reference group is religious)	-.41	.00	2.13
Women (reference group is men)	.22	.00	1.24
Public sector (reference group is employment in government or public institution):			
Private sector	-.47	.00	.63
Not-for-profit sector	-.75	.00	.47
Autonomous/informal sector	-.53	.00	.59
Supervisory role	.17	.00	1.19
Highest educational level	-.10	.00	.91
Scale of incomes	.04	.00	1.04
Age	-.01	.00	.99
Size of town	.03	.08	1.03
Constant	-.28	.00	.76

* Exp(B) refers to the odds ratio.

To understand the outcomes of this analysis, the B in the table refers to the strength of the relation between for instance being non-religious and selflessness with being religious used as the reference group. It appears to be a negative relation. This implies that being non-religious is a strong predictor for selfishness. This is no co-incidence, but a statistically significant relation. The probability of this relation being due to chance is 0.00 (sign.). The last column

gives the odds ratio (exp. (B)). It appears that being non-religious results in more than doubling the probability of also being selfish, as the odds ratio is 2.13.

Coefficient B shows the strength a given feature/variable has in predicting selflessness when compared to not having this feature. For instance, being non-religious has a strong negative correlation to selflessness when being religious is the reference group ($B = -.41$; sign. 0.00). This means that being non-religious is a strong predictor for selfishness (the opposite of selflessness). The last column presents the odds ratio, indicating the probability for an individual holding a given feature/variable being selfish/selfless—depending on whether B shows a negative or positive correlation—as compared to not having this feature. Thus, the chances for one individual being non-religious and selfish is more than twice the chances of being religious and selfish [Exp.(B) = 2.13].

The analysis shows that religion, gender, income, being a supervisor, and working in the public sector all have a positive impact on selflessness. *Ceteris paribus*, religious people are more selfless than non-religious people, women are significantly more selfless than men, and people in a supervisory role are more selfless than those who do not hold such a position. The odds of being selfless are more than twice as high if somebody is religious, 24% higher for women than for men, and 19% higher for people in a supervisory role [see the last column in Table 2]. In addition, the odds of being selfless drop significantly when the respondent is not working in the public sector. In the private sector, the odds of being selfless are only 63% as compared to the odds of being selfless when working in the public sector. Age has a tiny impact on selflessness, as does education. The size of the town in which the respondent lives does not have any impact on selflessness.

Next to being religious and female, the sector in which respondents work seems to have the largest effect on the odds of being selfless; the odds are low in the private sector but especially low in the non-profit sector.

To obtain more precise outcomes on the factors responsible for the emergence of selflessness, we conducted an additional analysis to examine possible interaction effects. As the dependent variable ‘selflessness’ is a dichotomous variable, we continued by analyzing the interactions using binary logistic regression analysis.

It is important to underscore that in the previous analysis we assumed a *ceteris paribus* situation: the straightforward binary regression analysis assumed no interaction effects. The binary logistic regression analysis, however, shows that interaction effects have a huge impact on being selfless or not. The results of this advanced analysis are presented in Table 3.

First, we added the region in which the respondents live; this had a great impact on being selfless. The respondents in the Middle East and Northern Africa region are by far the most selfless, while the respondents from Central and Eastern Europe countries are the most selfish. Adding the region one lives in the logistic regression model results in several other factors—such as age, education, and scale of income—losing their effect on selflessness.

For instance, the effects of the sector of employment and being religious on being selfless diminish in strength when controlled for region. In the previous analysis, not controlling for the region, individuals working in the private sector were significantly more selfish than people working in the public sector, with people working in the not-for-profit and informal sectors being the most selfless. Controlling for the region, changes these relations significantly. In this case being religious only increase the odds of being selfless with 26% and it seems to matter hugely what religion one adheres to. Being Hindu or Muslim does strongly increase the probability of being selfless, while this is opposite for Catholics and Protestants. That is, if one does not distinguish where those Catholics live. The odds of being selfless are huge for Catholics in OECD countries, Latin America, and Africa compared to Catholics in Asia and Eastern Europe. In Africa, we see a huge difference in selflessness comparing Catholics and Protestants. As to the sector respondents work in, the odds of being selfless are now higher for people working in the not-for-profit or informal sector compared to people working in the public sector.

It is important to highlight that the effect of working in the public sector on selflessness varies over regions. The effect thereof is strengthened in the OECD while smaller in Africa. Religiousness also has a strong effect on selflessness, but, in this case, once again, several interaction effects are noticeable. First, the religious denomination matters. The effect of Catholicism on selflessness is strengthened when combined with living in Africa, Latin America, and especially the OECD. In Africa, the effect of Catholicism on being selfless is opposite to the effect of being Protestant: living in Africa and being a Protestant diminishes the odds of being selfless. This could be because in some African countries —like South Africa— Protestantism is the religion predominant among the previous colonizers and Catholicism the religion of many black Africans. A huge effect of religion on selflessness is also seen in the combination of living in Asia and being a Hindu; this more than quadruples the odds of such a person being selfless.

In general, this model shows a good performance in predicting who is selfless, according to the criterion described at the beginning of this section. Of all the 4,199 respondents being selfless (group A data), 19% were also classified as such based on the predictors, whereas none would be classified as selfless without the predictors. As to the 9,697 selfish people (group B data), without any predictors, all respondents in this group would be correctly classified as selfish, because they are also the majority. Using the predictors increases the probability of wrongly classifying them as selfless by only 2.6%.

Table 3. Advanced analysis on selflessness

	B	Sig.	Exp(B)
Regions: reference group is CEE			
OECD	.92	.00	2.50
Asia	1.79	.00	5.98
Latin America	2.48	.00	11.94
Africa	2.81	.00	16.64
Middle East and Northern Africa	4.20	.00	66.84
Sector of employment: reference group is working in the public sector			
Private sector	-.08	.13	.91
Not-for-profit sector	.23	.03	1.26
Autonomous/informal sector	.24	.00	1.28
Working in public sector in OECD	.36	.02	1.44
Working in public sector in Africa	-.26	.00	.77
Size of town	.04	.00	1.05
Importance of religion	.23	.00	1.26
Denomination			
Hindu	.87	.00	2.38
Muslim	.65	.00	1.92
Protestant	-.59	.01	.56
Catholic	-.40	.00	.67
Religions within regions			
No religion in OECD	1.19	.00	3.30
Catholic in OECD	2.13	.00	8.38
Catholic in Latin America	1.65	.00	5.20
Catholic in Africa	1.76	.00	5.80
Protestant in Africa	-.77	.00	.46
Constant	-3.29	.00	.037

Exp(B) refers to the odds ratio.

Cox and Smith R square = .16 Nagelkerke R square = .27

5 Discussion and conclusions

The implementation of the SDGs, being a universal agenda, requires from governments and stakeholders a great level of commitment to a common cause. Moreover, this common cause demands that all those involved in the endeavor join together to promote the betterment of all people, as “no one will be left behind” (UN, 2015, p. 5). In this study, we sought to verify whether the public and, especially, public servants hold the values needed for the implementation of the SDGs. As selflessness is a fundamental value to promote commitment to such an encompassing a common cause as the SDGs, it was put at the center of our analysis. We also investigated the factors that could explain the emergence of selflessness. We should highlight here that selflessness is assumed as a moral virtue that can be cultivated (Machan, 1998).

Previous studies have investigated the effects of factors such as religion, education, level of income, among others on generosity. However, these investigations measured generosity through individuals’ willingness to donate to charities and other causes. Our study took a more direct approach by measuring selflessness as the simultaneous response to two questions present in the questionnaire used in the 2010-2014 World Values Survey (Inglehart et al., 2014). These data also allowed us to test the effect of several factors on selflessness, including factors that are not normally considered in similar studies, such as the sector of employment, position at work, and, more importantly, the region of the world one lives in.

The results of our analysis show that the region of the world has a huge impact on the probability of one being selfless or not. As seen in Table 1, a very small percentage of the population in Central and East European countries can be regarded as selfless (1.6%), while individuals living in the Middle East and Northern Africa are the most likely to be selfless (29%); individuals living in OECD countries, Africa, Asia, and Latin America stand in between (7.8%, 15.6%, 12.2%, and 17.2%, respectively). Within the OECD, selflessness is somewhat more frequent than in Central and Eastern European countries, but still, only a small minority of the population may be regarded as selfless.

Our study also identified strong interaction effects. As shown in the previous section, the region a person lives in has a great impact on being selfless to the point of erasing the effect of factors such as age, education, and level of income. The combination of working in the public sector in an OECD country increases the odds that the person in question is selfless while working in the public sector in Africa has the opposite effect.

The results of our analyses demonstrate that research on values needs to be contextualized. This is particularly important when research aims at offering advice to practitioners. Our investigation has shown that the same factors that enhance the odds of finding selfless people in one part of the world may decrease those odds in other regions. One size does not fit all.

Nevertheless, the effect of place of work was shown to have a considerable effect on the odds of one being selfless, irrespective of the region one considers.

It is one of the few factors whose individual effect is resilient in this way. People working in the public sector are significantly more likely to be selfless than people working in the private sector, but the effect is even stronger if one is working in the not-for-profit or the autonomous/informal sector. However, as seen above, while working in the public sector increases the odds of one being selfless in the OECD countries, this factor decreases the odds if one is in Africa.

The adherence to religion also has a strong effect on selflessness. In itself, this is positively related to selflessness. In the OECD countries, Africa, and Latin America, there is an additional positive effect of Catholicism. This additional effect is, however, absent in other regions, like Central Eastern Europe or Asia. As to specific denominations, Hinduism and Islam seem to have a much stronger effect on selflessness than Protestantism, or Catholicism.

We recognize that there are limitations associated with the way our investigation chose to measure selflessness. Indeed, our approach is novel for it combines the importance people attach to caring for one another with the centrality of selflessness within their value system. Bardi et al. (2009) proposed that analyses of value change should make a distinction between mean-level changes and rank-order changes. However, in our study, we did not investigate possible value changes over time; we performed a “snapshot” analysis of the concept of selflessness within the short period comprising the collection of data for the 2010-2014 WVS wave. Nevertheless, using our measurement and conducting a multivariate analysis, allowed us to correctly classify 77% of the WVS sample as selfish or selfless individuals.

How can our findings aid the implementation of the SDGs? The main lesson is that strategies to foster the values associated with the agenda should be tailored to each region. In a more specific fashion, our results suggest that public servants in Africa could benefit from training or mentoring programs that show the collective benefits associated with the SDGs. In contrast, public communication programs appear to be especially important in Central and Eastern Europe. Although scholars and practitioners have long been skeptical of the effectiveness of training for value change, there is evidence that benevolent values can be enhanced through specific interventions (Arieli et al., 2014). In addition, it has been argued that the right type of training, not training *per se*, is capable of promoting change within organizations (Arthur et al., 2003; Garofalo, 2003). Moreover, recent research in Public Service Motivation has shown that public values are dependent on context (Andrews, 2016). We should also note that value change is, in itself, a moral commitment. Adorno (1963/1998) has put this commitment in a dramatic, though truthful, manner: “The premier demand upon all education is that Auschwitz not happens again” (p. 191).

While religion is an important factor in enhancing selflessness, religiosity is a very personal matter. Therefore, governments should refrain from engaging in any religious discourse. However, the same values that religious people embrace can be promoted in secular terms. Governments regularly promote public campaigns to tackle social problems such as car accidents, HIV prevention, substance abuse, racial discrimination, etc. by reinforcing values such as

self-respect, family bonds, community life, solidarity, and egalitarianism. It should be the case to use governments' communication powers to explain to the public why the SDGs are worth pursuing, in a way that the agenda's goals are associated with the values that underpin them. As Schwartz (2012) has argued, the same basic values appear to be present everywhere in the world; the differences are regarding which values predominate over others in different cultures or even in different individuals. Therefore, governments may use public communication tools to enhance positive values that are already present in every individual.

Considering the extent and the great commitment that the SDGs represent to the vast majority of the world's countries that signed up for the task, this also implies that more investigations should follow through, providing specific insights on the more effective ways to promote the values that can sustain this universal agenda.

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Business' Attitudes Towards Corruption in Selected Central European Countries

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ABSTRACT

Purpose: Corruption is perceived as a widespread problem throughout the world, including in Central European countries. In terms of corruption, these countries still lag behind the leading EU countries (as indicated by the 2023 Worldwide Governance Indicators). As corruption itself is very difficult to measure, the perception of corruption is often used as a proxy. The aim of this paper is to analyse attitudes towards corruption in selected Central European countries and to draw conclusions on the factors influencing these perceptions. Based on the assumption that the difference between de jure and de facto transparency matters, we selected Czechia, Hungary, and Poland as countries with small differences between these two dimensions of transparency, and Croatia, Slovakia, and Slovenia as countries with large differences.

Design/Methodology/Approach: Using Eurobarometer data, we applied logistic regression to analyse attitudes towards corruption in the two groups of countries distinguished by differences in de jure and de facto transparency. Each group, consisting of three Central European countries, was used to create a model, i.e., Model 1 and Model 2, with a total number of observations of 901 and 902, respectively. Both models displayed ad-

equate fit indices and enabled predictions that allowed us to draw conclusions. All respondents were business representatives with decision-making responsibilities in their companies, ensuring that the results reflect company perceptions rather than those of the general public.

Findings: Attitudes towards corruption in the countries studied are related to perceptions of patronage and nepotism in business, perceptions of corruption in public procurement, perceived links between politics and business, and attitudes towards tax rates. In the group where there is little difference between *de jure* and *de facto* transparency levels, business attitudes towards corruption are also associated with perceptions of adequacy of infrastructure and complexity of administrative procedures. In the countries where these differences are substantial, attitudes towards corruption are related to perceptions of problems arising from frequent changes in the law, problems with debt collection, and differences in views regarding the severity of bribery depending on the value of the bribe.

Academic contribution to the field: This research provides a better understanding of the factors influencing the perception of corruption in Central European countries from a business perspective. In doing so, it introduces a methodology that is well-suited for the analysis of survey-collected data, especially since it allows the dependent variable to be categorical. Moreover, by using data from the Transparency Index to differentiate countries, the study has the potential to stimulate further theoretical and empirical research into the relationship between corruption and transparency. Lastly, by linking companies' perceived problems to overall perceptions of corruption, this paper helps to identify the areas within the studied countries where pockets of corruption are most likely to exist.

Originality/Value: Previous research has found that corruption tends to occur when the gap between *de facto* and *de jure* transparency is larger. This research demonstrates that the size of this gap can also be successfully used to achieve a better understanding of the factors influencing attitudes towards corruption. Therefore, this paper employs the difference between *de jure* and *de facto* transparency as a categorisation criterion to analyse the factors influencing the perception of corruption. This categorisation approach enabled the development of two separate logistic regression models with high predictive power.

Keywords: *de jure transparency, de facto transparency, corruption, attitudes towards corruption, business*

JEL: C01, D73, H83

1 Introduction

Transparency International defines corruption as “the abuse of entrusted power for private gain” (Transparency International, 2023). Similarly, corruption can be defined as a leakage of resources that should be used to fulfil social goals (Langseth, 2006). Corruption, that results in the abuse of entrusted power, can manifest itself in the acceptance, giving, demanding, or offering of bribes, valuable gifts, the granting or receiving of important favours, and other behaviours. Even from this brief explanation, we can deduce that corruption

is a situation in which someone who has been entrusted with power to serve a public interest uses that power for their own benefit. Transparency International goes on to explain that corruption in general, and political corruption in particular, “undermines good government, fundamentally distorts public policy, leads to the misallocation of resources, harms the private sector and private sector development, and particularly hurts the poor” (Kusek and Rist, 2004).

Thus, when we talk about corruption, we usually focus on the misconduct of politicians, public officials, and public employees. The social costs of corruption damage good governance (Scott, 1972), affect economic growth (Mauro 1995), investment (Mauro, 1997), gross domestic product (Manchanda, 2019), the level of public services delivered (Pellegata, 2012 and Brown et al., 2011), but also public trust in (local) government (Zhang et al., 2019), increases in the costs of private and public activities (Hakimi and Hamdi, 2017), and increases in managerial uncertainty.

Since corruption is illegal, it is not easy to detect and very difficult to measure. Even comparing collected data on the incidence of reported crimes can be problematic, as bribery and other forms of corruption may be viewed and handled differently in different countries (Lambsdorff, 2006). In addition, the persistence of corruption can be explained by the fact that it is difficult for citizens to observe it, which in turn makes it difficult to implement monitoring systems and create incentives for politicians to curb corruption (Olken, 2009). Moreover, some actions may be considered corruption in one country while acceptable behaviour in another (Chabova, 2017), making it difficult not only to measure but also to fundamentally understand corruption. Tolerance for corruption also varies from country to country, as well as from population group to population group (Gouvêa Maciel, 2021). Even when citizens are aware of the extent of corruption but do not know who is corrupt and who is honest, politicians' enthusiasm to make actual efforts to curb corruption may be low.

However, because corruption is so difficult to measure and the actual level of corruption cannot be determined directly, the perception of corruption may be the only way to estimate actual corruption (Lambsdorff, 2006). Because measurement could only capture reported corruption, some of the most prominent international organisations (e.g., Transparency International and the World Bank) measure perceptions of corruption rather than the extent of corruption itself. This indirect way of measuring corruption allows us to overcome the difficulties of measuring corruption, but may raise questions about the relationship between perceptions and actual corruption. For example, Donchev and Ujhelyi (2014) warned that perceived corruption is subject to bias and may be problematic, and called for better measures of actual corruption. François et al. (2023) could not confirm the relationship between perceived and actual corruption, but found a relationship between municipality size and perceived corruption in France. Corrado et al. (2021) published the results of an experiment that showed that corruption perceptions are strongly influenced by available information and that actors who do not have information about bribery attempts are more likely to offer bribes.

Some research (Melgar et al., 2010) suggests that perceptions of corruption can do more harm than corruption itself by generating mistrust. However, the correlation between perception and actual corruption has been confirmed in some academic works (Charron, 2016; Villoria and Jimenez, 2012), as well as the reluctance of citizens to report corruption when corruption perception is high (Manzin et al., 2015). Moreover, both actual and perceived corruption are influenced by freedom of the press (Breen and Gilanders, 2020), where press reports of corruption cases can reinforce perceptions of corruption, while reporting of routine anti-corruption efforts leads to positive perceptions of efforts to reduce corruption (Sun et al., 2022). However, when free journalism is threatened by political, legal, and economic constraints, perceptions of corruption increase (Corrado et al., 2023). This is also true in reverse: when transparency is high, perceptions of corruption decrease (de Oliveira Santos et al., 2019). Therefore, the most important prerequisite for reducing corruption is to increase the level of transparency.

In her review of available surveys to measure corruption in the EU (including Eurobarometer), Chabova (2017) argues that, in addition to the well-known drawbacks of using public perceptions of corruption as a metric, the use of common public pools helps avoid the free-rider problem because: the general public expresses its opinion free of assumptions that might constrain expert responses. There is also the possibility of conducting micro-analyses; and because there is a strong correlation of these pools across years and countries, they can be considered reliable. That public opinion about corruption is relevant is also confirmed by recent research (Shiroka-Pula et al., 2023), which has shown that greater trust in local and national institutions, i.e., less asymmetry between formal and informal institutions, is associated with higher well-being. As analyzed by Van de Walle & Migchelbrink (2020) using a logistic regression on regional Eurobarometer data, perceived corruption is also one of the most important variables for trust in public administration, together with public sector outcomes.

Transparency “enables organization insiders and outsiders to obtain accurate information about organizational activities” (Ingrams, 2016). Increased transparency therefore leads to easier detection of corruption and vice versa. However, although most economies, under internal and external pressure, are trying to increase transparency to curb corruption, there is a gap between *de jure* transparency and actual or *de facto* transparency. *De jure* transparency, or legal transparency, is measured by the existence of laws and other institutional measures that ensure free access to information (Mungiu-Pippidi, 2023). *De facto* transparency is actual transparency and represents “informal rules of game” (Mungiu-Pippidi, 2023).

The European Research Centre for Anti-Corruption and State-building (ERCAS) has created a transparency index that is the sum of *de jure* and *de facto* transparency. The *de jure* index examines legal transparency (a country's transparency laws), while the *de facto* index evaluates 14 major websites on the extent and accessibility of data. The 14 websites were selected based

on the transparency categories described in the United Nations Convention against Corruption and the Sustainable Development Goal 16. According to recently published research (Jeong et al., 2023), corruption occurs when the gap between de jure and de facto transparency is large. This interesting finding prompted us to investigate the possible differences in the perception of corruption in Central European countries. For the analysis, we selected six countries that have significant parts of their historical, cultural and political background in common. Another main argument for the selection of countries is the discrepancy between de facto and de jure transparency, as we selected three countries where this discrepancy is larger and three countries where it is smaller. We took the absolute values of the difference between these two index numbers, regardless of which index is higher and which is lower. Moreover, we did not focus on identifying the differences in corruption perceptions between countries with higher and those with lower transparency, but rather on the countries with a higher or lower discrepancy between de facto and de jure indicators, as calculated by ERCAS and presented on its website (corruptionrisk.org).

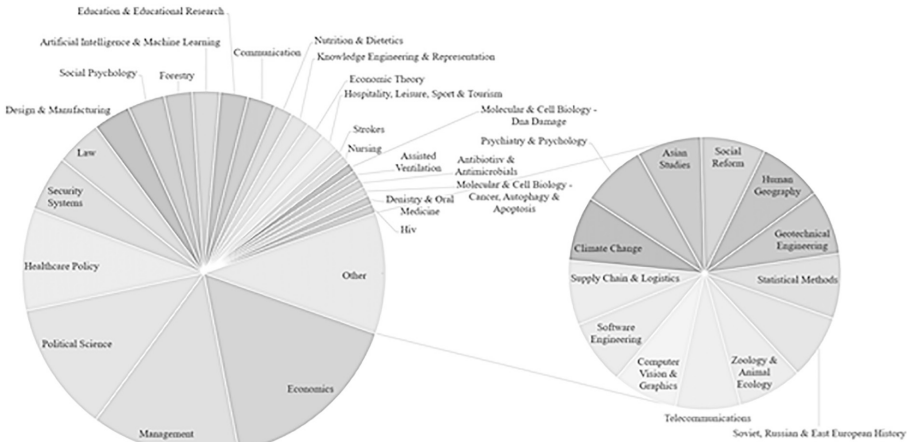
The survey, "Businesses' attitudes towards corruption in the EU", was commissioned by the European Commission and last conducted in April 2022. The survey involved 12,790 telephone interviews with company representatives who are decision-makers in the business. We believe that the fact that only company representatives with decision-making responsibility, rather than the general public, were included in the survey is significant both for methodological reasons and in terms of the relative importance of the conclusions. The survey report shows that 34% of companies in the EU consider corruption to be a problem when doing business in their country, although the extent varies widely across Member States. For example, 70% of companies in Romania consider corruption a problem, but only 7% in Denmark. In Croatia, 64% of companies consider corruption to be a serious problem in their business activities, while 50% in Slovakia, 45% in Hungary, 38% in Slovenia, 34% in Czechia and only 19% in Poland share this view. The most common type of corruption, also at the EU level, is favouring friends and family members in companies and public institutions, then funding political parties in order to obtain lucrative contracts later on, and finally offering gifts, trips, kickbacks and bribes (Businesses' attitudes towards corruption in the EU, Report, 2022).

The main aim of this research is to find out what are the most important factors influencing business people's attitudes towards corruption in Central European countries. Based on this idea, we decided to use logistic regression to show which are the key variables leading to the perception of corruption, using the analytical data from the Eurobarometer survey. However, to investigate whether the difference between de facto and de jure transparency makes a difference, we used the same methodology and variables to build separate models for two groups of selected countries. Therefore, the second aim of this research was to find out whether there are significant differences in corruption perceptions between peer countries grouped according to the criterion of the difference between de jure and de facto transparency.

2 Analysis of the prior research

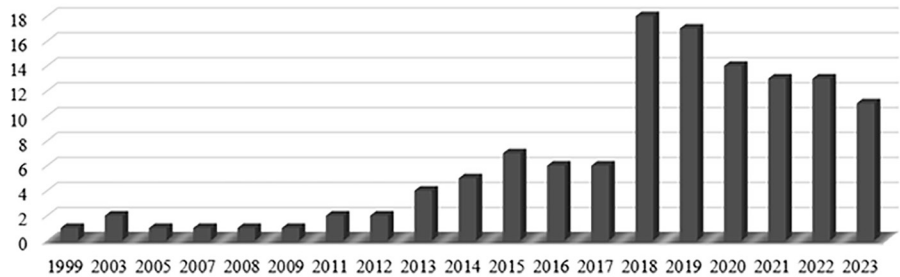
With the aim of reviewing previous research on corruption, we searched the Web of Science Core Collection database as the most important scientific database in the world. Considering that the WoS CC database contains 37,462 papers on the topic of “corruption”, we decided to limit our search to papers that combine the term “corruption” with the term “logistic regression” and came across 125 papers. Most of these contributions are from the following areas: Economics - 20, Management - 16, Political Science - 14, Health Policy - 11, Security Systems 6, Law - 5. Less than 5 contributions are from the other fields (Figure 1). For further analysis of these 125 contributions we used the software package VOSviewer. As shown in Figure 2, most papers on corruption using logistic regression were published in the last 10 years, with a noticeable jump in 2018. In the years from 1999 to 2012, only a very modest number of research papers were published on this topic.

Figure 1. Representation of the papers in relation to the area.



Source: Authors using WoS CC database

Figure 2. Number of published papers by year



Source: Authors using WoS CC database

To identify the most productive authors in the field studied, as well as the most productive countries, both in terms of the number of published and the citation of papers from each country, we performed a co-authorship analysis (unit of analysis: authors and countries) and a citation analysis (unit of analysis: countries).

A total of 362 authors were included in the analysis. The most prolific author in this analysis is Colin C. Williams with 4 publications that met our criteria. Three of the authors included in this analysis have published 3 papers in the WoS CC (Horodnic, Sadigov, and Suresh) and 12 authors have published 2 papers (Table 1).

Table 1. The most productive authors

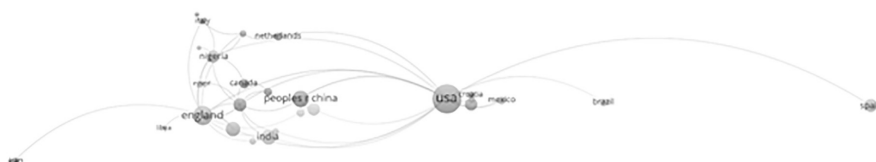
Author	Documents	Author	Documents
Williams, Colin C.	4	CROATIA	
Horodnic, Adrian Vasile	3	Cajner Mraovic, Irena	1
Sadigov, Turkhan	3	Modrusan, Nikola	1
Suresh, Ajith	3	Pavlovic Vinogradac, Valentina	1
Ayat, Muhammad	2	Rabuzin, Kornelije	1
Balabanova, Dina	2	CZECHIA	
Breuer, Christoph	2	Plaček, Michal	2
Chaudhari, Harsh	2	Gillernová, Ilona	1
Horodnic, Ioana Alexandra	2	Ochrana, Frantisek	1
Hutchinson, Eleanor	2	Schmidt, Martin	1
Kang, Changwook	2	Soukopova, Jana	1
Kuang, Xiaoxue	2	Vacekova, Gabriela	1
Mckee, Martin	2	Výrost, Jozef	1
Patra, Arpita	2	HUNGARY	
Plaček, Michal	2	Baji, Petra	1
Yang, Qi	2	Gulácsi, Laszlo	1
		Santoso, Cornelia	1
		SLOVAKIA	
		Falat, Lukas	1
		Holkova, Beata	1
		Malichova, Eva	1
		Pancikova, Lucia	1
		Výrost, Jozef	1

Source: Authors using WoS CC database

We thought it is important to note how many of the analysed papers were written by authors from the countries considered in the empirical part of the present work. Papers by Croatian, Czech, Hungarian and Slovak authors were found, which is also indicated in Table 1. One of the authors from the selected countries published two papers, while one author is associated with institutions in both Czechia and Slovakia. In addition, there were no papers by authors from Slovenia and Poland in this analysis.

Figure 3 shows the most productive countries in terms of the number of publications included in the study. The authors of the papers studied come from 56 countries. The most productive country is the United States of America (USA) with 32 published papers, followed by England with 14 published papers and the Republic of China with 11 published papers. Other countries that are the subject of this study have less than 10 publications.

Figure 3. The most productive countries



Source: Authors

As expected, the United States of America ranks first with 1,073 citations, while England, which ranks second in the number of published works, ranks fourth in the number of citations (319 citations). India and Australia follow in second and third place, with 438 and 436 citations, respectively. The Republic of China, which ranks third in the number of published papers, ranks sixth in the number of citations (246 citations). Wales ranks fifth in the number of citations (310), while papers by authors from other countries have fewer than 100 citations.

Looking at the countries analysed in the empirical part of this paper, it is interesting to note that Czechia has three publications, while Hungary, Croatia and Slovakia have two publications. No work from Poland and Slovenia met the criteria to be included in the analysis. Looking at the mentioned papers by the number of citations, the papers of Hungarian authors were cited the most, 34 times. The works of Czech authors were cited 10 times, those of Croatian authors 8 times, while the works of Slovak authors were not cited.

At the end of this bibliometric analysis, we will shortly present the main topics of the papers published by authors from the countries we analysed in our research. A paper published by Rabuzin and Modrušan (2019) presents results in using machine learning methods to detect fraud in public procurement. Public procurement, its efficiency and the occurrence of corruption are also the focus of papers published by Plaček (2017) and Plaček et al. (2019). Scholars' interest in corruption in public procurement is understandable, as public procurement mechanisms in the EU were created to prevent corruption in local government. However, apart from the fact that corrupt officials still try

to circumvent the restrictions, there are concerns that public procurement leads to centralization of decision-making at a higher level of administration, which could mean that corruption takes place up the ladder (Kaštelan Mrak et al., 2016). The study published by Kutnjak Ivkovich et al. (2022) focuses on corruption within the police and examines the factors that influence the willingness to report police misconduct.

Perceptions of corruption were one of four social factors that predicted global life satisfaction in a psychological study (Výrost and Gillernová, 2015). Research from Hungary (Baji et al., 2015) noted a mostly positive attitude toward informal payments (bribes) made by patients to health professionals on the grounds that they are not adequately paid by the health care system. Rajan et al. (2022) addressed the problem of informal payments in 34 African countries. Their data showed that men were more likely to bribe medical personnel than women, regardless of age, education, occupation, and social status. Holkova et al. (2023) examined factors influencing the tendency to evade taxes and emphasised the close relationship between tax evasion and corruption.

3 Data, sample and methodology

Following the study of Jeong et al. (2023) which found that one of the main reasons for the persistence of corruption in a given country is the gap between *de jure* and *de facto* transparency, we decided to conduct our research for the countries that have the smallest and the largest difference between these two indicators. As shown in Table 2, in our study we included the three countries with the smallest difference between *de jure* and *de facto* transparency: Hungary, Czechia and Poland, and three countries with the largest difference between *de jure* and *de facto* transparency: Croatia, Slovakia, and Slovenia.

From the table it can be seen that Estonia has the same difference as Croatia and Slovakia and could also be included in a model. However, besides our goal to balance the number of countries in the included country groups, we decided to include countries that have a common historical, cultural and geographical origin. Therefore, we chose to include nearby countries and all Slavic countries except Hungary. Although Hungary is not Slavic, it has many historical similarities with other countries and is a neighbouring country to three other countries in our analysis.

Logistic regression looks for an equation that predicts an outcome for a binary variable based on one or more response variables. Unlike linear regression, the response variables need to be categorical, as the model does not strictly require continuous data. To predict group membership, logistic regression uses the log odds ratio instead of probabilities and an iterative maximum likelihood method instead of least squares to create the final model (Kleinbaum and Klein, 2010).

Table 2. *De jure* and *de facto* transparency, Central and Eastern EU countries

Country	<i>De jure</i> transparency	<i>De facto</i> transparency	Difference between <i>de jure</i> and <i>de facto</i> transparency (<i>de jure</i> transparency – <i>de facto</i> transparency)
Bulgaria	6.00	11.00	5.00
Croatia	6.00	13.00	7.00
Czechia	6.00	9.50	3.50
Estonia	6.00	13.00	7.00
Hungary	5.00	8.00	3.00
Latvia	6.00	11.50	5.50
Lithuania	6.00	12.50	6.50
Poland	9.00	5.00	4.00
Romania	6.00	12.00	6.00
Slovakia	6.00	13.00	7.00
Slovenia	5.00	12.50	7.50

Source: Authors using European research centre for anti-corruption and state-building, ERCAS (2022)

The data used in this article come from a Eurobarometer survey conducted via telephone interviews in 2022, the aim of which was to investigate the level of corruption as perceived and experienced by companies with one or more employees in six key sectors: Financial Services, Banking and Investment; Construction and Building; Energy, Mining, Oil and Gas, Chemicals; Engineering and Electronics, Motor Vehicles; Healthcare and Pharmaceuticals; Telecommunications and Information Technology. Table 3 provides an overview of the characteristics of the sample in each of the countries for which we conducted the analysis and provides information on the companies for which respondents work: industry sector to which the company belongs, how many employees the company has, and how long the company has been in business.

In addition to the characteristics of their company, respondents were required to answer a series of questions related to: business difficulties, perceptions of corruption in their country, the prevalence of activities that lead to corruption. They were also asked to assess the occurrence of corrupt practices in public tendering and procurement procedures and how corruption is investigated, prosecuted, and punished in their country. The variables used in the analysis, as well as their notation, operationalization, and scale, can be found in Table 4.

Table 3. Sample characteristics overview

Sample characteristics	Croatia	Czechia	Hungary	Poland	Slovakia	Slovenia
Sector of activity (SA)						
<i>Financial services, banking and investment</i>	8.7%	8.7%	17.3%	16.7%	17.6%	16.9%
<i>Construction and building</i>	21.7%	18.7%	18.3%	16.3%	18.3%	17.3%
<i>Energy, mining, oil and gas, chemicals</i>	13.7%	17.3%	14.0%	16.7%	7.6%	17.3%
<i>Engineering and electronics, motor vehicles</i>	21.7%	19.3%	17.9%	16.7%	19.3%	17.6%
<i>Healthcare and pharmaceutical</i>	19.0%	18.0%	15.9%	17.0%	18.3%	17.3%
<i>Telecommunications and Information technologies</i>	15.3%	18.0%	16.6%	16.7%	18.9%	13.6%
Number of employees (NUME)						
<i>1 to 9 employees</i>	45.0%	57.7%	56.5%	63.3%	72.1%	36.5%
<i>10 to 49 employees</i>	33.3%	24.3%	31.9%	17.0%	19.9%	30.9%
<i>50 to 249 employees</i>	17.0%	12.0%	9.0%	16.0%	4.7%	23.9%
<i>250 employees or more</i>	4.7%	6.0%	2.7%	3.7%	1.3%	8.3%
<i>Don't know</i>	0.0%	0.0%	0.0%	0.0%	2.0%	0.3%
Company business duration (CBD)						
<i>Less than 1 year</i>	10.3%	14.0%	0.3%	0.7%	14.6%	0.3%
<i>1 - 5 years</i>	13.3%	13.3%	6.3%	10.3%	20.9%	10.3%
<i>6 - 10 years</i>	75.7%	71.7%	19.6%	13.3%	63.8%	15.0%
<i>11 years or more</i>	0.7%	1.0%	73.8%	75.0%	0.7%	73.1%
<i>Don't know</i>	0.0%	0.0%	0.0%	0.7%	0.0%	1.3%

Source: Authors using Eurobarometer survey

Table 4. Variables operationalisation

Variable	Notation	Operationalisation	Scale
<i>Do you consider the following to be a problem or not for your company? - Patronage and nepotism</i>	PAN	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Complexity of administrative procedures</i>	APC	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Fast-changing legislation and policies</i>	LPC	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Inadequate infrastructure in your country</i>	IINF	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Lack of means or procedures to recover debt from others</i>	DRD	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Restrictive labour regulations</i>	RLR	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Tax rates</i>	TR	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>Do you consider the following to be a problem or not for your company? - Access to financing, including credits</i>	AFC	1 = not a serious problem; 2 = a serious problem; 3 = don't know	Categorical
<i>In the past three years, has your company taken part in a public tender or a public procurement procedure?</i>	PPP	1 = no; 2 = yes; 3 = don't know	Categorical
<i>If a public official receives money, a gift or a service from someone, what would be the minimum value at which you would consider this to be a bribe?</i>	BCL	1 = 0 euros (any gift is a bribe); 2 = 1 - 1000 euros; 3 = 1001+ euros; 4 = don't know	Categorical
<i>Do you agree or disagree that there is sufficient transparency and supervision of the funding of political parties in your country?</i>	STS	1 = disagree; 2 = agree; 3 = don't know	Categorical
<i>Do you agree or disagree that too close links between business and politics in your country lead to corruption?</i>	BPL	1 = disagree; 2 = agree; 3 = don't know	Categorical
<i>Do you agree or disagree that people and businesses caught for petty corruption are appropriately punished in your country?</i>	AP	1 = disagree; 2 = agree; 3 = don't know	Categorical
<i>Do you agree or disagree that people and businesses caught for bribing a senior official are appropriately punished in your country?</i>	BSO	1 = disagree; 2 = agree; 3 = don't know	Categorical
<i>How likely do you think that people or businesses engaging in corrupt practices will get caught by or reported to the police or prosecutors generally?</i>	RPP	1 = very or fairly unlikely; 2 = very or fairly likely; 3 = don't know	Categorical
<i>How widespread do you think the following practices are generally? - Corruption in public procurement managed by national authorities</i>	NAC	1 = very or fairly rare; 2 = very or fairly widespread; 3 = don't know	Categorical

How widespread do you think the following practices are generally? - Corruption in public procurement managed by regional or local authorities	RLAC	1 = very or fairly rare; 2 = very or fairly widespread; 3 = don't know	Categorical
How widespread do you think the problem of corruption is in your country?	CW	0 = very or fairly rare; 1 = very or fairly widespread	Dummy

Source: Authors using Eurobarometer survey

Combining the data from Hungary, Czechia, and Poland (i.e. countries with smallest differences between de jure and the facto transparency) with the total of 901 observations enabled us to create the first logistic regression model (referred to as *Model 1* in the sequel). Second logistic regression model (referred to as *Model 2* in the sequel) was created from the data from Croatia, Slovakia, and Slovenia (i.e. countries with largest differences between de jure and the facto transparency) with a total of 902 observations. We aimed to find out what influences the respondents' opinion on corruption widespread in their country. With that purpose, two separate binary logistic regression models with the dependent variable CW were build, respectively:

$$CW = \log\left(\frac{p}{1-p}\right) = \beta_0 + \beta_1 SA + \beta_2 PAN + \beta_3 APC + \beta_4 LPC + \beta_5 IINF + \beta_6 DRD + \beta_7 RLR + \beta_8 TR + \beta_9 AFC + \beta_{10} PPP + \beta_{11} BCL + \beta_{12} STS + \beta_{13} BPL + \beta_{14} AP + \beta_{15} BSO + \beta_{16} RPP + \beta_{17} NAC + \beta_{18} RLAC + e,$$

where p denotes the probability that

$$y = \beta_0 + \beta_1 SA + \beta_2 PAN + \beta_3 APC + \beta_4 LPC + \beta_5 IINF + \beta_6 DRD + \beta_7 RLR + \beta_8 TR + \beta_9 AFC + \beta_{10} PPP + \beta_{11} BCL + \beta_{12} STS + \beta_{13} BPL + \beta_{14} AP + \beta_{15} BSO + \beta_{16} RPP + \beta_{17} NAC + \beta_{18} RLAC + e$$

will take the value 1. The empirical analysis presented in the next section was performed using Stata 17.0 MP-Parallel Edition. As it can be seen from Table 5, CW is a dummy variable indicating *respondents' general perception of the prevalence of the corruption problem in their country*.

4 Empirical results and analysis

The variable CW was used as the dependent variable, whereas the variable representing the field of activity in which the respondent is employed (SA), described in Table 4, and all other categorical variables, described in Table 5, were used as independent variables to build binary logistic regression models in this research. The fit indices for each of the constructed models can be seen in Table 5, which provides insight into the likelihood ratio test statistics, the p-values associated with the likelihood ratio test statistics, deviances, the McFadden and Cragg-Uhler (Nagelkerke) pseudo-R² values, the AIC and BIC values, and the values of the correctly classified instances.

Table 5. Fit indices for each of the constructed logistic regression models - Model 1 and Model 2

	Model 1 – Czechia, Hungary and Poland	Model 2 – Croatia, Slovakia and Slovenia
<i>Number of observations</i>	901	902
<i>LR $\chi^2(40)$ / LR $\chi^2(40)$</i>	299.550	553.140
<i>Prob > χ^2</i>	0.000	0.000
<i>Deviance</i>	845.590	551.224
<i>McFadden R²</i>	0.262	0.501
<i>Cragg-Uhler (Nagelkerke) R²</i>	0.393	0.649
<i>AIC</i>	1.069	0.742
<i>BIC</i>	-4882.962	-5185.066
<i>Correctly classified</i>	77.47%	87.14%

Source: Authors

The likelihood ratio chi-square of 299.550 ($LR \chi^2(40) = 299.550$), with a p-value of 0.000 ($Prob > \chi^2 = 0.000$) for the first model, and the likelihood ratio chi-square of 553.140 ($LR \chi^2(40) = 553.140$), with a p-value of 0.000 ($Prob > \chi^2 = 0.000$) for the second model suggest that constructed binary logistic regression models fit our data significantly better than models containing only constants (Chen et al., 2020). In addition, the Pearson test values of the postestimation goodness of fit ($\chi^2(838) = 912.46$, $p > \chi^2 = 0.0961$ for the first model and $\chi^2(838) = 870.55$, $p > \chi^2 = 0.2115$ for the second model), as well as the Hosmer-Lemeshow test values of the postestimation goodness of fit test ($\chi^2(8) = 4.98$, $p > \chi^2 = 0.7598$ for the first model and $\chi^2(838) = 7.42$, $p > \chi^2 = 0.4923$ for the second model) indicate that the constructed models are well fitted to our data (Hosmer et al., 2013). The same is confirmed by the McFadden and Cragg and Uhler pseudo-R² (McFadden R²=0.262, Cragg-Uhler (Nagelkerke) R² = 0.393 for the first model and McFadden R²=0.501, Cragg-Uhler (Nagelkerke) R² = 0.649 for the second model) (McFadden, 1974; Cragg and Uhler, 1970). The results for each of the two constructed models are shown in Table 6, which reports the coefficients, standard errors, and associated p-values.

Table 6. Logistic regression results - Model 1 and Model 2

	Model 1			Model 2		
	exp(β)	se (exp(β))	sig.	exp(β)	se (exp(β))	sig.
SA						
<i>Construction and building</i>	0.876	0.284	0.684	0.980	0.403	0.961
<i>Energy, mining, oil and gas, chemicals</i>	0.673	0.214	0.213	1.218	0.531	0.650
<i>Engineering and electronics, motor vehicles</i>	0.761	0.239	0.384	0.812	0.315	0.592
<i>Healthcare and pharmaceutical</i>	0.833	0.261	0.560	0.908	0.365	0.810
<i>Telecommunications and Information technologies</i>	0.741	0.239	0.352	0.437	0.183	0.048**
PAN						
<i>a serious problem</i>	1.961	0.421	0.002***	3.419	1.089	0.000***
<i>don't know</i>	0.954	0.496	0.928	7.826	6.203	0.009***
APC						
<i>a serious problem</i>	0.991	0.206	0.965	0.802	0.216	0.411
<i>don't know</i>	4.383	3.537	0.067*	0.778	0.708	0.782
LPC						
<i>a serious problem</i>	1.047	0.224	0.829	1.948	0.523	0.013**
<i>don't know</i>	0.331	0.242	0.130	0.709	0.915	0.790
IINF						
<i>a serious problem</i>	1.457	0.283	0.052*	0.857	0.224	0.556
<i>don't know</i>	1.324	0.675	0.583	5.735	4.706	0.033**
DRD						
<i>a serious problem</i>	1.191	0.240	0.385	2.104	0.584	0.007***
<i>don't know</i>	1.033	0.463	0.942	1.198	0.702	0.757
RLR						
<i>a serious problem</i>	0.851	0.169	0.418	0.859	0.253	0.606
<i>don't know</i>	1.869	0.993	0.239	1.768	0.941	0.285
TR						
<i>a serious problem</i>	1.431	0.273	0.060*	1.531	0.388	0.092*
<i>don't know</i>	2.543	1.524	0.119	0.769	0.452	0.655

AFC						
<i>a serious problem</i>	1.394	0.321	0.149	1.059	0.315	0.845
<i>don't know</i>	0.452	0.181	0.047**	0.824	0.460	0.728
PPP						
<i>yes</i>	1.336	0.265	0.144	1.454	0.361	0.131
<i>don't know</i>	2.989	1.824	0.073*	0.439	0.365	0.322
BCL						
<i>1 - 1000 euros</i>	1.375	0.303	0.148	0.924	0.296	0.805
<i>1001+ euros</i>	2.251	1.462	0.212	0.191	0.136	0.020**
<i>don't know</i>	0.747	0.181	0.227	1.431	0.545	0.348
STS						
<i>agree</i>	1.183	0.264	0.451	0.565	0.152	0.034**
<i>don't know</i>	1.224	0.372	0.507	0.471	0.167	0.034**
BPL						
<i>agree</i>	1.920	0.482	0.009***	3.292	0.896	0.000***
<i>don't know</i>	1.186	0.479	0.673	2.326	1.286	0.127
AP						
<i>agree</i>	0.861	0.177	0.467	1.112	0.299	0.692
<i>don't know</i>	0.838	0.245	0.545	1.016	0.453	0.971
BSO						
<i>agree</i>	0.668	0.151	0.075*	0.492	0.141	0.014**
<i>don't know</i>	0.829	0.257	0.545	0.599	0.279	0.272
RPP						
<i>very or fairly likely</i>	0.643	0.128	0.026**	1.168	0.281	0.519
<i>don't know</i>	0.815	0.275	0.544	0.711	0.433	0.576
NAC						
<i>very or fairly likely</i>	2.887	0.734	0.000***	6.666	2.284	0.000***
<i>don't know</i>	0.940	0.333	0.862	3.593	1.871	0.014**
RLAC						
<i>very or fairly likely</i>	4.548	1.149	0.000***	3.656	1.169	0.000***
<i>don't know</i>	2.982	1.059	0.002***	1.264	0.669	0.659
<i>Constant</i>	0.282	0.117	0.002	0.137	0.063	0.000

* p<0.1. ** p<0.05. *** p<0.01

Source: Authors

Because we used two models in our analysis (Model 1 and Model 2), with each model comprising three different countries grouped according to their differ-

ences in de jure and de facto transparency, the technical interpretation of the results presented is also divided.

4.1 Model 1 (Hungary, Czechia and Poland) findings

If a respondent believes that there is a serious problem with patronage and nepotism for his or her company, the odds increase by 96.13% that the respondent will answer that corruption is widespread in his or her country. Also, if the respondent is not sure whether the complexity of administrative procedures is a serious problem for his or her company, the odds increase by 338.33% that he or she will answer that corruption is widespread. For a question related to the adequacy of infrastructure in a country, the odds that the respondent perceives corruption to be widespread increase by 45.70% for respondents who perceive infrastructure to be inadequate. Similarly, the odds that the respondent who perceives tax rates as a problem for his or her business perceives corruption as widespread increase by 43.14%.

Interestingly, the odds that the respondent answers that corruption is widespread in his or her country decreases by 54.80% if he or she is not sure whether there is a serious problem in access to finance (including credit) for his or her company. On the other hand, if the respondent is not sure whether his or her company has participated in a public tender or public procurement procedure in the last three years, the odds increase by 198.92% that the respondent answers that corruption is widespread in his or her country.

The odds for respondents who claimed that too close ties between business and politics lead to corruption in their country increase by 92.00% to answer that corruption is widespread. The odds for respondents who believe that individuals and companies caught bribing a senior official are appropriately punished decrease by 33.18% to answer that corruption is widespread in their country. In addition, the odds that corruption is widespread in a country decreases by 35.70% for respondents who believe that individuals or companies who engage in corrupt practices will be caught.

The results of the link between corruption and public procurement management are also very interesting. If the respondent believes that corruption in public procurement is generally managed by national authorities, the odds increase by 188.69% that the respondent answers that corruption is widespread in his or her country. If the respondent believes that corruption in public procurement is generally managed by regional or local authorities, the odds increase by 354.81% that the respondent answers that corruption is widespread. Even if the respondent is not sure whether there is corruption in public procurement that is managed by regional or local authorities, the odds increase by 198.80% that the respondent answers that corruption is widespread in his or her country.

4.2 Model 2 (Croatia, Slovakia and Slovenia) findings

If a respondent believes that there is a serious problem with patronage and nepotism for his or her company, the odds increase by 241.89% that the respondent will answer that corruption is widespread in his or her country. Curiously, the perception of widespread corruption is even more likely (682.61% increase in odds) for respondents who are not sure whether there is a serious problem with patronage and nepotism for their company. Somewhat more understandably, in this model, if respondents believe that rapidly changing legislation and policies are a serious problem for their company, this increases the odds by 94.82% that they think that corruption is widespread in their country. If respondents were not sure if the infrastructure in their country is inadequate, this increases the odds by 473.46% that they believe corruption is widespread in their country.

If the company's ability (in terms of means or procedures) to collect debts from others is perceived as a serious problem, the odds that the respondent perceives corruption as widespread increase by 110.38%. Similar to Model 1, the odds that those respondents who perceive tax rates as a problem for their business consider corruption to be widespread increases by 53.12%.

This model also shows an interesting difference between respondents who value differently the value of the gift or bribe received, which they see as a problem. Odds for those who consider only gifts or bribes worth more than 1,000 euros to be a serious problem consider corruption to be widespread in their country decreases by 80.92% compared to those who have a low tolerance for bribes and consider the acceptance of gifts or bribes of any kind to be a problem.

If a respondent agrees that there is sufficient transparency and oversight of political party funding in his or her country, the odds that the respondent answers that corruption is widespread decrease by 43.50%. Even if a respondent is not sure that there is sufficient transparency and monitoring of political party funding, the odds that the respondent answers that corruption is widespread in their country decreases by 52.88%. If a respondent agrees that too close ties between business and politics lead to corruption, the odds increase by 229.18% that the respondent answers that corruption is widespread in their country. If a respondent agrees that individuals and companies caught bribing a senior official are appropriately punished in their country, the odds decrease by 50.76% that the respondent answers that corruption is widespread.

If the respondent believes that corruption in public procurement is generally managed by national authorities, the odds increase by 566.58% that the respondent answers that corruption is widespread in his or her country. Even if the respondent is not sure whether corruption in public procurement is generally managed by national authorities, the odds increase by 259.31% that the respondent answers that corruption is widespread. If the respondent is of the opinion that corruption in public procurement is generally managed by

regional or local authorities, the odds increase by 265.50% that the respondent answers that corruption is widespread in his country.

The last significant finding in Model 2 is industry related. If a respondent works in the Telecommunications and Information Technologies sector, the odds of answering that corruption is widespread in their country decrease by 56.33% compared to respondents working in the Financial Services, Banking and Investment sector.

5 Discussion and conclusion

Combining countries into two groups based on their differences in de facto and de jure transparency allowed us to build two logistic regression models and analyse what factors influence general attitudes toward corruption in each group, but also to observe differences between groups of countries that have many connections and similarities in their historical, political, cultural, and geographic characteristics. The group consisting of Hungary, Czechia and Poland had the smallest difference between de jure and de facto transparency, but interestingly, their combined overall transparency level (sum of de jure and de facto transparency index) is lower than that of the countries in the other group. The key findings for this group of countries are that respondents who consider the infrastructure in their countries to be inadequate and think that this is a problem for their businesses tend to perceive corruption to be widespread in their country. In addition, the attitude that corruption is widespread in their country is much more likely among respondents who are not sure whether their companies have problems in dealing with administrative procedures. The same is true for respondents who are not sure whether their companies have difficulties obtaining funding for their activities.

The other group of countries consisted of Croatia, Slovakia and Slovenia, as they show the largest differences between de jure and de facto transparency, although their overall level of transparency is higher than that of the countries in the first group. In this group, we were able to identify sectoral differences in attitudes toward corruption, as respondents from the financial sector were significantly more likely to indicate that corruption is widespread in their country than their counterparts from the telecommunications sector. The negative impact of frequent legislative changes is also significant in this group, as respondents who believe that frequent legislative and regulatory changes are a problem for businesses in their countries are also much more likely to believe that corruption is widespread. Moreover, respondents from companies that have problems with debt collection are also among those more likely to perceive the prevalence of corruption as a major problem. And not surprisingly, the perception that corruption is widespread is more likely among respondents who consider gifts or bribes of any value to be corruption, while those who only have problems with gifts and bribes exceeding 1000 euros are more relaxed in this regard.

In both groups, respondents who think clientelism and nepotism are a problem in their companies are much more likely to think that corruption is high in their country overall. This result was to be expected, as it is a clear exposure effect due to familiarity with the phenomenon. It is interesting to note, however, that those who believe that nepotism is widespread in their company, and thus in their country, are much more likely to be among respondents in Model 2 countries. Another general finding is that respondents who believe that tax rates are a problem for their companies are also more likely to believe that corruption is widespread. The next general finding is related to public procurement, as perceptions of widespread corruption are more likely for respondents who believe that local or national authorities are involved in corruption in public procurement processes. Perhaps this finding is partly related to the finding that perceptions of widespread corruption are also more likely for those who claim that there is an unhealthy link between politics and business in their country. The final general finding we want to highlight is that respondents who believe that in their country those caught in corruption are appropriately punished are less likely to perceive corruption as widespread.

As already noted, among the main limitations to using perception as a means of assessing corruption are various biases that might influence that perception. However, because the survey *Businesses' attitudes towards corruption in the EU* included only the decision makers of the companies included, we consider the results based on their opinions to be much more relevant to assess to business climate than the results of surveys in which the respondents would be drawn from the general public. The insights from our analysis might be useful in understanding how corporate attitudes toward corruption are shaped and what variables are associated with the perception that there is a lot of corruption in the country. But beyond that, these results could also provide a better understanding of where corruption is a problem that affects companies' chances of success. This conclusion can be drawn from the observation that the significance of many variables in both models used shows that the perception that corruption is widespread is more likely when respondents emphasise their company's problems in a particular area. That is, if their company faces problems with public procurement, frequent changes in regulations, complicated administrative requirements, or perceives the relationship between politics and business to be unreasonably close, respondents will perceive the level of corruption to be high. Keeping in mind that the perception of corruption is only an approximation of the assessment of corruption and does not mean that corruption actually exists, it is nevertheless possible to conclude that respondents whose companies face some of the problems mentioned are more likely to "shout" corruption.

Developing two models based on the differences between *de jure* and *de facto* transparency was inspired by findings that this difference, when large, favours the occurrence of corruption (Jeong et al., 2023). However, as the goal was to analyse the factors associated with general attitudes toward the corruption, we used the difference between *de facto* and *de jure* transparency only as a criterion for grouping selected Central European countries. This approach

proved fruitful, as both models showed high predictive accuracy and we were therefore able to draw some general conclusions for all selected countries, but also to find some differences between the groups. Our results contribute to the body of knowledge about perceptions of and attitudes toward corruption in various fields such as economics and sociology. But they are also a contribution for scholars and professionals in the fields of public administration and law. In our future research, we intend to further explore the findings on attitudes toward corruption from the Eurobarometer data. In addition, we will seek to better understand how the difference in de jure and de facto transparency matters for perceptions of corruption and corruption itself.

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Does Context Matter? Governance Models in Local Administration

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ABSTRACT

Purpose: Over the past decades, public administration scholars and practitioners around the world have experimented with various administrative reforms to design governance models suitable to fulfil the tasks of public administration. Amidst this ongoing debate, (at least) three different and competing governance models can be distinguished: New Public Management, New Public Governance, and the (Neo) Weberian model. Despite each of these models claiming universal legitimacy, specific administrative branches in different administrative systems operate in unique contexts and handle varying tasks. The article delves into the question of whether and to what extent different branches of public administration within the same administrative system adopt global public administration ideas in a similar fashion.

Design/Methodology/Approach: The article employs a comparative design to analyse the adoption of global public administration concepts across different administrative branches. Given their shared rigid Weberian tradition but divergent tasks and context, the study uses the German financial and social administrations as examples. The findings are derived from a survey of local agencies.

Findings: The study reveals a persistent influence of strong Weberian traditions on the structural and operational makeup of both branches, indicating a significant path dependency in governance understanding. The characteristics of New Public Management and New Public Governance are comparatively more prominent in social than in financial administration, which can be attributed to differences in tasks and relations, especially with political actors.

Academic contribution to the field: In addition to supplementing existing detailed analyses of the (non-)success of specific public administration reforms, the study takes a comprehensive view of the long-term development of public administration structure and perception, spanning multiple reforms. While acknowledging the formative influence of administrative tradition on the entire public administration system, the focus is on the nuanced effects of administrative traditions on diverse organisations, encouraging future comparative research.

Originality/Significance/Value: In addition to the contribution to the field, our comparative methodology and empirical study makeup show the advantages of concentrating on a minimal number of paradigms that can be delineated as clearly as possible, instead of operationalising public administration reforms with a multitude of (potentially country-specific) indicators. With this approach, we lay the groundwork for the extension of the comparative design to other countries and administrative systems.

Keywords: financial administration, social administration, local governance, administrative culture, path dependency

JEL: H79

1 Introduction

There is an ongoing debate among scholars about why public administrations repeatedly come under strain and how governance models in public administration (need to) change over time (Pierre and Peters, 2020; Kuhlmann and Wollmann, 2019; Lægreid and Christensen, 2017). In the past decades, governments around the world have experimented with various administrative reforms aimed at keeping pace with the dynamic socioeconomic environment, increasing productivity and efficiency, and improving collaboration with the private sector and civil society (Pollitt and Bouckaert, 2017; Wegrich, 2021).

In line with existing scholarship, we observe three main paradigms of public governance models: (1) the *Weberian model* of hierarchical and bureaucratic public administration (Weber, 1921/22) as the longest standing doctrine, prevailing for most of the twentieth century (Dunleavy and Hood, 1994), (2) the *New Public Management model* (NPM) of a market-based public administration

which had its heyday from the late 1980s to the late 1990s (Lapiente and Van de Walle, 2020) and (3) the *New Public Governance model* (NPG), which has drawn the attention to a plural and pluralistic state since the early 2000s (Osborne, 2010; Torfing and Triantafyllou, 2014). There is no doubt that the administrative paradigms associated with those reforms have to be understood as ideal types. As administrative reforms are multifaceted and highly presuppositional, they create different governance practices among organizations, policy fields and countries (Christensen and Lægreid, 2011; Pollitt and Bouckaert, 2017).

However, it is hard to ascertain – let alone predict – in what way reforms interact with existing logics and how administrative structures and processes align with these paradigms in practice. It has been acknowledged that the diffusion of reforms can vary among countries and hindered by path dependences, engrained traditions and persistent administrative cultures (Peters and Painter, 2010). This facilitates a mismatch between reform objectives and factual administrative practices.

The German administrative system can generally be characterized as a legalistic Weberian *Rechtsstaat*, with a strong public law tradition (Kuhlmann et al., 2021) that has seen dynamic developments and several ambitious administrative reforms over the last decades. In comparison to other countries, NPM oriented reforms have so far been considered to have had rather modest impact on the bureaucratic and legalistic tradition, with great heterogeneity of reform priorities, implemented elements, and effects (Wegrich, 2021; Hammerschmid and Oprisor, 2016). While the impact of the NPM model on local administration in Germany has been studied from different comparative perspectives (comparing local administration within Germany (Kuhlmann et al., 2008) and comparing local administration in different European countries (Kuhlmann, 2010; Kersting et al., 2009), similar studies for the NPG model are still lacking. However, there are studies that discuss particular elements of NPG and assess their impact, such as remunicipalization (Wollmann, 2016) or co-production (Loeffler and Timm-Arnold, 2020), or contributions on coping with recent local policy challenges, like critical infrastructure resilience (Monstadt and Schmidt, 2019; Knodt et al., 2022) or migration (Martins and Davion, 2023).

Taking these previous results as a starting point, we aim to identify to what extent public administrations, namely the local financial administration (FA) and social administration (SA) in Germany, conform to the different administrative paradigms, taking into consideration the allegedly rigid administrative culture that might implicate a strong path dependency. In addition, we ask whether different branches of public administration within the same administrative system show conformity to reforms in the same way, independent of their respective tasks and context.

Studies looking at the practical impact of several governance models on administrative procedures in specific policy fields are so far missing. Local governments are an especially interesting research object in this regard, as this level of administration is the most diverse and the most reactive to reforms.

Against this background, the article conducts a survey among agency heads of local financial and social administration in the five largest municipalities of each federal state and in the three city-states of Germany. The paper analyzes to what extent core principles of the Weberian, NPM, and NPG models are engrained in current organizational structures and operating procedures as well as in cooperation and co-creation ambitions.

In doing so, we make not only a theoretical contribution to the question about the interaction of administrative culture and reactivity of local governments to reform, but also an empirical contribution to the discussion on the factual implementation of different governance models and their variation among administrative branches. Our methodological approach of defining a minimal number of abstract administrative paradigms that can be delineated as clearly as possible, rather than focusing on a more narrow understanding of reforms, provides a useful starting point for future comparative research: administrative models that are defined in more detail through specific reform trends and measures can be highly context-specific and might overlap or not be applicable in other (national) contexts. The definition of more abstract paradigms prevents this problem and promises more valid results.

The article proceeds as follows: In the next section, we first review the literature on principles and trajectories of the Weberian, NPM, and NPG model. Section three presents the institutional background and reform developments in the German local FA and SA. We argue that both cases are especially interesting as they are set in an administrative culture often described as idealtypically Weberian, but have undergone extensive reform processes in recent decades, each according to their specific function. This would suggest diverging manifestations and combinations of public governance models, which makes them a constructive starting point for comparative perspectives and for the evaluation of the impact of reform measures. In section four we analyze the perceptions of the heads of local FA and SA regarding the application and influence of governance principles and emphasize salient similarities and differences between the two administrative spheres. Based on the results, we discuss reasons that explain the specific similarities and variations in section five.

In summary, survey participants in both local FA and SA perceive their organizations to still operate mainly according to traditional Weberian principles, showing an overall low conformity to the administrative paradigms of NPM and NPG. Characteristics associated with these two paradigms are seen to be of higher relevance for daily routines in SA. We ascribe this result to the difference in tasks and context between the two administrative branches, which prevents a convergence of administrative branches under uniform reform paradigms.

2 Governance Models

In line with public administration literature (Pollitt and Bouckaert, 2017; Aristovnik et al., 2022), we differentiate three generic models of public administration: the Weberian model of hierarchical bureaucracy, the NPM model and

the NPG model. These models differ, among others, with regard to their predominant modes of coordination, their rules to divide work and assign responsibility, ideas of the role of citizens (citoyen, customer or partner), and their overall organizational objectives (focus on the rule of law, achieving economic efficiency or 'good governance'). It is not assumed that these models occur in their pure form in empirical reality. Therefore, it is all the more important to clearly define the basic building blocks of each model. This challenge can be approached in a first step by distinguishing waves of public sector reform which express specific (political) ideals. While criticism of bureaucratic governance is nearly as old as the model as such (Tomo, 2018), the Weberian idealtype has not been questioned as a guiding approach for governing the public sector throughout the twentieth century. Remarkably, it was not before the mid-1990s – Germany was a late comer in this respect (Hammerschmid and Oprisor, 2016) – that bureaucratic governance was supposed to be replaced by ideas of NPM. Only two decades later, however, an increasing awareness of the problems and pitfalls of NPM has fuelled a second wave of public sector reform and the evolution of what is called 'new public governance' (Osborne, 2010).

Public administration designed according to the Weberian model of bureaucratic governance is thought to operate outside the political sphere and constitute a regime in its own, with a respective set of rules and an according organizational culture. The main feature of bureaucratic governance is a strict system of super- and subordination. The hierarchical levels define responsibilities and obligations as well as strictly vertical lines of communication. Public servants are professionals who are selected due to a specific set of competences. They are expected to understand the importance of rule compliance, to exert them in an impartial and impersonal manner, and to make their decisions and activities transparent in detailed files. The internalization of rule-bound behaviour serves one objective: to establish and maintain rational-legal authority (Weber, 1921/22), which represents a clear alternative to the power-driven, 'irrational' interactions associated with the political sphere.

As both bureaucratic governance and the welfare state came under increasing pressure in the late 1970s, consequences of budgetary strain and administrative inefficiency gained importance. By following neoliberal and market-like beliefs, state failure became a compelling argument to change the public sector toward marketization and competition (Aucoin, 1990; Hood, 1991; Pollitt, 1990; Dunleavy and Hood, 1994). NPM as a set of primarily managerial and cost saving ideas dominated the administrative reform agenda in many OECD countries. Starting from its original movement in the Anglophone world, NPM later spread to other countries in different variations and gained steam during the 1980s and 1990s (Pollitt and Bouckaert, 2017). Most NPM reforms – whose conceptual roots lie in managerialism and new institutional economics – were aimed at transforming governments into leaner, but more effective administrative organizations with clearly separated responsibilities (Osborne and Gaebler, 1992; Klijn, 2012).

Although it is difficult to paint a unified picture of NPM, some general features serve to characterize key reform ambitions: public organizations are expected to improve effectiveness and efficiency of government performance, which requires the clear statement of strategic goals, the use of performance indicators and the control of outputs. Overall, transparency regarding the structure, performance and budget is to be enhanced. Another focus lies on the breakup of 'monolithic' organizational structures by using different forms of decentralization, delegation, and outsourcing. All these facets imply a shift to greater competition and the use of market or semi-market mechanisms in providing public services (Aucoin, 1990; Hood, 1991; Kickert, 1997). However, the implementation of NPM raised criticism and concerns, among others, regarding its short-term perspective, especially budget cutbacks, at the expense of quality standards as well as insufficient consideration of different values in administration and politics (Hood, 1991; Aristovnik et al., 2022).

When looking at recent public governance scholarship, a variety of models be named, such as digital-era governance, good governance or collaborative governance (Peters et al., 2022; Ansel and Gash, 2008; Dunleavy et al. 2008; Kooiman, 1999). Although all concepts have their *raison d'être* and enhance our understanding of important facets of public governance models, we argue that they are all understood as 'post-NPM' (Reiter and Klenk, 2019) and have some shared ideals and building blocks that can be used to construct a basic model termed NPG. In contrast to the Weberian and the NPM model, NPG is defined by networks that allow – and even encourage – collaboration and mutual adjustment through horizontal lines and trust-based interactions (Peters and Pierre, 1998). Networks to organize public service provision are characterized by a plurality of actors: public and private (for-profit and non-profit) actors as well as individual citizens, interest associations, and politicians participate in less formalized negotiations to achieve consensus about public services and the modes of their implementation. As a result, the boundaries between politics and administration, which had been demarked clearly by the 'steering and rowing'-metaphor of the NPM model, have become blurred and the role of elected politicians and administrative leaders have changed (Peters et al., 2022). Political and administrative leaders are perceived as 'metagovernors' (Sørensen and Torfing, 2009) that employ indirect means of coordination to influence and shape decision-making and implementation processes. Instead of exerting direct political and bureaucratic control or supervising performance management contracts, leaders use discursive framing or institutional design to smooth the process of consensus building and to facilitate service provision. However, this is not considered as a weakness, but as strategic means to increase the democratic legitimacy, the effectiveness and innovativeness of public governance.

3 The Case of German Local FA and SA

The German public administrative system has often been characterized as an ideal example of a bureaucratic legal state (*Rechtsstaat*), whose functioning

is strongly influenced by a public law tradition, combined with an orientation to professional and legal accountability and compliance. In line with the trend in most OECD countries, the call for a stronger results orientation and managerial culture and control emerged in the early 1990s and resulted in corresponding management reforms, especially by introducing the 'New Steering Model' at the local level (Proeller and Siegel, 2021). In Germany, the local government level plays a significant role in implementing public policies and providing citizen-oriented public services (Kuhlmann and Wollmann, 2019). It has been the major arena of public sector reforms, modernization, and outsourcing in recent decades (Pollitt and Bouckaert, 2017).

This is especially true for local financial management and social policy. Both policy fields are subject to complex and specific legislation (e.g., the codification of social law in the form of Social Codes), while at the same time having passed through extensive reform processes (e.g., new financial management or hybridization of welfare state services) (Grohs, 2014; Proeller and Siegel, 2021). This intertwining between a traditional administrative system on the one hand and the experience of various public sector reforms on the other is an ideal breeding ground for shedding light on how different governance models shape the functioning and organization of public service delivery.

Approximately 11,000 municipalities and about 295 counties are responsible for a broad range of public services. On the one hand, they perform administrative tasks that are devolved by the federal government and the German *Länder*. On the other hand, local authorities deliver services as part of their constitutionally protected local self-government (Kuhlmann and Wollmann, 2019).

Within the broad range of local public services, independent budgetary policy and financial management are traditionally core elements of German local self-government. In times of growing budgetary constraints and austerity, financial management takes on a central role in ensuring administrative capacity. Its routine contact with the supervisory authority endows the FA with a high degree of influence (Geißler, 2014). Usually organized as a cross-sectional administrative department, it is concerned with the management of assets and liabilities and the procurement and distribution of financial resources to specialist administrative units. Local financial management practices follow a strictly formal and legal orientation. The municipal budget law of the German *Länder* which is regulated in the local government constitutions clearly prescribes balanced budgets, control and enforcement instruments as well as a strict structure of supervision (Person et al., 2021). Since it is the task to ensure compliance with the principle of economic efficiency and to consider this principle in preparing and implementing local budgets, FA is essentially dedicated to internal coordination tasks and acts as the interface of all actors involved in municipal budget policy. A decade ago, Geißler (2014) concluded that despite new reform approaches towards participatory budgeting, the expectations of greater openness towards citizens and their integration in budgeting and consolidation processes remained unfulfilled. However, there is a need for further empirical studies to determine whether this assumption still holds true.

Social policy is one of the most significant policy fields at the local level. A large share of local public expenditure and employment is devoted to the provision of social services (Federal Ministry of Finance, 2022; Federal Statistical Office of Germany, 2023). Budgetary constraints as well as socio-economic and demographic challenges make this field the primary object of consolidation and cost-cutting efforts in many municipalities. The range of tasks which is fulfilled by the local SA is extremely diverse and must be differentiated into completely municipally financed voluntary responsibilities where local authorities can decide whether and how to provide (e.g., social housing, establishment of nursing centers), mandatory tasks, primarily financed by local governments, where they are only allowed to decide on how to provide (e.g., child and youth care, social assistance) and delegated responsibilities with only little autonomy and which are funded by the federal and *Länder* level (e.g., housing benefits, health surveillance). Due to the codification of social law in the form of Social Codes the execution of tasks is embedded in a comprehensive legal framework, regulations for the various areas of responsibility are significantly complex (Schimanke, 2021). Another specific element of local social policy is the close interconnection between the public and the third sector, with voluntary organizations providing social services alongside the public sphere. The production of public goods was traditionally shaped by a specific kind of local corporatism representing a division of labour between public bodies and huge welfare associations. However, these rather solid relationships have been under considerable pressure to change for years (e.g., in the direction of marketization and managerialism), which has led to a very heterogeneous landscape of service providers (Evers, 2019; Bönker et al., 2018; Grohs et al., 2017).

In the context of the ongoing debate on the factors that shape governance models, we may offer divergent expectations regarding the governance models of local public administration (Kuhlmann et al., 2022). An approach informed by path-dependency and historical institutionalism would imply a continued prevalence of the Weberian model as history, in a simple way, matters a great deal (Greener, 2005). Conversely, a neo-institutional perspective, highlighting the influence of global ideas, would imply a situation in which national structures and their embeddedness into particular historical, cultural, and normative settings are progressively losing their impact, thereby revealing the emergence of global patterns in public administration, such as NPM or NPC, and a greater fragmentation of generally accepted traditional administrative styles (Welch and Wong, 1998; Howlett, 2003). A third perspective would emphasize the significance of tasks and context as crucial factors for determining governance models. Embracing this perspective would entail recognizing notable and persistent differences between the governance models of the two branches of local administration, with very specific manifestations emerging (O'Toole and Meier, 2015).

4 Methods

To identify which governance models are prevalent in German local FA and SA, we revert to the 'basic building blocks' of governance models as outlined in section 2. These building blocks concern organizational structures – such as hierarchies or the allocation of specialized tasks –, operating procedures – such as the extent of the delegation of responsibilities within the organization –, and the interaction of local government with its environment, namely political decision-makers, clients, and citizens. For this reason, we conducted an online survey addressing the heads of agencies in charge of administering social and financial services asking them to assess their own organization in view of these basic characteristics.

The survey included a total of 75 items designed to shed light on a variety of questions. These items consisted of statements that the respondents were asked to express their (dis-)agreement to and are the result of a comprehensive review of the literature that was identified in the Scopus database as being particularly relevant to this topic (Aristovnik et al., 2022). Before conducting the survey, the statements were extensively tested in a pretest with several German administrative experts and scholars. For this paper, we included 15 items, which can be grouped into three batteries with five statements each, in our analyses. The selection aimed to exclude duplicates and to avoid ambiguous statements that cannot clearly be associated with either the Weberian model of public administration, NPM, or NPG. All items were measured on a five-point Likert scale ranging from 'disagree' to 'agree' or from 'always' to 'never'.¹

The clear association of each item with a governance model means that a high average agreement to a battery of statements can be seen as an indicator for the prevalence of the respective model as perceived by the agency heads. We tested the internal consistency of the batteries using Cronbach's alpha. All Cronbach's alpha values are > 0.7 (Weberian model: 0.711, NPM: 0.721, NPG: 0.729), suggesting a very high consistency of the item selection.

Since the size and population of German municipalities – and, accordingly, their organization, tasks, and resources – differ widely, the complete survey included the five largest municipalities of each federal state and the districts (*Bezirke*) of the three city-states Berlin, Bremen, and Hamburg. The aim of the selection was to create a data set which facilitates both aggregated analyses of cases that are similar in their context (largest municipality within a state) and differentiated analyses that can account for the heterogeneity of German states and municipalities (e.g., differing population size, former East or West German state)². For each municipality or district, we determined the abovementioned heads of agencies responsible for FA and SA. Though the de-

1 All items refer to the present state of the organization. An exception was a battery of items concerning changes necessitated by having to cope with the COVID19 pandemic. The analysis of this item battery is not included in this article.

2 Analyses of governance models show no noticeable differences between large and small municipalities, their location in former East or West German states and between federal states and city states. The article, therefore, neglects these criteria and focuses solely on differences between administrative branches.

nomination of these positions varies (adjunct mayors, heads of department, heads of office), functional equivalents can be identified in all municipalities. The survey population includes 293 respondents, ranging from two to four people per municipality. 89 respondents completed the survey, amounting to a response rate of 34 per cent including all federal states and the city states. The response rate in the two branches of administration was almost identical, with 44 respondents from FA and 45 respondents from SA, which creates the ideal prerequisite for a comparison.

Our analyses base on a two-pronged approach. First, we use descriptive statistics to determine the overall evaluation of the item batteries associated with each public administration model, respectively. For this step, we assigned each answer category a numerical value ranging from 1 to 5, with 1 representing the response 'never' or 'disagree' and 5 being the highest category on the affirmative side of the scale. A high average value for the items in a battery expresses a prevalence of the governance model as perceived by the respondents. A low standard error suggests a high consistency in response behavior throughout the group of survey participants. Second, we compare the levels of agreement to single items within the models to uncover nuances in the administrative branches' self-evaluation.

5 Results

Our analyses show that the statements concerning organizational features associated with the Weberian model meet a very high level of agreement among the respondents in our sample as a whole (see table 1). The NPM and NPG models are less pronounced with an average difference to the Weberian model of 0.6 points for the financial administration and 0.5 points for the social administration. Referring to our expectations described in section 2, these results suggest that administrative traditions override conformity to administrative reforms and that local public administrations continue to adhere to long established principles rather than being characterized by reform models in their present state. Even though an overall persistence of the Weberian model could have been expected considering the strong *Rechtsstaats* tradition of the German case, it is nevertheless surprising that the battery of items associated with the Weberian bureaucratic model scores noticeable higher than both NPM and NPG.

Table 1: public administration models, average values and standard deviation.

	Total Sample	Financial Administration	Social Administration
WEBER	3.8 (0.73)	3.7 (0.94)	4.0 (0.39)
NPM	3.3 (0.78)	3.1 (0.89)	3.5 (0.59)
NPG	3.3 (0.75)	3.1 (0.89)	3.5 (0.52)

Source: own data

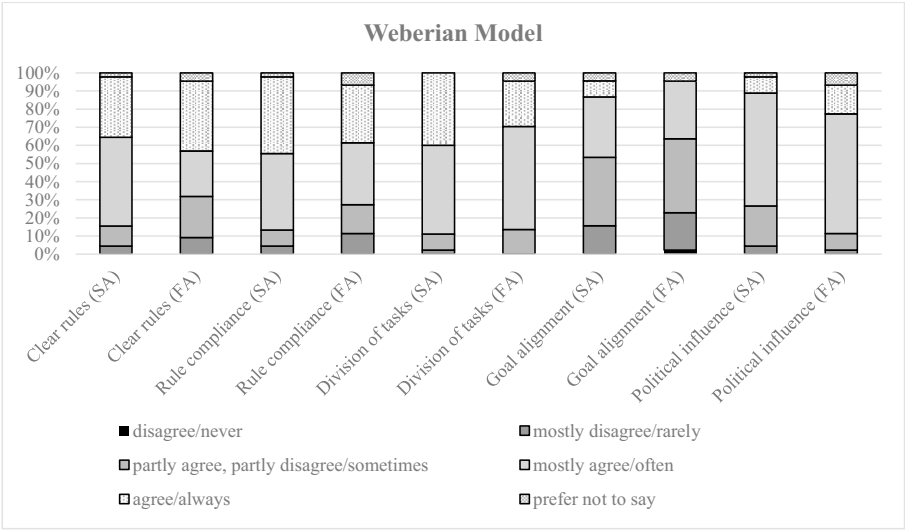
At first glance, it is difficult to come to definite conclusions regarding the differences in self-conception of the respondents from different administrative branches, as all average values are higher in SA. However, compared to FA, the standard deviation for all models is lower in SA, suggesting an overall higher homogeneity in the responses from this administrative branch and an absence of outliers, which might have skewed the accumulated results for FA. Although the small number of respondents call for caution in the substantial interpretation of standard deviations, this result hints at a greater contextual and institutional complexity in SA, which interacts with a wider variety of administrative, political and societal actors and, therefore, has to fulfill several different roles and tasks simultaneously, such as the hierarchical imposing of sanctions, the efficient use of limited financial resources as well as acting as co-creator and contracting authority.

Analyses of the individual items show overall similar tendencies in the administrative branches (see figures 1-3). This is especially noticeable when simplifying the scales and pooling the categories 'agree' and 'mostly agree' or 'disagree' and 'mostly disagree' respectively. This would speak to the interpretation that prevalent governance paradigms in both FA and SA develop along a similar path dependency and/or respond equally to global paradigm shifts rather than following a paradigm dependent on their task and context. Taking into account the results in table 1, path dependency seems to be the strongest determining factor, explaining the continuous dominance of the Weberian model.

At a closer look, however, we can see noticeable differences between the administrative branches which hint at a significant context sensitivity. Although FA scores higher for the item "Our organization's operating procedures are based on clear rules.", which is a core principle of Weberian administration, respondents from SA more often agree to the statement "As executive director, I pay attention above all to rule compliance.", stressing the individual's role and hierarchical understanding in a Weberian bureaucracy (see figure 1). The respondents from SA also score higher on the remaining Weber-item that

focuses on the individual's role in the organization: The perception of a clear allocation of tasks and competencies to the employees is more pronounced in SA.

Figure 1: Responses to Items associated with the Weberian model. Item 1: "Our organization's operating procedures are based on clear rules.", Item 2: "As executive director, I pay attention above all to rule compliance.", Item 3: "Tasks, competencies, and responsibilities of employees are clearly defined.", Item 4: "The goals of individuals, teams, and organizational units are fully aligned.", Item 5: "Our work is influenced by political considerations."



Source: own data

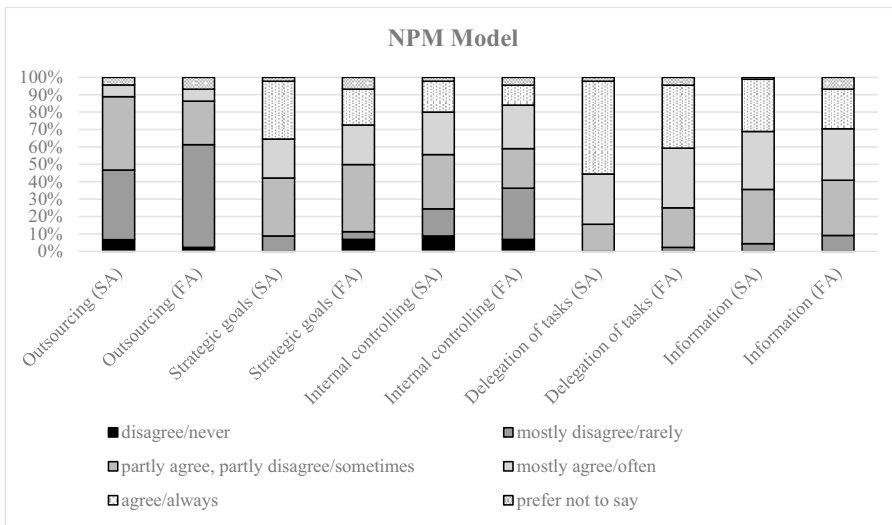
A strong specialization of units and tasks is a fixture of the Weberian model of public administration. A high degree of specialization necessitates a clear alignment of all units with the organization's goals. Goals of individuals, teams, and organizational units seem to be less aligned in FA: Here, 56.3 per cent of the respondents say that alignment is lacking, compared to 43.8 per cent respondents from SA. This could be explained by the differences in complexity and diversity of tasks in the two administrative branches. FA interacts with different administrative units, but its tasks remain usually the same (budget control). A dedicated specialization and goal alignment seem to be less important for the functioning and organization of local financial management. SA, on the contrary, has to satisfy different stakeholders and fulfills comparatively divers tasks in a dynamic environment which requires a more intense specialization of the staff and a full alignment with the overall organizational goals.

In line with the classic argument of administrative neutrality, we consider political influence on decision-making, interpreting a low political influence as an indicator for the prevalence of the Weberian model. The survey shows that political considerations play a very important part in the decision-mak-

ing of both FA and SA with almost two thirds of the respondents choosing the category 'often' and no respondents opting for 'never'. However, political considerations are noticeably more important for FA than for SA: 15.9 per cent of the respondents from the financial administration state that political considerations influence all their decisions. Respondents from SA rather opt for the category 'sometimes' (22.2 per cent), implying a higher degree of autonomy in this respect. Overall, respondents from SA seem to perceive their organization as more clearly structured, but in their inner workings largely independent of political consideration, whereas respondents from FA see their organization as more strongly politically influenced.

Turning to NPM, we regard outsourcing of supporting tasks as a central consequence of NPM reforms. Although respondents from both FA and SA state that some supporting tasks remain within the organization, outsourcing seems to be more common in SA, with almost half of the respondents from this group choosing the option 'sometimes' as their reaction to the corresponding statement. Overall, however, this reform element is perceived as comparatively less relevant (see figure 2).

Figure 2: Responses to Items associated with the NPM model. Item 1: "We are outsourcing supporting tasks.", Item 2: "Our organization drafts strategic goals.", Item 3: "We use indicators to review goal achievement and internal controlling.", Item 4: "I delegate tasks to subdivisions.", Item 5: "We publish extensive information about our organization."



Source: own data

The analyses show that the formulation of strategic goals is common, but that performance indicators or similar instruments to assess the organization's work play a comparatively less important part in day to day-business. The use of indicators is more prevalent in SA than in FA, where only about a tenth of all respondents agree to the given statement (11.4 per cent vs. 17.8 per cent

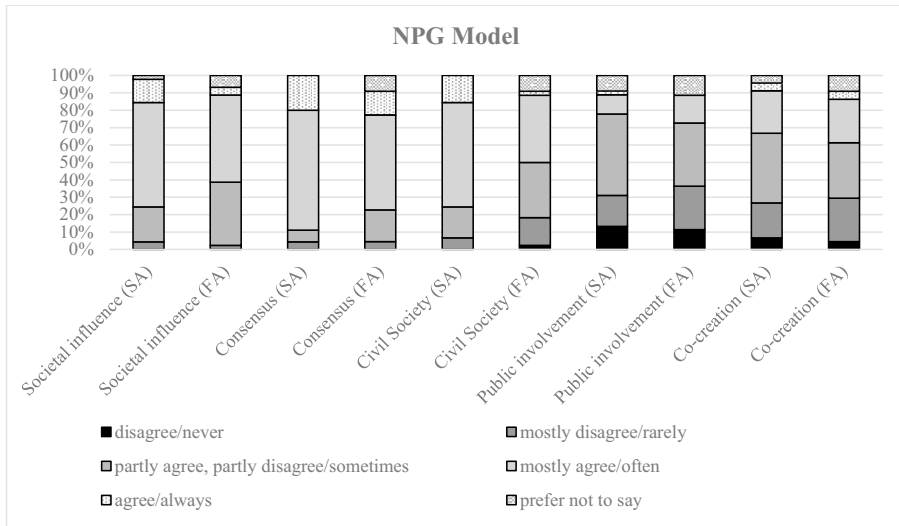
in SA). We suggest that both efficiency and effectiveness are expected more from the SA than from the FA. Especially in times of growing budgetary constraints and a simultaneous increase in the scope of social tasks, our result indicates that SA, to which a large share of public expenditure is devoted, is under even stronger pressure from politics and external stakeholders to provide services more effectively and efficiently.

We see the delegation of tasks as an expression of the efficiency principle, which is a central paradigm of NPM. Interestingly, there are obvious differences between respondents in FA and SA regarding the extent to which tasks are delegated: 53.3 per cent of the respondents from SA fully support comprehensive delegation practices, compared to only 36.4 per cent respondents from FA.

Lastly, the statement “We publish extensive information about our organization.” is an expression of the customer orientation associated with NPM. SA seems to be slightly more open in this respect, seeing more than 60 per cent of the respondents choosing an affirmative answer as compared to 52.2 per cent of respondents from FA. Again, this is readily explained with context-sensitivity: As SA interacts with a wider variety of actors, especially with regard to the public, extensive information conforms with (societal) demands towards SA.

Focusing on NPG principles, such as possible influences from the organizations’ social setting and role in the community, the results confirm the assumption that SA feels a higher impact of (changes in) societal expectations on their work. About two thirds of all respondents chose an answer on the affirmative side of the scale when asked about the influence of societal expectations on their work (see figure 3). Interestingly, respondents from FA were either more unsure of their answers or more reluctant to share their views. We see several cases of non-response for all items in the group of FA survey participants, whereas all SA participants gave their view on the second and third item and non-response behaviour for the remaining items is lower in comparison.

Figure 3: Responses to Items associated with the NPG model. Item 1: "Our work is influenced by societal expectations.", Item 2: "We aim to solve conflicts between stakeholders in a cooperative and consensus-orientated manner.", Item 3: "We cooperate with civil society organizations.", Item 4: "The public is involved in important decision-making processes.", Item 5: "We encourage co-creation."



Source: own data

There are differences in the patterns of how the branches of public administration deal with external stakeholders. 20 per cent of SA respondents (compared to 13 per cent from FA) express that they always strive for consensus when it comes to interest conflicts with external stakeholders, 56.4 per cent (compared to 43.6 per cent from FA) say that they often try to come to a consensus. Conversely, 18.2 per cent of the respondents from FA (compared to 6.7 per cent from SA) argue that they sometimes aspire to reach a consensus.

Cooperation with civil society organizations is more common for respondents in SA than in FA, where only one respondent states that such a cooperation is the general rule (vs. 15.6 per cent in SA). Regarding the specific role that is assigned to citizens in decision-making processes, 46.7 per cent of SA respondents express that the public is sometimes involved in decision-making beyond a purely consultative function. For FA, the share of affirming responses is 36.4 per cent, which at first glance indicates a more extensive involvement of the public in FA. This conclusion changes, however, when the other categories are considered as well. When focusing on the overall positive side of the scale, slightly more respondents from FA state that they often involve the public (15.9 per cent vs. 11.1 per cent in SA). At the same time, marginally more respondents from SA opt for the answer category 'never' when asked about the public's involvement, largely levelling out significant discrepancies. According to our respondents, co-creation is slightly more common in SA than in FA.

6 Discussion

The results suggest that core aspects of the classic Weberian model are firmly rooted in both types of administrative branches, suggesting a strong path dependency and firm administrative culture which shape governance paradigms in German local administration, independent specific tasks. However, there are differences in the perception of the individual's role within the organization. In SA, compliance with the complex social legislation seems to have a dominant influence on operating procedures and individual decision-making, as a large part of implementing social policy at the local level relies on the execution of federal law. In contrast, the financial sovereignty as a core element of local self-government forces FA to align its processes with clear procedural rules, but at the same time allows structural flexibility and autonomy in procuring and distributing financial resources. Response behavior of public managers in FA, therefore, suggests larger discrepancies between their individual self-conceptions and the evaluation of their organization within this battery. Compliance appears to be perceived differently by financial officers, as it seems to be an outward-looking task rather than an inward-looking one. Another point of interest is the comparatively strong perceived political influence in FA. In our view, this does not contradict the overall dominance of the Weberian model. It merely underscores the fact that especially budgetary processes, while rule-based, are to some extent the outcome of political struggle between conflicting priorities and alternative programs (Greenwood et al., 1974).

If we look at the core elements of the NPM paradigm, all principles are considered to be more important for operating processes and decision-making in SA than in FA. In our interpretation, SA seems to be more open to the introduction and application of new management tools, which can be seen as consequence of context-sensitivity especially considering the variety of stakeholder with whom SA interacts on a daily basis. The challenge of meeting their expectations might prompt SA to implement politically promoted reforms more resolutely to conform with a high pressure to demonstrate legitimacy. Contrary, the diffusion and implementation of NPM measures especially for internal performance and managerial control is still in its infancy for FA. These findings are consistent with insights from prior studies: Although instruments, such as accrual accounting, have been introduced in many cases, it is hardly used for the purpose of strategic alignment (Proeller and Siegel, 2021). Looking at the impact of financial management reforms in German municipalities, this 'gap' also exists for the implementation of product budgets, which are largely informational in nature but do not contain a systematic link between performance information and financial resources (Weiss, 2017). In this vein, our cases in FA underscore what has been noted in international literature: NPM reforms are less fundamental or revolutionary than originally expected regarding their practical impact (Lapiente and van de Walle, 2020) and can be seen rather as an addition to previous concepts than a surrogate.

The NPG model of public administration sets the aim to move away from a "unicentric" government or "multicentric" market towards "pluricentric" net-

works (Sørensen and Torfing, 2018, p. 302). According to our results, local SA is more strongly embedded in their public environment than local FA. This should be attributable to the nature and diversity of their tasks, which place high demands on cooperating with external actors. FA, on the other hand, acts mainly as an internal service provider, making external cooperation and participatory practices a subordinate factor, which speaks for a context-sensitive prevalence of NPG rather than a neo-institutionalist dissemination of an international trend. What is more interesting is that cooperation ambitions of SA are mostly restricted to organized actors and interests. At a first glance, this seems unexpected, as there has been a “substantial growth in participatory innovation in recent years” (Fung, 2015, p. 514; Jäske, 2019) creating a diverse range of opportunities to involve citizens in local decision-making. In our cases, these opportunities do not seem to play a decisive role even for an administrative branch with such an immediate impact on citizens’ every-day life. Rather, it is apparent that traditional welfare corporatism is still the cornerstone of implementing social policy in Germany (Grohs, 2014), highlighting the role of path dependency for German local administration which has already been visible in the strong Weberian orientation. In addition, our results line up with prior studies that observe not only that instruments for individual citizen participation are infrequently used, despite ample opportunities, but that the development towards direct public involvement increasingly loses momentum. Instead of an expansion of public participation, we can detect a trend leading away from participation towards consultation (Roth, 2022). An important reason for the stalling or even retreat of participatory practices in local government lies in the moderate active exercise of respective opportunities by citizens which has been falling well short of expectations.

Overall, our results provide a clear answer to the initial research question: at least in the German case, context and task determine the prevalent governance paradigm in public administration. A uniform conformity to international trends or political propagation of administrative reforms cannot be assumed, refuting a base assumption of neo-institutionalism. A certain degree of uniformity stems from a strong path dependency that can be traced back to a firm administrative culture as a distinctive of the German case. However, context-sensitivity can be seen as the most important determining factor.

The interaction of path dependency and context-sensitivity implies that governance models – whether they originate in administrative culture or political reform – in local FA and SA do not supplant one another. Rather, NPM and NPG form complements to the contemporary Weberian tradition. This is consistent with findings from southern European countries by Ongaro (2009), which observe a similar processes in which newer managerial reforms have supplemented previous administrative traditions. We find indication that in both administrative branches, ideas of a more managerialized service delivery are combined with the ideal of a plural and pluralist state as well as inter-organizational processes. Nevertheless, we note differences between FA and SA. Depending on tasks and context, NPM and NPG seems to play a different influential role in the two branches. In FA, NPM and NPG principles appears to

have a less dominant effect on operating processes and decision-making. We suggest that FA continues to be fairly rigid in its practices due to the routine patterns of actor constellation, interaction and coordination as well as the comparatively uniform range of tasks. SA tends to be more flexible and open for innovation within their scope of action. At the least, public managers in SA seem to try different newer approaches to respond to complex environmental dynamics and changing stakeholder expectations, even if their interpretation of public participation is limited.

There are factors that might restrict the persuasiveness of these conclusions. It is possible that the answers given by our respondents do not wholly reflect their actual perception, if they felt “self-presentation concerns” (Krumpal, 2013, p. 2025). Although this effect is usually associated with questions about personal behavior and sensitive information, respondents might see the need to paint a positive picture of their organization in light of reform efforts. However, the impact of this possible incident should remain low, because a social desirability bias presupposes that respondents know of specific assessment criteria against which their answers will be judged (Stocké, 2004). As the introductory text to the survey did not mention the compliance with specific political reform ideas and the items we use to analyze the prevalent public administration model are part of a larger survey covering many different aspects, the respondents should not have such perceptions.

In addition, the design of the survey disregards the possibility that the prevalent model might not be primarily influenced by the tasks formally ascribed to an organization, but by its specific environment, as organizational theory and the contingency approach would suggest (Valeri, 2021). As we included only the largest municipalities into our survey, aiming to control for factors of a specific environment, we cannot say whether the mixture of models found here will hold true for all local FA and SA in Germany. Although the general uniformity of German public administration based on its extensive administrative law makes a compelling case for the transferability of the results, this limitation calls for an expansion of the case study congruent with a different theoretical foundation.

Our discussion begs one follow-up question: are there ways to predict the further development of the prevalence of a particular governance model or the combination of all three models? It seems unlikely that the Weberian principles are steadily losing their influence on local administrative structures and processes to a similar extent as characteristics of newer governance models are implemented. When taking into account the overall low direct and individual citizen involvement in active decision-making following an initial enthusiasm, the rise of NPG to the marked detriment of the Weberian model and NPM seems – at least for the German case – just as improbable at this point in time. Instead, our results suggest an intermixture of ‘new’ public administration models overlaying a strong Weberian tradition that remains, in its core, largely untouched.

Within this mixture, some observations suggest a waning relevance of NPM. After an ambitious and optimistic start, seeing NPM principles as a remedy to

many of the Weberian shortcomings, it has so far not managed to achieve all its goals and rather “seem[s] to have lost the initial enthusiasm” (Lapiente and Van de Walle, 2020, p. 462). Instead, NPM has shown some weaknesses of its own and further reforms can be seen as “rebalancing existing administrative systems” (Christensen, 2012, p. 8). A shrinking element of NPM in the overall mix of governance models could lead to a stronger role of NPG; whether NPG reforms will indeed experience this development, however, cannot be determined yet. Alternatively, the ‘void’ that NPM leaves behind might rather be filled by reinvigorating the Weberian principles, by increasing its relevance within the complete governance model. The linguistic recourse in the form of ‘Neo-Weberian state’, which has been established as a negative reaction to the faults perceived in NPM, would lend itself to this assumption. But as the concept of ‘Neo-Weberian state’ shares several characteristics with both NPM and NPG, such results orientation or citizen involvement (Dunn and Miller, 2007), this is hard to detect. Consequently, the topic calls for further research in the form of repeated surveys and longitudinal observations.

7 Conclusion

Years after NPM reforms aimed to re-orient public administration towards managerial principles, research shows that – although there are major differences between states – hierarchical structures have to some extent been watered down, horizontal coordination has increased, and privatization has become more common over time (Common, 1998; Hyndman and Lapsley, 2016). Furthermore, network collaboration and the involvement of civil society have changed the way administrative organizations interact with the public, coining terms such as NPG (Torfing and Triantafyllou, 2014).

Though new trends in public administration do not necessarily substitute established practices entirely, dominant views may be “supplanted” (Bryson et al., 2014, p. 445) and case studies show that more clear-cut models change towards hybrid forms of governance. As administrative structures are shaped by the administrative cultures in which they evolve (Dan and Pollitt, 2015), it is interesting to analyze the empirical reality of (mixed) governance models in a system that is characterized by a traditionally rigid administrative culture with a strong Weberian history while, at the same time, being subjected to several reforms.

Our survey of German local FA and SA shows that public managers perceive their organizations to still work mainly along the principles of the Weberian model of public administration, implying a stronger impact of administrative culture and traditions rather than reforms. Although some features of NPM and NPG can be found, they do not predominate. Therefore, we inferred a layering of these governance models atop a Weberian base. Within this upper layer, we observe a blend of NPM and NPG, with a slightly higher relevance of NPG characteristics in SA.

The article contributes to the literature in several aspects. First, it expands on studies on the (non-) success of administrative reforms by observing not just the characteristics of one, but of several governance models stemming from very different points in time. It identifies factors which can be seen as determinants for a specific intermixture of models, focusing foremost on administrative culture. Second, it deliberates differences between forms of hybridity such as layering and blending. As a concluding remark, the article calls for an expansion of the design in future research, including repeated observations to validate the assumptions regarding temporal development. Additionally, the presented study is an enlightening starting point for comparative approaches, contrasting the idealtype of a Weberian centered national setting with examples of different or more dynamic administrative cultures.

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Analysis of Research on Artificial Intelligence in Public Administration: Literature Review and Textual Analysis

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ABSTRACT

Purpose: This study aims to investigate how analysing academic research through digital tools can improve our understanding of the applications, functions, and challenges related to the use of advanced artificial technologies (AI) in public administration.

Methodology: The applied methodology relies on the use of digital tools, specifically Voyant-Tools and Chat Generative Pre-Trained Transformer (GPT-4), for text analysis in conjunction with a selection of scientific literature on artificial intelligence and public administration.

Findings: The results of our study show that researchers equally report advantages and disadvantages of using AI in public administration. Moreover, the research highlights the benefits of using artificial intelligence while emphasising the importance of the ethical and appropriate regulation thereof.

Practical implications: Our innovative approach of developing and using a combined methodology involving specialised digital tools to analyse scientific literature introduces a new dimension to the examination of scientific texts and has the potential to shape public policy in the field of public administration.

Originality: The existing body of research on public administration and artificial intelligence is limited. Our study expands the scientific field by delving into the use of artificial intelligence in public administration.

Keywords: *digital tools, artificial intelligence, GPT-4, public administration, regulation*

JEL: Z18

1 Introduction

In the age of quickly developing artificial intelligence (AI), it is imperative that the progress of science in this field is accompanied by the progress of AI in the domain of public administration. Xu et al. (2019) defined AI as the simulation of human intelligence with a specific system or machines with the aim of mimicking human thinking and behaviour. AI subareas defined by Vijayakumar and Sheshadri (2019) include expert systems, natural language processing, pattern recognition, robotics, and machine learning, among others.

Ahn (2023) explained that the essence of AI lies in large language models (LLMs). LLMs are machine-learning models trained on vast text collections and operate by predicting the most likely word to follow a given sequence of text. With their help, processing similar to natural language can be performed, which includes tasks such as translation, analysis, summarization, and proof-reading. LLMs analyse and comprehend the connections between words and concepts, enabling them to follow a logical sequence of ideas. Moshirfar et al. (2023) noted that Chat Generative Pre-Trained Transformer (ChatGPT) is among the most well-known natural language processing (NLP) models that is trained on large language databases. The latest available version of ChatGPT is Version 4 (ChatGPT-4), which has shown great efficiency and accuracy of results compared to previous versions, even from the perspective of understanding the context of analysed texts.

However, software applications available prior to ChatGPT also can perform a general analysis of texts. One such program is Voyant Tools. Alhudithi (2021) explained that Voyant Tools uses computer algorithms to obtain the required information from the text. The areas of use for the Voyant Tools program were defined by Gregory et al. (2022) as the identification of terms that most frequently appear in the text, the occurrence of other terms in connection with the most commonly used terms, visualization of results, and the occurrence of terms that connote positively or negatively.¹ With certain fine adjustments, we can also customize the obtained results.

Gesk and Leyer (2022) noted the growing interest in utilizing AI-based software in the public sector, as well. However, research findings from the private sector cannot be directly applied to the public sector due to disparities in citizens' perception of services. AI holds significant potential for enhancing public services, primarily in terms of efficiency and service quality, but concerns regarding its growth and application remain a significant obstacle to its adoption. Similarly, Androniceanu (2023) found that digitalization and the use of AI can visibly improve managerial and economic efficiency in public administration. Štefanišinová et al. (2021) added that individual AI tools are still in the development phase but already offer substantial advantages in providing public services that will further improve in the future. However, in the use of

¹ "Generally words can be used for positive or negative connotations depending on the contextual situation. The usage of words may be good or bad sense, impression, experience, feeling, etc. For example, politicians and advertisers may prefer words with positive connotations in view of expressing their message attractively. In case of unpleasant feeling, a word with negative connotations may be used to describe them" (Rao, 2017).

advanced analytics, Simonofski et al. (2022) emphasized the importance of respecting the protection of personal data and human verification of decisions made by AI technologies.

The primary objective of the current study was to understand how analysing academic research through digital tools may improve our view into the applications, functions, and issues related to the use of advanced artificial technologies in public administration.

We next provide a literature review of the analysed articles. Thereafter, we discuss the selection and advantages of our employed methodology and explain the analytical procedures we used. In the following Results section, we cover the outcomes of literature identification and selection as well as graphical and visual representations of the findings. We then further elaborate upon and compare these results with the outcomes of other comparable studies in the Discussion section. Finally, we provide brief conclusions into essential insights into the broader applicability of the results obtained, highlight the weaknesses of our research, and show opportunities for further development of the study.

2 Literature Review of Selected Articles

In our brief review of the scientific literature, we primarily focused on the scientific contributions that were discussed and analysed in our research. A brief literature review is a collaborative work of the authors with ChatGPT-4, in which the authors sought a deeper meaning of the analyzed text in accordance with the goals of our research. This may, to a certain extent, differ from the intentions of the original authors of the analyzed texts. ChatGPT-4 can hallucinate, i.e., cosmetically re-interpret the actual state – a result that must be considered in further interpretations of literature summaries. For one, Wirtz and Müller (2019) discussed the use of AI in public administration through a conceptual study. In their research, they developed an integrated AI framework for public management that encompassed all crucial aspects (regulation, and ethical and political guidelines), goal of using AI is achieving greater efficiency in public management. Subsequently, Wirtz et al. (2021) conducted a systematic review of the literature in the field of AI in the public sector. Utilizing qualitative and quantitative approaches, they analysed 189 articles. They further performed a methodological classification of articles and analysed the risks and benefits of using AI in the public sector. They discovered an extremely heterogeneous research area that is methodologically unbalanced and thus proposed more empirical and in-depth studies on the use of AI in the public sector, they anticipate a larger number of empirical data and preposed more in-depth studies of the use of AI in public sector. Previously, Wirtz et al. (2020) had proposed an integrated AI governance framework by considering the interactions of AI challenges, previous regulations and public administration. We can conclude that when balancing risks with the benefits of AI regulation, all stakeholders' viewpoints should be taken into account for optimal results for the society. Wirtz and Müller (2023) further expanded

their research by questioning the development of modelling smart cities and technological interactions of its stakeholders and the use of technologies. They used a literature review, which was rather complex. In the study, they noted that technological city governance can improve efficiency in resource use and enhance the quality of life for citizens. However, they also noted that despite technological progress, traditional governance mechanisms will not become redundant and will be important to balance the weaknesses of smart technological governance. Moreover, Wirtz et al. (2019) explored the use of AI in the public sector and defined the possibilities and challenges in using AI. They conducted a literature review with a selection of keywords that defined the use of AI and challenges in the public sector. Their results identified 10 AI application areas in the public sector and defined four main dimensions of challenges in using AI, the primary of which were how to ensure regulation of AI, how to use it in an ethically acceptable way, and what the impact of AI on a society as a whole will be.

In the specialized field of the public sector, namely in the provision of health and social services, Štefanišinová et al. (2021) investigated the use of AI. Utilizing a comparative approach and case analysis, they acquired a realistic assessment of current AI technologies and anticipated levels of AI. They emphasized that using AI could both improve and challenge the way healthcare and social services are provided, but the main goal should be to make life better for people. Among the principal challenges of using AI are the utilization of data and the potential reduction of jobs due to task optimization.

Simonofski et al. (2022) also scrutinized the legal requirements of data protection in public administration in the area of fraud analytics with advanced technologies. They examined two case studies and summarized 15 different governance practices in this field. They accentuated the complexity of the integration a legal requirements that would be in line with advanced analytics. A further challenge in employing AI technologies represents the protection of personal data and the application of administrative law.

Furthermore, Busuioc (2021) researched the use of AI algorithms in the public sector in connection with ensuring accountability for decisions. The author employed conceptual analysis to diagnose and analyse the challenges and responsibilities associated with the use of AI (accountability) in the public sector and underscored the importance of interpretable and transparent AI models.

Additionally, McDonald et al. (2022) addressed the area of research and the future of research in public administration. They reflected on the state of public administration research and analysed the methodology used in that field. They noted that technology could significantly impact how governments respond to emerging changes, which could represent a further potential area of research.

Vogl et al. (2020) also explored the use of smart technologies at the local level of public administration. In their study, they used questionnaires and interviews with employees in local public administration. They found that the use

of smart technologies in local public administration was on the rise. Smart technologies are becoming part of the process in providing public services, which may result in certain changes.

Moreover, Terzidou (2022) investigated the use of AI in the judiciary. Specifically, she examined the transition from the use of information and communication technologies (ICT) to the use of AI. Although she emphasized that the use of AI may present certain benefits, especially in terms of improved efficiency and better accessibility of judicial services, she also mentioned disadvantages that need to be addressed with the implantation of regulatory rules. The key risks are primarily related to the independence and impartiality of the courts.

In another study, Bodó and Janssen (2022) explored the impact of private technological systems in the public sector on citizens' trust in the government. They conducted a critical assessment and analysis of various aspects of technology and trust in the public sector. They found that when technology fails, it can significantly influence citizens' trust in the state. In their study, AI was mainly understood in connection with the use of technology.

Furthermore, Hartmann and Wenzelburger (2021) investigated the application of algorithms and computer models to support decision-making processes within the U.S. public administration – criminal justice. They conducted a case study based on the review of primary sources and interviews with experts. The results of the study showed that decision-making with the help of algorithmic methods was popular mainly because of the prior uncertainty of outcomes, the consequent dispersion of responsibility for negative consequences of decisions, because of the help of algorithmic methods, it is not such an important factor. Thus, the careful consideration of legal, social, and ethical aspects is important when using AI systems.

Grimmelikhuijsen (2021) also explored the effect of algorithms on perceived trust in automated decision-making. Experimental testing of two scenarios showed that explainability of algorithmic decision-making is more important for trust. Similarly, Wenzelburger et al. (2022) examined how people accept algorithms used in the public sector and issue of context. They conducted two case studies with surveys completed by over 2,600 people from Germany. Their research results also indicated that people accept algorithms more if they are solving a problem of personal importance and if they trust the organization using them.

Moreover, Giest and Klievink (2022) analysed two cases and explored the influence of AI on bureaucrats roles within public administration in different organizational contexts by focusing mainly on the impact of AI on innovation in the public sector. They found that there was pronounced administrative-process innovation, in other words, a change in the organizational structure and tasks of employees. In one case, there was also conceptual innovation because the AI system handled a specific task faster, more accurately, and more efficiently than a human could have.

The interaction between humans and AI in decision-making in the public sector was also studied by Alon-Barkat and Busuioc (2023) in three experimental studies. Their research primarily dealt with the aspect of automating bias and selective adherence to decisions and advice from AI or algorithms when they align with group stereotypes. They emphasised understanding the functioning of algorithmic shortcomings when used to assist decision-making for already vulnerable and disadvantaged citizens in the public sector.

Additionally, Pencheva et al. (2020), through a review of scientific literature in the field of public administration, investigated the transformational impact of big data and AI on governance around the world. They observed a benefits of big data and AI on policy cycle, especially in terms of increasing accuracy, efficiency, and speed of the policy-making process due to Big Data – AI usage.

Similarly, Castelnovo and Sorrentino (2021) addressed the impacts of big data and AI on government role in their research, which used a conceptual approach. They noted that big data can help to achieve significant improvements in policymaking and the provision of public services. However, we think that governments need to be careful and plan ahead when dealing with the issues of Big Data and AI.

With this critical evaluation of existing literature, we can improve our understanding of the gaps and shortcomings in this subject.

3 Methods

We methodologically designed this study as an identification and selection of scientific literature in the field of AI in public administration, a literature review of analysed articles with an emphasis on the research area under investigation (presented in the literature overview of selected articles), a determination of the most frequently used terms in the corpus of articles, and an identification of the positive and negative connotations of the article's texts.

We focused on using the Web of Science (WoS) database because our aim was to demonstrate the utility of digital tools in analysing a limited set of scientific articles indexed in one of the major databases. We also decided to limit the data to the last 5 years, which enabled us to analyse the latest research trends and developments in the selected period. This approach ensured the relevance and timeliness of the acquired data while also allowing for the effective use of digital tools for analysis and interpretation of the gathered information. Articles that met all the criteria below (applied to the WoS database) and were freely accessible (accessed through the Educational Research Institute network) in the WoS database or from the publisher were used for further text analysis:

- Keywords: artificial intelligence and public administration in all WoS databases (ALL);
- Publication years: 2018–2022;

- Languages: English;
- Countries/regions: EU;
- Document types: Article or review article;
- WoS categories: Public administration.

There are various digital tools available for analyzing scientific texts, including fairly traditional ones such as VOSviewer (VOSviewer, 2023) and those used for classic quantitative bibliographic analysis. Our objective was to visualize text with a deep understanding of semantics and content analysis, so we sought tools that were generally accessible, free of charge, user friendly, and required less technical expertise compared to, for example, NVivo and Biblioshiny. Consequently, we determined Voyant Tools (Voyant Tools, 2023) and ChatGPT-4 (OpenAI, 2023b) to be suitable choices.

The 19 scientific articles, which were freely accessible, were analysed using Voyant Tools. Voyant Tools is a freely accessible, web-based program for textual analysis of text. With Voyant Tools, it is possible to analyse documents in different languages because it supports analysis in any language because it operates on character sequences (Voyant Tools, 2023). Our analysis encompassed the entire content of each article. We first identified 25 terms that appeared most frequently across the entirety of the article corpus, namely, the keywords. During the analysis, we excluded irrelevant words, and, among the first 25 terms, we tried to combine words with the same roots. We also determined the frequency of occurrence of the first 25 individual terms that denoted positive and negative connotations. The frequency of occurrence of positive and negative connotations was determined using the word base of Voyant Tools. Determining the positive and negative connotations in texts is important because it can help identify the authors' and the scientific community's perspectives on a specific topic, for example, perception and potential receptiveness to AI technologies.

In ChatGPT-4, using the appropriate and available PDF plugin (Ai PDF), we analysed-interact with 19 freely accessible scientific articles. Furthermore, we created and used prompts² following the principles outlined in "Best Practices for Prompt Engineering with OpenAI API" (OpenAI, 2023a). According to these guidelines, prompts should be concise, precise, and elaborative. The analysis using prompts was divided into two steps:

1. Searching for the most frequent terms in the corpus of scientific articles. Example prompt: Analyse the entire content of the provided scientific articles in PDF format and identify the five most frequently occurring terms, focusing on key terminology. Please ensure that the results are based solely on the actual content of the articles, without conjecture or fabrication of data.
2. Using prompts that focused on determining the general connotation of the entire corpus of text. Example prompt: Determine the general text

² As Reynolds and McDonnell (2021) pointed out, a prompt is an instruction to the GPT chat on how to perform a specific task.

connotation of the entire content of the provided scientific articles in PDF format, analysing the overall tone, sentiment, and thematic elements. Ensure that the interpretation is based strictly on the content provided, without any conjecture or fabricated results.

4 Results

4.1 Results of Literature Identification and Selection

Only 22 scientific articles met the search criteria in WoS, and they are presented in Table 1. In terms of WoS categories, all 22 of the articles fell within the category of public administration. Six were also categorized under political science, two under management, and one under social sciences interdisciplinary. In relation to research areas, all 22 articles related to public administration, six to government law, two to business economics, and one to social sciences other topics. From the subsequent textual analysis, we excluded three scientific articles due to lack of public accessibility, leaving a total of 19 articles for textual analysis.

Table 1. Results of Literature Identification and Selection

Authors	Article Title	Source Title	Publication Year	Early Access Date
Wirtz, B. W., & Müller, W. M.	An Integrated Artificial Intelligence Framework for Public Management	<i>Public Management Review</i>	2019	
Wirtz, B. W., Weyerer, J. C., & Sturm, B. J.	The Dark Sides of Artificial Intelligence: An Integrated AI Governance Framework for Public Administration	<i>International Journal of Public Administration</i>	2020	
Stefanisinova, N., Muthova, N. J., Strangfeldova, J., & Sulajova, K.	Implementation and Application of Artificial Intelligence in Selected Public Services	<i>Croatian and Comparative Public Administration</i>	2021	
Wirtz, B. W., Langer, P. F., & Fenner, C.	Artificial Intelligence in the Public Sector - A Research Agenda	<i>International Journal of Public Administration</i>	2021	8/2021
Wirtz, B. W., Weyerer, J. C., & Geyer, C.	Artificial Intelligence and the Public Sector- Applications and Challenges	<i>International Journal of Public Administration</i>	2019	
Simonofski, A., Tombal, T., De Terwangne, C., Willem, P., Frenay, B., & Janssen, M.	Balancing Fraud Analytics With Legal Requirements: Governance Practices and Trade-Offs in Public Administrations	<i>Data & Policy</i>	2022	
Busuioc, M.	Accountable Artificial Intelligence: Holding Algorithms to Account	<i>Public Administration Review</i>	2021	11/2020
McDonald, B. D., Hall, J. L., O'Flynn, J., & Thiel, S.	The Future of Public Administration Research: An Editor's Perspective	<i>Public Administration</i>	2022	1/2022
Vogl, T. M., Seidelin, C., Ganesh, B., & Bright, J.	Smart Technology and the Emergence of Algorithmic Bureaucracy: Artificial Intelligence in UK Local Authorities	<i>Public Administration Review</i>	2020	
Terzidou, K.	The Use of Artificial Intelligence in the Judiciary and Its Compliance with the Right to a Fair Trial	<i>Journal of Judicial Administration</i>	2022	
Bodo, B., & Janssen, H.	Maintaining Trust in a Technologized Public Sector	<i>Policy and Society</i>	2022	5/2022
Hoffman, I., & Karpiuk, M.	E-Administration in Polish and Hungarian Municipalities - A Comparative Analysis of the Regulatory Issues	<i>Lex Localis-Journal of Local Self-Government</i>	2022	

Authors	Article Title	Source Title	Publication Year	Early Access Date
Hartmann, K., & Wenzelburger, G.	Uncertainty, Risk and the Use of Algorithms in Policy Decisions: A Case Study on Criminal Justice in the USA	<i>Policy Sciences</i>	2021	1/2021
Giest, S. N., & Klievink, B.	More Than a Digital System: How AI Is Changing the Role of Bureaucrats in Different Organizational Contexts	<i>Public Management Review</i>	2022	7/2022
Alon-Barkat, S., & Busuioc, M.	Human-AI Interactions in Public Sector Decision Making: Automation Bias and Selective Adherence to Algorithmic Advice	<i>Journal of Public Administration Research and Theory</i>	2023	2/2022
Wenzelburger, G., König, P. D., Felfeli, J., & Achziger, A.	Algorithms in the Public Sector. Why Context Matters	<i>Public Administration</i>	2022	12/2022
Pencheva, I., Esteve, M., & Mikhaylov, S. J.	Big Data and AI - A Transformational Shift for Government: So, What Next for Research?	<i>Public Policy and Administration</i>	2020	
Kim, S., Andersen, K. N., & Lee, J. W.	Platform Government in the Era of Smart Technology	<i>Public Administration Review</i>	2022	8/2021
Castelnovo, W., & Sorrentino, M.	The Nodality Disconnect of Data-Driven Government	<i>Administration & Society</i>	2021	3/2021
Grimmelikhuisen, S.	Explaining Why the Computer Says No: Algorithmic Transparency Affects the Perceived Trustworthiness of Automated Decision-Making	<i>Public Administration Review</i>	2023	6/2022
Wirtz, B. W., & Müller, W. M.	An Integrative Collaborative Ecosystem for Smart Cities - A Framework for Organizational Governance	<i>International Journal of Public Administration</i>	2023	3/2022
Compton, M. E., Young, M. M., Bullock, J. B., & Greer, R.	Administrative Errors and Race: Can Technology Mitigate Inequitable Administrative Outcomes?	<i>Journal of Public Administration Research and Theory</i>	2023	9/2022

Source: Table was produced via WoS, 2023

4.2 Results of the Textual Data Analysis Using Voyant Tools

In Table 2 below, we have identified the first 25 terms that most frequently appeared in the entire corpus of article texts. The terms “public” and “AI” were the most common, which is expected given the research theme. The word “AI” was the second most frequently used term in the analysed articles, but the terms “artificial” and “intelligence” were also listed separately. Therefore, these terms can be combined differently, for example, as “artificial neural network,” “artificial discretion,” “intelligence technologies,” or “intelligence techniques.” The term “algorithms” also appeared as “algorithm” and was combined into a unified form “algorithms” for the purpose of analysis, ranking as the fourth most frequently used term in the analysed text.

Table 2. First 25 Terms That Most Frequently Appeared in the Corpus of Article Texts

Term	Count	Term	Count
public	2,099	policy	509
ai	1,776	risk	497
data	1,479	algorithmic	483
algorithms	805	government	482
administration	701	making	443
decision	686	technology	431
research	640	information	419
intelligence	604	social	417
use	563	review	413
human	545	big	398
artificial	540	governance	396
systems	533	services	338
sector	514		

Source: Own

4.3 Frequency of Words with a Positive Connotation

In the corpus of scientific articles, the terms “intelligence” ($n = 604$) and “trust” ($n = 275$) were most frequently used as terms with a positive connotation (Table 3). “Trust,” “ethical,” and “trustworthiness” also appeared on this list. Although these terms themselves carry positive connotations, the context in which they are used in texts is also crucial. For instance, when discussing a lack of trust or ethical issues in trustworthiness, words can convey a negative meaning in a text even though the Voyant Tools word database would classify these words as positively connotated.

Table 3. First 25 Terms with a Positive Connotation

Term	Count	Term	Count
intelligence	604	advanced	75
trust	275	integrated	73
smart	250	better	71
well	228	creative	68
work	203	like	67
important	173	trustworthiness	62
support	157	regard	62
available	124	fairness	62
innovation	120	protection	58
ethical	117	improve	58
benefits	110	selective	55
right	106	fair	52
significant	77		

Source: Own

4.4 Frequency of Words with a Negative Connotation

In the corpus of scientific articles, the terms “risk” (*n* = 497) and “bias” (*n* = 265) were most frequently used as terms with a negative connotation (Table 4). The word “issue” also appeared in the form “issues,” so we combined them into a unified form “issue.” Similarly, the term “bias” appeared in the forms “biases” and “biased,” so in the analysis, we combined them into a unified form “bias.” Unlike the list of terms with a positive connotation, in this list, it is harder to attribute an opposite positive meaning to the terms.

Table 4. First 25 Terms with a Negative Connotation

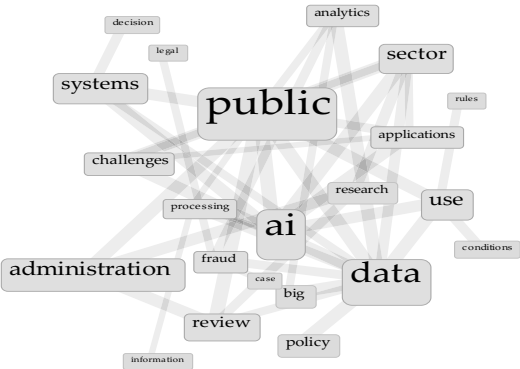
Term	Count	Term	Count
risk	497	discrimination	46
bias	265	scandal	45
fraud	234	limitations	44
problem	151	cancer	44
issues	147	concern	36
criminal	90	regression	27
complex	71	vice	25
lack	71	manipulation	25
limited	57	crime	24
concerns	54	discriminatory	22
negative	50	error	21
critical	50	limitation	20
blame	47		

Source: Own

4.5 Collocates Graph

Figure 1 below shows the networking of word connections. The central part displays some of the keywords while the co-occurring terms are marked in orange and show the occurrences of terms in the context of the keywords. In our analysis, we noted that when using the term “use,” the terms “rules” and “conditions” often co-occurred, indicating that they were important when defining conditions and rules for the use of AI.

Figure 1. Collocates Graph of Word Connections



Source: Figure was produced via Voyant Tools.

4.6 Analysis of the Article Corpus with ChatGPT-4 Dated August 21, 2023

ChatGPT-4 identified the five most frequently used words in the corpus of articles as the following (response on key-word prompt):

- Artificial
- Intelligence
- Technology
- Public
- Management

ChatGPT-4 then responded to the given connotation prompt. Specifically, ChatGPT-4 identified that the texts in all 19 articles exhibited a diversity of topics and connotations. The scientific texts concentrated on various areas such as AI, technology, management, societal and ethical aspects, and challenges associated with them. The connotations of the texts were a blend of positive and negative aspects, reflecting diverse perspectives addressed within the corpus. ChatGPT-4 also noted that positive connotations were evident in descriptions of intelligent systems, technological advancements, trust in technology, and good work and approaches to management. Conversely, ChatGPT-4 established that negative connotations related to risks, bias, fraud, problems, and challenges encountered in the implementation of these solutions. The ChatGPT-4 analysis concluded that the overall picture of the analysed documents was balanced because the corpus of articles engaged with both positive and potentially negative aspects of the use of AI and technology in management and society at large.

4.7 Analysis of the Content of Selected Articles

Our brief review of the literature, as presented in the literature overview of selected articles, revealed a very broad scope of AI application in public administration. We found that researchers focused on both the advantages of using AI and the potential problems and threats associated with its use. Particularly, researchers emphasized aspects of simplifying work processes and thereby optimizing operational workflows as well as ethical considerations and the protection of personal data. Overall, the researchers seemed to present a balanced view of all aspects of AI usage.

5 Discussion

Both research tools we used employ algorithms in their analyses, but, as Alhuthi (2021) pointed out, Voyant Tools focuses primarily on the frequency of occurrence of certain terms and the further visualization of them. In contrast, ChatGPT-4 is an advanced language model intended for natural language processing, which also understands the meaning, content, and context of the analysed text (Moshirfar et al., 2023).

For our analysis of the entire content of selected scientific articles, we used both Voyant Tools and ChatGPT-4. We deepened the analysis by preparing short reviews of the articles' content in collaboration with ChatGPT-4, reviews integrated an important human factor into the analysis. Thus, our analysis of the texts' connotations via ChatGPT-4 plus our human analysis could offer the full meaning of the texts, which is important for a thorough analysis. On the contrary, Voyant Tools lacks this option. Voyant Tools searches for the occurrence of individual terms in the texts that have a positive or negative connotation but does not understand the broader meaning of the entire text.

Voyant Tools identified the terms "public," "AI," "data," "algorithms," and "administration" as the most frequently used in the corpus of articles. Consequently, it is evident that thorough understanding of these terms is vital when dealing with the use of AI in public administration. In our analysis of terms that often co-occurred with the keywords, we found the terms "use," "rules," and "conditions" often co-occurred. This result likely indicates that researchers often research and write about setting rules and conditions (i.e., regulations) when talking about the use of AI. Indeed, this is a very frequent topic in the scientific literature. For one, Wirtz et al. (2019) emphasized that regulation is one of the main challenges in the use of AI. Furthermore, in June 2023, the EU Parliament adopted the negotiating positions for regulating AI in the EU. The regulation would ensure transparent operation of AI and provide privacy and security for users as well as human oversight of AI operations (European Parliament, 2023).

Positive connotations generally occur when describing intelligent systems and technological advancements, and negative connotations when dealing with words related to risks and bias. In the literature review, we noted that the term "trust" was used mainly from the perspective of questioning the trustworthiness of AI. However, Voyant Tools marked it as a word that denotes a positive connotation even though the actual meaning in the text was more negative. Also, among words with negative connotations, the terms "issue" and "bias" often appeared. This finding connects with research from Alon-Barkat and Busuioc (2023) who warned about the issues of automating bias and selective adherence to decisions and advice from AI or algorithms when they align with group stereotypes. Therefore, human control of decisions made with AI is important, and the type of texts on which AI learns is also crucial.

We noted that the analysis of texts in terms of positive and negative connotations reflected a very complex and diverse field of AI use in the public sector. Moreover, our literature review found similar observations to those in the connotation analysis with ChatGPT-4, specifically, that researchers deal with both positive and negative consequences of the use and implementation of AI in the public sector. As Giest and Klievink (2022) stated, the execution of certain tasks can be faster and more efficient with AI, but the use of AI is always linked to the use of technology (Bodó & Janssen, 2022), so it is important to also consider risks such as the protection of personal data (Simonofski et al., 2022) and ethics in using AI (Wirtz et al., 2019).

Through a review of the literature, we also recognized the need for establishing rules and regulations in the field of AI, but we are aware that it is difficult to halt the progress of technology, and, in our opinion, halting the development of technology and AI would even be inappropriate. For example, the use of algorithms in connection with AI is significant in the field of medical science. Indeed, Wenzelburger et al. (2022) noted that algorithms are used in predicting skin cancer. Furthermore, AI technology allows detailed text analyses, as evident in our research. The results of using intelligent tools for analysis can provide different and broader insights into the subject matter, which can contribute to increased quality of life and development of science.

In analysing the results, we also noticed that Voyant Tools and ChatGPT-4 classified keywords differently to a certain extent. Such differences may be the result of the different algorithms each analysis tool uses. For instance, ChatGPT-4 takes semantics into account, understands the context of terms, and considers various linguistic nuances of the text. The actual prompts can also influence outcomes with ChatGPT-4 depending on how the program understands an instruction. For example, instructions determine whether it searches for words in the text that are identical or for words that have a similar meaning. Moreover, PDF plugins for use with ChatGPT-4 can segment and analyse the text in parts, or they can just summarize it to a certain extent (ChatGPT-4 has important limitations in the amount of data processed). One of the negative aspects of the literature review made in collaboration with ChatGPT-4 is the possibility of hallucination, i.e., the cosmetic reinterpretation of the actual state - the result of the analyzed scientific articles. This should be pointed out to the readers of our article, and readers should consider this in the final interpretation of the literature summary and highlight this issue. Similarly, technological advancements in the use of digital tools could influence the accuracy of our results. For example, we noticed that during the article review period, OpenAI (the provider of ChatGPT-4) offered updated and more advanced chat features, such as advanced data analysis, browse with Bing, and Dalle-E 3 (photo generation). Finally, the way each tool is used can influence the results. For instance, when we excluded meaningless words and combined words with the same root via Voyant Tools, we affected the results of the analysis.

All the mentioned shortcomings of digital tools could have significantly impacted the results of our analysis. For a more detailed explanation, we would need to examine the background functioning of the algorithms of both tools.

6 Conclusions

Analysis and research of texts with so-called digital smart tools can help us understand the deeper meaning of a text and can emphasize individual elements that are significant in addressing a particular subject matter. These analyses could influence the overall advancement of society and the development of science.

Textual analysis emphasizes individual keywords that are important in the subject being discussed and the general connotation of the text, which may indicate factors for or against the use of AI technology in the field of public administration. Terms that co-occur with keywords can express certain additional views that need to be considered in the analysis. In our case, the terms “rules” and “conditions” were connected with the key word “use,” which may indicate a strong necessity for the regulation of the AI field and perhaps an indication and incentive for regulators in shaping policies for the use of AI in public administration.

However, the weaknesses of this study were the limited number of scientific articles we analysed, possible hallucination of ChatGPT-4 and the overrepresentation of certain authors among those articles. Moreover, we included the entire text of each article in our analysis; for further research, we suggest removing individual parts of the article, such as references. This modification can change the determination of keywords and the general connotations of the text. Further research could also expand the selection of analysed research articles by using other databases of scientific literature and comparing research among individual countries.

In sum, for the broader field of public administration, the simultaneous use of both text-analysis tools—ChatGPT-4 and Voyant Tools—is appropriate. Only in this way can we obtain results that are more broadly applicable and that can help us shape policy in the field of public administration.

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Analysis of Workaholism and Burnout Among Employees of Administrative Units and Two Selected Banks in Slovenia

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ABSTRACT

Purpose: Workaholism and burnout can have detrimental effects on both employees and organisations in both the private and public sectors, and therefore calls for further research. The objective of this survey was to statistically analyse significant differences in the variables of workaholism and burnout (including emotional exhaustion, depersonalisation, and personal efficiency) between administrative units and two selected banks, among participants employed in managerial and non-managerial positions, and across genders. Additionally, the survey aimed to analyse the correlations between workaholism, emotional exhaustion, depersonalisation, and personal efficiency. The research involved 621 employees from 58 administrative units and 404 employees from two selected (private) banks in Slovenia.

Design/Methodology/Approach: Various methodological approaches were used, including statistical tests such as multivariate and factor analysis, the Kolmogorov-Smirnov and Shapiro-Wilk tests, the Mann-Whitney U test, and Spearman's rank-order correlation coefficient.

Findings: Survey results revealed no statistically significant differences in the variables of workaholism and burnout between administrative units and the two selected banks, among participants employed in managerial and non-managerial positions, and across genders. However, the research uncovered a strong positive correlation between workaholism and emotional exhaustion, a weak positive correlation between workaholism

and depersonalisation, and a slight negative correlation between workaholism and personal efficiency.

Originality/Value: The research contributes to the growing awareness of workaholism and burnout, offering organisations valuable insights to address these issues and enhance employee well-being. Furthermore, it adds to the existing literature on workaholism and burnout within the context of Slovenia.

Keywords: administrative units, banks, burnout, workaholism, Slovenia

JEL: I10

1 Introduction

Work is of key importance for adults, as it enables them to earn a salary, and develop personally; it also encourages the development of new skills and knowledge, shapes the relationships between fellow human beings as well as gives a sense of well-being, meaning, dignity, and self-worth. Employees are driven by both internal and external motives, but employees fail to set boundaries in some cases and work too much. Thus, employees may unknowingly become workaholics (Andreassen, 2014). In recent years, the number of studies devoted to the study of workaholism, and burnout, has increased. According to Workaholism facts and statistics (Holewa, 2023), 46% of European employees deal with severe time pressure or work overload. Even though there are occupations where overtime work is not necessary, it is also expected by employers. Furthermore, financial and insurance services and public administration and safety services are listed among the ten hard-working industries, namely in fifth and tenth place. Excessive work or workaholism can lead to burnout, which manifests itself in the workplace as emotional exhaustion, depersonalisation, and personal inefficiency (Maslach et al., 1997; Maslach and Leiter, 2002). According to (Schaufeli, 2018), the European countries with the highest burnout levels are eastern (Poland) and south-eastern countries (Albania, Turkey, Slovenia, Croatia, Serbia, Montenegro, and Macedonia). Since Slovenia is listed among European countries that have the highest levels of burnout, and financial and public services are listed among the ten hard-working industries, the presented research aimed to analyse differences between workaholism and three dimensions of burnout (emotional exhaustion, depersonalisation, and personal efficiency) among employees in the administrative units and two selected banks in Slovenia. The two banks were selected based on the number of employees so that the number of employees at the banks was approximately the same as the number of employees at the administrative units. The research aims to contribute to rising awareness about workaholism and burnout and to the existing literature on workaholism and burnout within the Slovenian context.

The article first presents the theoretical framework of workaholism and burnout which was the basis for the formation of hypotheses. The next section

includes the presentation of the sample and used methods. This is followed by a presentation of results, the testing of hypotheses, a discussion, and findings and proposals.

2 Theoretical Bases for Forming the Hypotheses

Uncontrollable need for constant work or addiction to work that is unmanageable or the behavioural pattern (Scott, Moore and Miceli, 1997) or so termed workaholism is a disease that is like alcohol addiction or alcoholism. It occurs due to the avoidance of problems, impaired self-esteem, consequences of childhood trauma (Seybold and Salomone, 1994; Clark et al, 2016), the need for control in one's life (Cantarow, 1979), the pursuit of success, competitiveness (Seybold and Salomone, 1994), the cost of putting children through school, saving for retirement (Kozjek, 2014). Workaholism occurs when an employee works more than the expected demands of his or her job (Clark et al, 2016). Addiction to work is difficult to overcome, because, unlike other addictions, those who are addicted to work are usually unaware of it; moreover, their dedication makes them work more and more. The deeper the addiction, the more serious, intense, and lasting the consequences, and the greater the risks to a person's overall well-being; the individual experiences various physical, behavioural, emotional, and social consequences (Humphreys, 2000, Balducci et al, 2018). The consequence of workaholism on the individual level is also burnout, which represents gradual emotional exhaustion and loss of motivation in people who have worked with great dedication and enthusiasm (Bakker, Demerouti and Sanz-Vergel, 2014), a decline in values, dignity, spirit, and will (Maslach and Leiter, 2002). The World Health Organization (WHO, 2020), Stare et al. (2012), and Cole et al. (2012) define burnout as an occupational phenomenon resulting from chronic stress that (in the workplace) has not been successfully managed. Kaiser, Richardsen and Martinussen (2021) in their research identified, with multiple regression, that job demands are the most important predictors of burnout. Swider and Zimmerman (2010), and Balducci et al (2018) add that it includes chronic emotional and interpersonal stressors experienced by individuals at work and their subsequent responses to work tasks, organisations, co-workers, clients, and themselves. Halbesleben & Buckley (2004) argue that burnout is a psychological syndrome that manifests itself as emotional exhaustion, depersonalisation, and reduced efficiency. According to Cordes and Dougherty (1993) and Witt, Andrews and Carlson (2004), emotional exhaustion is the feeling that a person's emotional resources are becoming drained, and that person lacks energy. Depersonalisation is according to Cohen (2004), a feeling of detachment from one's self or if somebody is leaving in a dream or like automation. Längle, Orgler and Kundi (2003) define personal efficiency as the meaning of life and openness to considerable existential values, going through a sensible, authentic, responsible life in general. As Cole et al (2012) argued, the consequences of burnout do not only harm the individual but are felt by everyone in any way related to the person experiencing burnout, therefore it should be researched.

According to Amigo et al. (2014) and Dias and Angélico (2018), burnout is most prevalent among those employees whose working hours are longer than 40 hours per week and those who have direct contact with clients at their work. The research of Mar, Soklič & Buzeti (2022) shows that work during non-work time (at different times of the day, at weekends, and during their annual and sick leave) is a growing phenomenon among employees in private and public sectors; they also found that such work is particularly common for employees in managerial positions and for professionals in education, health, and police services, as well as for employees engaged in remote work. The results of the study of Schaufeli, van Wijhe, Peeters, and Taris (2011) show that workaholism and the possibility of employees becoming burnt out are more prevalent among employees (in both managerial and non-managerial jobs) in private sector organisations, especially due to competition in the market and greater opportunities for monetary rewards for employees. Özsoy (2018) compared the level of workaholism of public and private sector employees and found that workaholism occurs in both managerial and non-managerial positions but is more common in managerial positions as they bring more responsibility and decisions are more strategic and complex. Based on the findings, the following hypotheses were formulated: *H1: There are statistically significant differences in the variables of workaholism and burnout (emotional exhaustion, depersonalisation, and personal efficiency) between administrative units and the two selected banks. H2: There are statistically significant differences in the variables of workaholism and burnout (emotional exhaustion, depersonalisation, and personal efficiency) between participants employed in managerial and non-managerial positions.*

Furthermore, the results of Snir and Harpaz (2006) and Burke, Davis, and Flett (2008) show that there are differences in workaholism between men and women. Beiler-May et al (2017) argue that workaholism among women is underestimated due to cultural norms. According to traditional expectations regarding gender roles, men are supposed to work and provide financial support to the family, while women are supposed to do most of the household chores and take care of the children (Kozjek, Mali and Umek, 2021). Dudek and Szpitalak (2019) found that women are also prone to workaholism since they often have to prove that they can perform assigned tasks just as well as men to succeed in their professional lives. Similarly, Burke (1999) stated that women exhibit a higher level of perfectionism, which could be one of the causes of workaholism by women. Behson (2002) also stated that workaholism is higher in women than in men. Contrary, Snir and Harpaz (2006) found that workaholism, determined based on the number of hours worked per week, is more prevalent in men than in women. Based on these findings it was assumed that *H3: There are statistically significant differences between variables of workaholism and burnout (emotional exhaustion, depersonalisation, and personal efficiency) between male and female participants.*

Studies that measured the correlation between employee workaholism and burnout in the world (Cheung et al, 2018; Judež, 2018; Staszczuk and Tokarz, 2017; Schaufeli et al, 2008; and Taylor et al, 2018) have shown that there is

a correlation between workaholism and burnout. Cheung et al (2018) found that workaholism is positively correlated with emotional exhaustion and depersonalisation and negatively correlated with feelings of personal efficiency. According to previous research, it was *assumed that: H4: There is a positive correlation between workaholism and emotional exhaustion and depersonalisation and a negative correlation between workaholism and personal efficiency at administrative units and two selected banks.*

3 Sample and Methods

Employees from all 58 administrative units (621 participants) and employees from two selected banks (404 participants) participated in the survey, but they were not named to ensure anonymity. The two banks were selected according to their size so that the number of employees at the selected banks was like the number of employees at administrative units. A total of 1,025 employees from administrative units and banks responded to both surveys, therefore, the results are statistically valid for the selected organizations. The survey was conducted in the spring of 2021 (see also Bandelj, 2021). The link to the anonymous survey questionnaire was sent electronically to the official addresses of all 58 administrative units and the two selected banks with a request to forward the survey questionnaire to all employees.

Of all administrative units' employees, 621 participated in the survey, representing 27% of all employees, whereby 74% ($n = 462$) were women and 26% ($n = 159$) were men. 41% of respondents at administrative units were aged 40 to 50 (41%), followed by those aged 51 to 61 (29%). 51% of respondents had a university degree, 19% had a higher education degree and 16% had a master's degree. 18% of participants from administrative units were employed in managerial positions, and 82% were in non-managerial positions.

Of all employees at both banks, 404 employees participated in the survey, which represents 27% of all employees, 82% ($n = 332$) of which were women and 18% ($n = 72$) were men. The predominant group at the banks is that aged 40 to 50 (40%), followed by the 51 to 61 age group (37%). 35% of the participants had a university degree, 31% had a higher education degree and 15% had a secondary school degree. 20% of participating employees at the banks were employed in managerial positions, and 80% were in non-managerial positions.

For the research, The Bergen Work Addiction Scale (BWAS) (Anderssen, 2012) and the Maslach burnout inventory (MBI-GS) (Maslach et al, 1997) questionnaires were used. At The Bergen Work Addiction Scale (BWAS) scale participants, on a 5-point Lickert Scale (1 – never, 2 – rarely, 3 – sometimes, 4 – often, 5 – always), had to answer "how often in the last year...": "have you thought of how you could free up your time to work", "spent much more time on working than initially intended", "worked in order to reduce feelings of guilt, anxiety, helplessness, and depression", "have been told by others to cut down on work without listening to them", "become stressed if you have been prohibited from working", "deprioritised your hobbies, leisure activities, and exercise

because of your work”, “work so much that it has negatively influenced your health”.

At the Maslach burnout inventory (MBI-GS) scale, participants on a 4-point Likert scale (1 – never, 2 – rarely, 3 – frequently, 4 – daily), where higher grades mean a higher level of burnout, had to evaluate three dimensions. According to the first dimension Emotional Exhaustion, they evaluated these variables “I feel emotionally drained from work”, “I feel exhausted at the end of the workday”, “When I wake up in the morning, I feel tired because I have to go to work again”, “Working all day is really tiring for me”, “I feel exhausted from work”. According to the second dimension Depersonalisation, they evaluated these variables “I want to do my work without being interrupted”, “I am less interested in my work since I’ve been in this job”, “I am less enthusiastic about my work”, “I am sceptical about the contribution of my work to something”, “I doubt the importance of my work”. According to the third dimension Personal Efficiency, they evaluated these variables “I feel excited when I get something done at work”, “I achieve many important things in my work”, “I can effectively solve problems that arise in my work”, “I feel that I contribute something to the organization through my work”, “In my opinion, I am good at what I do”, “In my work, I feel confident that I am efficient and able to get things done”.

To test the variables and the hypotheses different methodological approaches were used, namely the Kolmogorov-Smirnov and Shapiro-Wilk test, the Mann-Whitney U test, factor analysis, and Spearman’s rank order correlation coefficient.

4 Results

The literature and sources in the field of workaholism and burnout present varied findings when comparing the public and private sectors. Generally, the findings indicate the greater presence of workaholism and burnout in organizations within the private sector. Therefore, in the selected sample of administrative units (AU) and two selected banks, it was important to check whether statistically significant differences exist. The mean values, mean ranks, Mann-Whitney U, and statistical significance of these differences are presented in Tables 1 and 2 below.

The presented findings for the variables of workaholism indicate three statistically significant differences between employees in banks and administrative units. The findings reveal that employees in administrative units, compared to employees in banks, report a higher level of working more than initially intended (Mean Rank = 561.37; $P = 0.003$), a higher level of being told by others to reduce their workload without listening to them (Mean Rank = 576.23; $P < 0.001$), a higher level of deprioritising their hobbies, leisure activities, and exercise due to the work (Mean Rank = 554.14; $P < 0.001$). Mean values for all variables range between 2 and 3, indicating a rare or frequent level. Additionally, the results may have been influenced by the Covid-19 pandemic, which leads to the organisations closure and remote work.

Table 1: Comparison of the Variables of Workaholism between employees from administrative units and banks

Variables of Workaholism		Organisation	N	Mean Rank	Mann-Whitney U	P
How often in the last year have you thought of how you could free up your time to work?		Banks	421	550.84	133947.0	0.345
		AU	658	533.07		
<i>How often in the last year have you spent much more time working than initially intended?</i>		Banks	421	506.59	124445.0*	0.003
		AU	658	561.37		
How often in the last year have you worked in order to reduce feelings of guilt, anxiety, helplessness, and depression?		Banks	421	543.27	137131.5	0.776
		AU	658	537.91		
<i>How often in the last year have you been told by others to cut down on work without listening to them?</i>		Banks	421	483.38	114671.0**	<0.001
		AU	658	576.23		
How often in the last year have you become stressed if you have been prohibited from working?		Banks	421	514.41	127734.0	0.026
		AU	658	556.38		
<i>How often in the last year have you deprioritised your hobbies, leisure activities, and exercise because of your work?</i>		Banks	421	458.76	104309.0**	<0.001
		AU	658	591.98		
How often in the last year have you worked so much that it has negatively influenced your health?		Banks	421	517.90	129203.5	0.055
		AU	658	554.14		

Source: Own

Table 2: Comparison of the Variables of Burnout between employees from administrative units and banks

Variables of Burnout	Organisation	N	Mean Rank	Mann-Whitney U	P
I feel emotionally drained from work.	Banks	418	529.97	133955.0	0.643
	AU	651	538.23		
I feel exhausted at the end of the workday.	Banks	418	543.00	132716.5	0.460
	AU	651	529.87		
When I wake up in the morning, I feel tired because I have to go to work again.	Banks	418	530.98	134377.0	0.715
	AU	651	537.58		
Working all day is really tiring for me.	Banks	418	536.07	135611.0	0.921
	AU	651	534.31		
I feel exhausted from work.	Banks	418	540.21	133880.0	0.632
	AU	651	531.65		
I want to do my work without being interrupted.	Banks	412	515.63	127359.5	0.283
	AU	641	534.31		
I am less interested in my work since I've been in this job.	Banks	412	503.88	122520.5	0.031
	AU	641	541.86		
I am less enthusiastic about my work.	Banks	412	505.63	123240.0	0.049
	AU	641	540.74		
I am sceptical about the contribution of my work to something.	Banks	412	496.47	119466.5*	0.005
	AU	641	546.62		
I doubt the importance of my work.	Banks	412	494.77	118769.0*	0.003
	AU	641	547.71		

Variables of Burnout	Organisation	N	Mean Rank	Mann-Whitney U	P
I feel excited when I get something done at work.	Banks	407	522.13	127339.0	0.789
	AU	631	517.81		
I achieve many important things in my work.	Banks	407	539.75	120167.5	0.047
	AU	631	506.44		
I can effectively solve problems that arise in my work.	Banks	407	533.44	122734.5	0.146
	AU	631	510.51		
I feel that I contribute something to the organization through my work.	Banks	407	546.15	117561.5	0.011
	AU	631	502.31		
In my opinion, I am good at what I do.	Banks	407	547.08	117183.5	0.006
	AU	631	501.71		
In my work, I feel confident that I am efficient and able to get things done.	Banks	407	560.24	111828.0*	<0.001
	AU	631	493.22		

Source: Own

The presented findings for the variables of burnout, including five variables of emotional exhaustion, five variables of depersonalisation, and six variables of personal efficiency, generally do not indicate statistically significant differences between employees in banks and administrative units. However, two variables of depersonalisation and one variable of personal efficiency show significant differences. More specially, employees from the administrative units report a higher level of being sceptical about the contribution of their work to something (Mean rank = 546.62; $P = 0.005$) and a higher level of expressing doubt about the importance of their work (Mean rank = 547.71; $P = 0.003$). The mean values for variables range around 2, indicating a rare level. On the other hand, employees from banks report a higher level for one variable of personal efficiency, namely their feeling of being confident that they are efficient and able to get things done (Mean rank = 560.24; $P = <0.001$). The mean value for the variable is around 3, indicating a frequent level.

Based on the results of the comparison of workaholism and burnout variables, hypothesis *H1: "There are statistically significant differences in the variables of workaholism and burnout (emotional exhaustion, depersonalisation, and personal efficiency) between administrative units and the two selected banks"*, is rejected. Despite the varied findings that indicate a higher presence of workaholism in the private sector organisation, especially due to the market competition and greater opportunities for monetary rewards for employees (e. g. Wijhe, Peeters, and Taris, 2011), the findings of the presented research conducted among Slovenian administrative units and two selected private banks do not confirm this. Additionally, the findings reveal that employees in administrative units report a higher level of working than initially intended, a higher level of being told by others to reduce their workload without listening to them, and a higher level of deprioritising their hobbies, leisure activities, and exercise due to the work. Furthermore, the results do not confirm the notation that employees with more client contacts experience higher levels of burnout, as Amigo et al. (2014) and Dias and Angélico (2018) found. However, these results may be influenced by the Covid-19 pandemic, which has led to an increase in remote work.

The literature and sources in the field of workaholism and burnout present varied findings when comparing workaholism and burnout among managerial and non-managerial positions. Generally, the findings indicate the greater presence of workaholism and burnout among managers. Therefore, in the selected sample of administrative units and two selected banks, it was important to examine whether statistically significant differences exist. The mean values, mean ranks, Mann-Whitney U, and statistical significance of these differences are presented in Tables 3 and 4 below.

**Table 3: Comparison of the Variables of Workaholism between
managerial and non-managerial positions**

Variables of Workaholism	Position	N	Mean rank	Mann-Whitney U	p
How often in the last year have you thought of how you could free up your time to work?	Managerial	191	556.88	71266.0	0.019
	Nonmanagerial	834	502.95		
How often in the last year have you spent much more time working than initially intended?	Managerial	191	537.95	74881.5	0.171
	Nonmanagerial	834	507.29		
How often in the last year have you worked in order to reduce feelings of guilt, anxiety, helplessness, and depression?	Managerial	191	513.31	79588.5	0.987
	Nonmanagerial	834	512.93		
How often in the last year have you been told by others to cut down on work without listening to them?	Managerial	191	623.92	58462.0**	<0.001
	Nonmanagerial	834	487.60		
How often in the last year have you become stressed if you have been prohibited from working?	Managerial	191	524.51	77448.5	0.540
	Nonmanagerial	834	510.36		
How often in the last year have you deprioritised your hobbies, leisure activities, and exercise because of your work?	Managerial	191	595.59	63871.5**	<0.001
	Nonmanagerial	834	494.08		
How often in the last year have you worked so much that it has negatively influenced your health?	Managerial	191	561.61	70362.0	0.010
	Nonmanagerial	834	501.87		

Source: Own

The presented findings for the variables of workaholism indicate two statistically significant differences between managers and non-managers. More specially, the findings reveal that managers report higher levels of being told by others to cut down on work without listening to them (Mean Rank = 623.92; $P < 0.001$), as well as a higher level of deprioritising their hobbies, leisure activities, and exercise due to the work (Mean Rank = 595.59; $P < 0.001$). The mean values variables are between 2 and 3, indicating a rare or frequent level.

Table 4: Comparison of the Variables of Burnout between managerial and non-managerial positions

Variables of Burnout Pos	Position	N	Mean Rank	Mann-Whitney U	P
I feel emotionally drained from work.	Managerial	191	532.42	75937.0	0.275
	Nonmanagerial	834	508.55		
I feel exhausted at the end of the workday.	Managerial	191	552.52	72099.0	0.026
	Nonmanagerial	834	503.95		
When I wake up in the morning, I feel tired because I have to go to work again.	Managerial	191	517.64	78761.0	0.797
	Nonmanagerial	834	511.94		
Working all day is really tiring for me.	Managerial	191	471.23	71669.0	0.019
	Nonmanagerial	834	522.57		
I feel exhausted from work.	Managerial	191	508.18	78727.0	0.787
	Nonmanagerial	834	514.10		
I want to do my work without being interrupted.	Managerial	191	482.48	73817.0	0.082
	Nonmanagerial	834	519.99		
I am less interested in my work since I've been in this job.	Managerial	191	477.05	72781.0	0.043
	Nonmanagerial	834	521.23		
I am less enthusiastic about my work.	Managerial	191	485.16	74330.0	0.121
	Nonmanagerial	834	519.38		
I am sceptical about the contribution of my work to something.	Managerial	191	480.12	73367.5	0.070
	Nonmanagerial	834	520.53		
I doubt the importance of my work.	Managerial	191	456.58	68871.5*	0.002
	Nonmanagerial	834	525.92		
I feel excited when I get something done at work.	Managerial	191	526.06	77153.0	0.425
	Nonmanagerial	834	510.01		
I achieve many important things in my work.	Managerial	191	593.56	64260.5**	<0.001
	Nonmanagerial	834	494.55		
I can effectively solve problems that arise in my work.	Managerial	191	532.51	75921.5	0.223
	Nonmanagerial	834	508.53		
I feel that I contribute something to the organization through my work.	Managerial	191	596.35	63727.0**	<0.001
	Nonmanagerial	834	493.91		
In my opinion, I am good at what I do.	Managerial	191	517.16	78852.0	0.804
	Nonmanagerial	834	512.05		

Variables of Burnout Pos	Position	N	Mean Rank	Mann-Whitney U	P
In my work, I feel confident that I am efficient and able to get things done.	Managerial	191	532.31	75959.5	0.246
	Nonmanagerial	834	508.58		

Source: Own

The presented findings for the variables of burnout, which include five variables of emotional exhaustion, five variables of depersonalisation, and six variables of personal efficiency, generally do not indicate statistically significant differences between managers and non-managers. However, one variable of depersonalisation and two variables of personal efficiency show significant differences. More specially, non-managers report a higher level of doubting the importance of their work (Mean rank = 525.92; $P = 0.002$). The mean value is around 2, indicating a rare level. Additionally, managers report a higher level of feeling that they achieve many important things in their work (Mean rank = 593.56; $P < 0.001$), as well as they are feeling that they contribute something to the organization through their work (Mean rank = 596.35; $P < 0.001$). The mean values are around 3, which indicates a frequent level.

Based on the results of the comparison of workaholism and burnout variables, hypothesis *H2: There are statistically significant differences in the variables of workaholism and burnout (emotional exhaustion, depersonalisation, and personal efficiency) between participants employed in managerial and non-managerial positions*, is rejected. Despite the varied findings indicating a higher prevalence of workaholism and burnout among managers (e. g. Schaufeli, van Wijnhe, Peeters, and Taris, 2011; Özsoy, 2018), the findings of the presented research conducted among Slovenian administrative units and two selected private banks do not confirm this for managers and non-managers. Additionally, the findings reveal that managers report higher levels of being told by others to cut down on work without listening to them, as well as a higher level of deprioritising their hobbies, leisure activities, and exercise due to the work. Furthermore, non-managers report a higher level of doubting the importance of their work, on the other hand, managers report a higher level of feeling that they achieve many important things in their work, as well as they are feeling that they contribute something to the organization through their work.

The literature and sources in the field of workaholism and burnout present varied findings when comparing workaholism and burnout between genders. Generally, the findings indicate a greater prevalence of workaholism and burnout among women, mainly because of balancing working and private life. Therefore, in the selected sample of administrative units and two selected banks, it was important to examine whether statistically significant differences exist. The mean values, mean ranks, Mann-Whitney U, and statistical significance of these differences are presented in Tables 5 and 6 below.

Table 5: Comparison of the Variables of Workaholism between genders

Variables of Workaholism	Gender	N	Mean Rank	Mann-Whitney U	P
How often in the last year have you thought of how you could free up your time to work?	Male	231	487.76	85876.5	0.129
	Female	794	520.34		
How often in the last year have you spent much more time working than initially intended?	Male	231	471.39	82094.0	0.010
	Female	794	525.11		
How often in the last year have you worked in order to reduce feelings of guilt, anxiety, helplessness, and depression?	Male	231	490.83	86586.5	0.183
	Female	794	519.45		
How often in the last year have you been told by others to cut down on work without listening to them?	Male	231	507.28	90385.0	0.729
	Female	794	514.66		
How often in the last year have you become stressed if you have been prohibited from working?	Male	231	488.63	86078.5	0.143
	Female	794	520.09		
How often in the last year have you deprioritised your hobbies, leisure activities, and exercise because of your work?	Male	231	469.60	81682.5	0.009
	Female	794	525.63		
How often in the last year have you worked so much that it has negatively influenced your health?	Male	231	437.23	74205.0**	<0.001
	Female	794	535.04		

Source: Own

The presented findings for the variables of workaholism indicate one statistically significant difference between genders. More specially, the findings reveal that women report higher frequencies of working so much that it has negatively influenced their health (Mean rank = 535.04; $P < 0.001$). The mean value is around 3, indicating a frequent level.

Table 6: Comparison of the Variables of Burnout between genders

Variables of Burnout	Gender	N	Mean Rank	Mann-Whitney U U	P
I feel emotionally drained from work.	Male	231	457.02	78775.5**	<0.001
	Female	794	529.29		
I feel exhausted at the end of the workday.	Male	231	457.61	78913.0**	<0.001
	Female	794	529.11		
When I wake up in the morning, I feel tired because I have to go to work again.	Male	231	452.55	77742.5**	<0.001
	Female	794	530.59		
Working all day is really tiring for me.	Male	231	463.92	80369.0*	0.002
	Female	794	527.28		
I feel exhausted from work.	Male	231	451.02	77389.5**	<0.001
	Female	794	531.03		
I want to do my work without being interrupted.	Male	231	527.32	88399.0	0.358
	Female	794	508.83		
I am less interested in my work since I've been in this job.	Male	231	505.11	89885.0	0.616
	Female	794	515.29		
I am less enthusiastic about my work.	Male	231	496.54	87905.0	0.302
	Female	794	517.79		
I am sceptical about the contribution of my work to something.	Male	231	484.97	85231.0	0.082
	Female	794	521.16		
I doubt the importance of my work.	Male	231	469.01	81545.0	0.006
	Female	794	525.80		
I feel excited when I get something done at work.	Male	231	507.92	90534.0	0.727
	Female	794	514.48		
I achieve many important things in my work.	Male	231	510.95	91234.0	0.892
	Female	794	513.60		
I can effectively solve problems that arise in my work.	Male	231	511.03	91251.5	0.889
	Female	794	513.57		
I feel that I contribute something to the organization through my work.	Male	231	526.39	88613.5	0.388
	Female	794	509.10		
In my opinion, I am good at what I do.	Male	231	514.96	91254.5	0.895
	Female	794	512.43		

Variables of Burnout	Gender	N	Mean Rank	Mann-Whitney U U	P
In my work, I feel confident that I am efficient and able to get things done.	Male	231	533.77	86908.5	0.176
	Female	794	506.96		

Source: Own

The presented findings for the variables of burnout, which include five variables of emotional exhaustion, five variables of depersonalisation, and six variables of personal efficiency, generally do not indicate statistically significant differences between genders. However, significant differences were found for all variables of emotional exhaustion. Additionally, women report a higher level of feeling emotionally drained from work (Mean rank = 529.29; $P < 0.001$) and feeling exhausted at the end of the workday (Mean rank = 529.11; $P < 0.001$). They also report a higher level of tiredness when waking up in the morning because they have to go to work (Mean rank = 530.59; $P < 0.001$), finding working all day to be really tiring (Mean rank = 527.28; $P = 0.002$), and experiencing exhaustion from work (Mean rank = 531.03; $P < 0.001$). The mean values range between 2 and 3, which indicates a rare or frequent level.

Based on the results of the comparison of workaholism and burnout variables, hypothesis *H3: There are statistically significant differences between variables of workaholism and burnout (emotional exhaustion, depersonalisation, and personal efficiency) between male and female participants*, is rejected. However, the findings indicate that women report statistically significantly higher frequencies of feeling emotionally exhausted. Despite the varied findings indicating a higher presence of workaholism and burnout among women (e. g. Burke, 1999; Dudek and Szpitalak, 2019), the findings of the presented research conducted among Slovenian administrative units and two selected private banks do not support this trend for women. Additionally, women report a higher level of feeling emotionally drained from work and feeling exhausted at the end of the workday. They also report a higher level of tiredness when waking up in the morning because they have to go to work, finding working all day to be really tiring, and experiencing exhaustion from work.

The literature and sources on the correlation between employee workaholism and burnout have shown the existence of a correlation. Therefore, it was important to examine whether a positive correlation between workaholism and emotional exhaustion and depersonalisation, as well as a negative correlation between workaholism and personal efficiency, exists in the selected sample of administrative units and two banks. To test the fourth hypothesis, the data reduction method was used. The result of factors analysis results for the seven workaholism variables indicate that one factor (workaholism) explains 50,819% of the variance. Similarly, the factor analysis results for the burnout variables (Extraction Method: Principal Component Analysis; Rotation Method: Varimax with Kaiser Normalization) shows that three factors (emotional

exhaustion, depersonalisation, and personal efficiency) explain 64,184% of the variance. The hypothesis was tested with the Spearman correlation coefficient. The results are shown in Table 7.

The presented (Table 7) findings indicate a strong positive correlation between workaholism and emotional exhaustion ($\rho = 0.611$; $P < 0.001$), a weak positive correlation between workaholism and depersonalisation ($\rho = 0.327$; $P < 0.001$), and a negligible negative correlation between workaholism and personal efficiency ($\rho = -0.164$; $P = 0.001$).

Table 7: Spearman correlation coefficient

	Workaholism
Emotional exhaustion	Spearman correlation coefficient ρ P N
Depersonalisation	Spearman correlation coefficient ρ P N
Personal Efficiency	Spearman correlation coefficient ρ P N

** The correlation is statistically significant at 0.01 (2-sided).

The results *confirm hypothesis H4: There is a positive correlation between workaholism and emotional exhaustion and depersonalisation and a negative correlation between workaholism and personal efficiency at administrative units and two selected banks*. The findings align with the results by Cheung et al (2018), who also found a positive correlation between workaholism and emotional exhaustion and depersonalisation, and a negative correlation with feelings of personal efficiency.

5 Discussions

Administrative units implement regulations and guidelines from higher-level institutions (ministries) and their employees are in direct contact with clients who have ever-increasing expectations. This can lead to stress, and in the long run, even burnout for some employees. The same can be said for banks, where employees with direct client contact face increasing demands from both clients and superiors. However, contrary to findings from Amigo et al. (2014) and Dias and Angélico (2018), the presented research conducted among Slovenian administrative units and two selected private banks do not

confirm a higher presence of burnout among employees with more client contacts. Additionally, the results of the presented research do not confirm findings indicating a higher prevalence of workaholism in the private sector organisation, as Wijhe, Peeters, and Taris (2011) found. On the other hand, the findings reveal that employees in administrative units report a higher level of working than initially intended, a higher level of being told by others to reduce their workload without listening to them, and a higher level of deprioritising their hobbies, leisure activities, and exercise due to the work.

Furthermore, despite the varied findings indicating a higher prevalence of workaholism and burnout among managers (e. g. Schaufeli, van Wijhe, Peeters, and Taris, 2011; Özsoy, 2018), the findings of the presented research conducted among Slovenian administrative units and two selected private banks do not confirm this for managers and non-managers. Additionally, the findings reveal that managers report higher levels of being told by others to cut down on work without listening to them, as well as a higher level of deprioritising their hobbies, leisure activities, and exercise due to the work. On the other hand, non-managers report a higher level of doubting the importance of their work. Contrary, managers report a higher level of feeling that they achieve many important things in their work, as well as they are feeling that they contribute something to the organization through their work.

According to Dudek and Szpitalak (2019), traditional expectations surrounding gender roles, men are traditionally expected to focus primarily on work and provide financial support to the family, while women are expected to manage most of the household chores and take care of the children in addition to their jobs; it can lead to challenging for women to balance family life with their career, leading to work overload. Based on the results of the comparison of workaholism and burnout variables according to gender, the findings indicate that women report statistically significantly higher frequencies of feeling emotionally exhausted. Additionally, women report a higher level of feeling emotionally drained from work and feeling exhausted at the end of the workday. They also report a higher level of tiredness when waking up in the morning because they have to go to work, find working all day to be really tiring, and experience exhaustion from work. Despite the varied findings indicating a higher presence of workaholism and burnout among women (e. g. Burke, 1999; Dudek and Szpitalak, 2019), the findings of the presented research conducted among Slovenian administrative units and two selected private banks do not support this trend for women. This divergence may be attributed to different social environments and the fact that women today aspire to be financially independent or less dependent on men, thereby prioritising their careers more than in the past. It is crucial for individuals to actively monitor their work schedule and strive to achieve a better balance between professional and family or personal life (Kozjek et al, 2014; Kozjek et al, 2021), to effectively recover from exhaustion and fatigue.

However, the findings align with the results by Cheung et al (2018), who also found a positive correlation between workaholism and emotional exhaustion

and depersonalisation, as well as a negative correlation with feelings of personal efficiency. Nevertheless, it is important for organisations and employees to prioritise workload management and implement employee well-being programs in order to prevent burnout, promote work-life balance, and assure regular assessment of employee well-being.

The current study has some limitations that should be acknowledged. One limitation is the potential self-selection bias as non-probability sampling was employed, which means that the participants included in the research may differ from those who chose not to participate. Additionally, the research was reinforced by the similar findings of other researchers in this area, further strengthening their reliability. Moreover, it is important to recognise that the results of the study may be influenced by the Covid-19 pandemic, which has resulted in an increase in remote work. Therefore, conducting further research in this area would be appropriate. Nevertheless, this research contributes to rising awareness about workaholism and burnout, allowing organisations to address the issues and improve employees' well-being. Furthermore, it adds to the existing literature on workaholism and burnout within the Slovenian context.

5 Conclusions

The paper presents research on workaholism and burnout conducted among Slovenian administrative units and two selected private banks. The research was reinforced by the similar findings of other researchers in this area, further strengthening their reliability. The analysis of workaholism was conducted using seven variables, while burnout was measured using five variables of emotional exhaustion, five variables of depersonalisation, and six variables of personal efficiency.

The findings for the variables of workaholism generally do not indicate statistically significant differences between administrative units and banks, as well as not between managers and non-managers, and across genders. Similarly, the findings for the variables of burnout do not show statistically significant differences between these categories. However, the research reveals a positive correlation between workaholism and emotional exhaustion and depersonalisation, as well as a negative correlation with feelings of personal efficiency.

Therefore, it is crucial for organisations and employees to prioritise workload management and implement employee well-being programs to prevent burnout, promote work-life balance, and assure regular assessment of employee well-being. It is also important to acknowledge that the results of the study may be influenced by the Covid-19 pandemic, which has resulted in an increase in remote work. Further research in this area would be valuable to deepen understanding of the research.

Nonetheless, this research contributes to rising awareness about workaholism and burnout, providing organisations with insights to address these issues and improve employees' well-being. Furthermore, it adds to the existing literature on workaholism and burnout within the Slovenian context.

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Trends in the Digitalisation of Public Administrations – In Light of EU Legislation and Domestic Developments¹

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ABSTRACT

Purpose: Regulating the parameters of all types of identity – including its elements, authenticity and authenticator, verifiability, and the verification process – requires particular attention. The most critical element here is most likely its presence in the digital sphere. Our main goal is to examine the proposal to amend the eIDAS² Regulation to create a framework for a European digital identity.

Design/Methodology/Approach: The paper analyses the topic in terms of Union law and the most recent strategic document of the Hungarian governmental decisionmaker, incorporating pertinent scientific findings. The article evaluates the current situation, highlighting foreseeable and potential impacts of the new legislative developments.

Findings: The paper presents both the practices established by the eIDAS Regulation as a starting point and the current status of digitalisation in Hungary (primarily in public administration).

Practical Implications: Eventually, we will attempt to identify the expected opportunities and advantages, as well as risks and drawbacks, associated with the nascent trend of digitalization of public administration in the EU and Hungary.

¹ Supported by the Hungarian Ministry of Justice to improve the quality of legal education.

² Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (henceforth: eIDAS)

Originality/Value: Upon establishing a groundwork in this domain, the nature of the amendment and the domestic response (National Digital Citizenship Programme) will be reviewed to assess efforts at both the European and Hungarian levels.

Keywords: data protection, digital identity, eIDAS 2.0, e-government

JEL: K24

1 Introduction

Digital identity refers to the mapping of the unique characteristics of natural persons in the digital world and making them identifiable on this basis. Such an identity is created by digitally storing information about a person and then integrating it into an identification scheme to perform its actual functions (De Hert, 2008, pp. 71).

The particular importance of this area is illustrated by its embeddedness in the application domains of various entitlements that are largely inseparable from modern human existence. Personal data are naturally essential for the creation of identity and its subsequent re-identification, moreover their protection and their processing in accordance with (or at least not in conflict with) the will of the individual are declared as a fundamental human right by the highest-level European Union and national legislations.

In this context, it should be highlighted that with the expansion of the technological toolbox, in some cases even so-called biometric data belonging to a special category of data may be processed, thus exposing the real persons behind the digital identity to greater risk. In addition to the protection of personal data – a need for protection that would not have been possible without the processing of personal data – it is necessary to point out the ability of every person to define themselves from birth, a definition that undoubtedly includes the identity of the individual (unique identity [Sullivan, 2016, pp 478.]).

Although the right to identity has not been established as a fundamental right on its own, it can certainly be grasped as a conglomeration of various other rights. For example, Article 8 of the New York Convention on the Rights of the Child is a constituent element of this, which guarantees every child the right to maintain their own identity³.

The right to informational self-determination stipulated by Article VI of the Fundamental Law of Hungary is also necessary to be mentioned here, which gives individuals control over personal data. Personal rights under Title XI of the Civil Code are to be noted, too, since the Civil Code explicitly states that everyone has the right to freely assert their personality.

³ It is perhaps not too far-fetched to assume that this right also applies to adults

2 Starting point: eIDAS and the situation in Hungary

2.1 The eIDAS regulation

The eIDAS Regulation can be identified as a directly applicable and directly enforceable piece of legislation that is automatically incorporated into the domestic law of all Member States. The EU legislator has used a powerful instrument which, in general terms, suggests a high degree of relevance in this area in terms of European economic relations or the protection of European values (Determann, 2021).

One of the objectives of the legislation is to establish a secure framework for electronic interactions (primarily between the state's authorities and citizens of the Union) and to increase trust in electronic transactions (eIDAS (2) recital) (while improving the efficiency of electronic commerce)⁴, which was sought to be achieved by regulating electronic identification and introducing trust services ("More secure transactions on the Internet," 2016).

For these purposes, the Regulation firstly lays down the conditions under which Member States acknowledge electronic identification means of natural and legal persons under the notified electronic identification schemes of other Member States, and secondly, it introduces the rules on trust services for electronic transactions. Thirdly, it establishes a legal framework for electronic signatures, electronic seals, electronic time stamps, electronic documents, electronic delivery services and website authentication services (eIDAS Article 1).

An important achievement of eIDAS is that it was the first to establish a cross-border electronic identification framework (eID). In terms of its operational mechanism, it did not seek to harmonise national frameworks, but rather the possibility of mutual recognition and acceptance between Member States by establishing a notification procedure. (Schwalm, 2023)

After the report of the Member States, which are voluntarily participating in the procedure, their eID schemes are examined in detail by a group of experts to ensure that they comply with the requirements of the Regulation⁵. As a result of the assessment, the eID framework will be classified into a security level, which can be low, medium, or high security. The importance of this is that mutual recognition is only binding for other participating Member States if the system is classified as great or high security⁶. The Regulation replaced the previous Directive 99/93/EC⁷ when it came in force in 2014, but most of its provisions were not made mandatory until 2016.

4 Electronic signature, electronic stamp, electronic time stamp, electronic registered delivery services and website authentication

5 With regard to the implementing acts of the European Commission (EU) 2015/1501, (EU) 2015/1502 and (EU) 2015/1984

6 Commission Staff Working Document Impact Assessment Report Accompanying the document Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) n° 910/2014 as regards establishing a framework for a European Digital Identity (hereinafter: Impact Assessment Report)

7 Directive on a Community framework for electronic signatures

Before we look at the positive and negative aspects of the regulation, let us not forget that the COVID-19 pandemic has forced both private and public sector actors worldwide to accelerate digitalisation (research suggests that this could mean a global “time leap” of up to 7 years (McKinsey & Company, 2020) . This has led to user demand for a smooth and complete online administration and rapid response from decision makers. (Strategy on Shaping Europe’s Digital Future, 2020). For these, a higher-level institutional system for digital identity is clearly indispensable.

Based on the Commission’s impact assessment⁸, which was conducted in connection with the Regulation’s self-established effectiveness review (Impact Assessment Report pp4./figure 1.), the following conclusions can be drawn about the performance of eIDAS.

Table 1. Evaluating of achievements in the field of electronic identification

Evaluating achievements in the field of electronic identification
Only a limited number of eIDs have been registered, which limits the coverage of the reported eID scheme to around 59% of the EU population.
The acceptance of registered eIDs is limited, both at the Member State and service provider level.
At the EU level, interoperability of several eID systems has been achieved.
The lack of monitoring and reporting obligations limits access to reliable data on active contacts and the use of registered eIDs.
The actual cross-border use of eIDs is very limited, but the increasing number of transactions in some Member States confirms the positive trend in the usage of registered eID schemes since September 2018.
Citizen’s lack of awareness of eIDAS and private service providers’ low usage of registered eIDs are typical
The take-up of eIDAS-based eIDs in the private sector has been insufficient.
To allow access to online public services, the current scope of eID schemes registered by Member States is too limited and inadequate.
The vast majority of demand for eID and remote authentication will remain in the private sector.
The limitations of the eIDAS minimum data package (data content of identity) are a serious shortcoming of many EU sectoral legislations for the implementation of eIDAS solutions.

⁸ Article 49 of eIDAS requires the Commission to review the application of the Regulation by 1 July 2020 at the latest and to report to the European Parliament and the Council

The requirements initially defined to pass the eIDAS Regulation are still relevant; the repeal of the Regulation would lead to fragmentation and negative consequences in other legislative areas relying on eIDAS.

Evaluating progress in trust services

eIDAS has successfully created legal certainty on liability, burden of proof, legal effect, and the international aspects of trust services, but some issues remain.

The availability and utilisation of trust services in the EU have increased since the introduction of the eIDAS Regulation, but there are differences between the Member States and the various trust services.

eIDAS has established a strong framework that can be expanded to include the necessary standards and requirements to reduce the current fragmentation of the market, and the different interpretations of supervisory and conformity assessment bodies.

Cooperation between supervisory bodies has been formally achieved to enhance the implementation of eIDAS.

New trust services for e-archiving have been established to support the requirements for the digitalisation of paper documents and to support portable identity cards.

In some areas, different approaches at the national level have an impact on trust and equal conditions for competition.

The Regulation provided a common legal framework for the application of trust services, reducing market fragmentation and encouraging the growth of trust services.

Source: Authors' determination

The above shows that the eIDAS Regulation has made significant progress in many aspects of the digitalisation of the common market, and in many aspects, it is the first of its kind in the world. However, even with the right intention and target setting, it is clear that the regulatory system of the Regulation does not provide the legal and technical conditions necessary for accelerated progress and therefore changes are needed. The most pressing areas (so-called "pain points") are, according to Viky Manaila⁹, the following (Ubisecure-podcast, 2022):

- inflexible and exclusively public sector-focused central identification,
- lack of smooth user experience (e.g. no single sign-in),
- lack of control over personal data,
- lack of regulation on the scope and access of data,

⁹ Director of Trust Services, Intesi Group

- different levels of / unequal rules for trust service providers across the EU.

2.2 The domestic interfaces

There are many requirements – software, hardware, but also social – that can be listed as the background infrastructure for a digital identity to work. There are currently a range of options for accessing basic services online, but their universality and process integration are still lacking. (Schwalm and Alamillo-Domingo, 2022)

Despite this, the Hungarian legislator – in accordance with the eIDAS Regulation – studied the area in detail¹⁰, which resulted in the development of Act CCXXII of 2015 on the General Rules of Electronic Administration and Trust Services (Eüsztv.) and its implementing regulation, Government Decree 451/2016 (XII. 19.) on the detailed rules of electronic administration. One of the main aims of the Act is to provide a framework with a general horizontal approach for bodies and persons subject to e-government to establish this type of business systems and to enable electronic communication (Baranyi, Homoki and Kovács, 2018).

In Hungary, several major advances have taken place across the board on these conditions. These include the regulated eGovernment Services (SZEÜSZ) and the Central eGovernment Services (KEÜSZ) introduced by the Eüsztv., which support public administrative bodies in the digital switchover, and the Central Identification Agent (KAÜ) and the Client Gateway (ÜK), which provide electronic identification of the public, thus fulfilling the basic requirement for eGovernment (Magyarország Mesterséges Intelligencia Stratégiája, 2020).

Closely linked to the KAÜ and ÜK services is the Central Document Authentication Agent (KDÜ), which can provide (by the client or by the agent of the e-administration body) an electronic document with one of the authentication options available in its system, therefore creating a “one-stop-shop” for users.¹¹

In addition to the above, the Personalised Administrative Platform (SZÜF) has been created to promote unified administration, allowing customers to manage their cases with different authorities, courts, other bodies and service providers in a single platform, with a common logic and with a common set of tools. (1. (40) of the Eüsztv.)

Currently, there is also a central electronic mail service, but it is not integrated and is available on two separate interfaces. On one side, the user can send letters on the ePaper site (General Electronic Application Form Service), whereas the user can manage replies on tarhely.gov.hu.

The communication is connected to the Centralised Delivery Agent (KKÜ) service, which provides an integrated platform for the channelling and de-

¹⁰ In the framework of the Digital National Development Programme adopted by Government Decision 1162/2014 (III. 25.)

¹¹ Probably one of the best known representatives of the system, its so-called minimum service is the authentication of documents based on identification, also known as AVDH

living of paper-based and electronic mail on a single platform (this can be complemented by the Centralised Receiving Agent (KÉÜ), which allows the automated electronic delivery of mail to the bodies that are obliged to use electronic administration).

Digital document and storage services are already available today but in a somewhat fragmented way. An option for the user is the previously mentioned *tarhely.gov.hu*, which provides a generic, highly limited storing solution. The other operating system is the Electronic Health Service Space (EESZT), which is much more manageable, but only has a limited functional use for health-related procedures.

Electronic payment services can be seen as another area of online administration. There are several fractioned systems (e.g. the NAV payment system), but one system worth highlighting is the Electronic Payment and Settlement System (EFER), which offers the possibility to pay by credit card on the Internet and has significant potential in this area (if further developed) (Nemzeti Digitális Állampolgárság Program, 2022).

An old feature of digitalisation is still present in everyday life, the General Formfiller (ÁNYK) framework, which supports users in the filling of forms. Lastly, the so-called Association Register (ÖR) should be mentioned, which facilitates the communication and exchange of information between public registers without any link between them, and it is a particularly sensitive area from a data protection point of view. Finally, it should be noted that, almost without exception, the National Infocommunication Service Provider Ltd. (NISZ Zrt.) is the service provider for all the systems listed.¹²

All these systems form the pillars of today's electronic public administration, but the KAÜ and ÜK, as digital identity verification services, deserve special mention in this context.

The Central Identification Agent is an identity verification service provided by the Government on a mandatory basis, as defined in the Eüsztv. Its purpose is to ensure the identification of users – natural person customers and natural person employees of public sector bodies – to the different specialised systems, but the service is not provided by the agent itself, just managed.

The basic service provided by the KAÜ consists of providing an authorised specialised system with the identification of a natural person and the resulting identification data (mandatory and optional). The enhanced KAÜ service (KAÜ+) is more than this, as it provides the authorised specialised system with the identification of a natural person and, in addition, other data, attributes and information on the representative powers of that natural person (KAÜ ÁSZF v3.3).

The ÜK is also an electronic identification service provided by the Government, as defined in the Eüsztv. Its task is to identify the natural person to the online service (specialised system) that requests the identification. In terms of

¹² *mo.hu*, (2023). Information material on e-administration. Online: www.mo.hu

its operation, the user is connected to a database (Client Registration Register, KÜNY), which is the result of a registration process involving the identification of the person, where they can then log in by entering a username and password (meaning re-verifying their identity). The verification of identity is then sent to the specialised system via the KAÜ system (ÜK ÁSZF v2.6).

3 The amendment

The overall revision of eIDAS is currently at the proposal stage, but discussions between the Commission, Council and Parliament on the proposal are progressing positively, with the final version expected to be adopted in the third quarter of 2023 (Ubisecure-podcast, 2022).

The proposed legislation is aimed at moving from national to EU level, thereby – in a cross-border manner – ensuring

- access to highly secure and reliable electronic identity solutions,
- trusted and secure digital identity solutions on which both public and private services can rely,
- empowerment of natural and legal persons to use digital identity solutions,
- linking these solutions to different attributes and allowing targeted sharing of identity data limited to the needs of the service used,
- the acceptance of qualified trust services on an equal basis in the EU.¹³

The objectives described above are in line with the Commission Communication of 9 March 2021 entitled “Digital Agenda to 2030: A European way to achieve the Digital Decade”, which set the goal of an EU framework leading to widespread adoption of a trusted, user-controlled identity by 2030, allowing all users to control their online interactions and presence (this is proposed to mean 80% accessibility for EU citizens by 2030 in terms of users (Wiegl et al., 2022)). (The reasoning for these changes is given in the Commission’s 2020 Impact Assessment cited above.)

The scope of eIDAS 2.0 is quite broad: it would cover both natural and legal persons, typically online services, but it would also offer solutions for offline situations. It also seeks to tackle a major shortcoming of the previous version, as the area of application extends beyond public administrations to private sector representatives (eIDAS 2.0 Article 1(a)).

With this extensive applicability, the legislator is explicitly aiming at creating a comprehensive digital identity ecosystem, which would result in a fully harmonised EU system (eIDAS 2.0 (2) Recital). An important milestone for a harmonised application is to tackle the issue of technological interoperability. On one hand, this will involve the creation of a common technological toolbox,

¹³ Commission proposal COM(2021) 281 final Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 910/2014 of the European Parliament and of the Council as regards the establishment of a European framework for digital identities (hereinafter referred to as eIDAS 2.0), Explanatory Memorandum, point 1.

which will allow all Member States' systems to be used uniformly (Council makes headway, 2022) and will guarantee a mutually decided and maintained level of security.¹⁴

A key element of the proposal is a specific case of digital identification, the rethinking of electronic signatures and the rules applicable to them. In this regard, a crucial target is to ensure that all EU citizens can sign electronically (as a quasi-fundamental right). A further important requirement is that how the signature is given (the method used) should be independent of the nature of the device. The Regulation essentially requires technology neutrality (Schwalm and Alamillo-Domingo, 2021, pp. 104.), but it also requires that – in response to technological trends – the possibility to sign on all devices, especially mobile devices, should be ensured (Digital Identity for all Europeans, 2020).

One of the main driving forces behind the proposal is to favour user-friendly solutions, thereby explicitly introducing the principle of 'one-stop-shopping', primarily in the operation of European public administrations (Ubisecure-podcast, 2022). Perhaps the most directly linked to this aim is one of the major innovations of the proposal, the creation of a digital data wallet (Digital Wallet).

This is where the European idea of a digital identity would be concentrated and implemented through its functions, as envisioned by eIDAS 2.0, that is a centralised identification and data storage system (authenticated personal data and attributes¹⁵) and related services. It is important to emphasise that the use of the Digital Wallet will be free to all EU citizens (eIDAS 2.0 Article 6a(6)) but will not be mandatory (eIDAS 2.0 (5) Recital)

- The Digital Wallet would work in a partially identical way to the real one, so it would be able to store digital versions of all the documents of a person, which would allow digital identity verification ("e-ID").
- The wallet would also include a digital mailbox, which would guarantee communication in an organised, transparent, authentic, and secure way (ePost).
- The wallet would also include an electronic document archive, where documents from administrative procedures and mail exchanges would be stored (eDocument Management).
- In addition to the above, the wallet would be accompanied by an e-signature service that could be used to authenticate documents throughout the EU. This would be paired with a time stamp and an e-stamp, the former to ensure authenticity and the latter to provide legal proof of representative status (eSignature).
- Finally, an electronic payment platform would fully complete the integration of the service package, but this would only cover public payment transactions at the moment (ePayment) (eIDAS 2.0 Article 1.)

¹⁴ It should be noted that the cyber defence training of the system is carried out by the European Cyber Security Agency (ENISA) and the certification mechanisms are carried out in accordance with Regulation (EU) No 2019/881

¹⁵ According to eIDAS 2.0 Article 3(42), an attribute is a characteristic, attribute or attribute of a natural or legal person or entity in electronic form

According to the proposals, the Digital Wallet would cover all aspects of life. It could also be used for administrative purposes such as accessing public services, opening a bank account or filing a tax report. But it would also cover everyday, routine activities such as storing medical prescriptions, presenting a digital driving licence, checking in at a hotel or even just confirming age (Digital Identity for all Europeans, 2020).

The Wallet – as currently understood – would be so universal in character that it would be linked to (or even replace the use of) any other profile used on any other online login platform, from a public portal to a social media platform or even an online shop (eIDAS (21) Recital).

Given the above, it is reasonable to assume that the Wallet – and the data content it carries – would gather the online presence of EU citizenship, in other words, the digital identity that has been scattered and found separately in different service providers, into a single entity. In this context, the proposal has a clear objective of ensuring a more complete informational self-determination for all users, while also attempting to make the digital wallet fully compatible with both data protection and data security.

Protecting the *de facto* ‘centralised’ digital identities – and the personal data stored in them – that the Wallet will wish to create is proving to be a major challenge. To achieve this the proposal and its accompanying documents set out several safeguards that are aimed at reducing the risks involved. First and foremost, one possible – and perhaps the most important technically speaking – solution to the current inflexibility of the Regulation, the Zero Knowledge Proof (ZKP) (Impact Assessment Report pp. 30) procedure, needs to be mentioned.

This would provide the authentication requester with the necessary information without providing the exact data content. In practice, this would mean that if an online platform asks for verification of the user’s age (e.g. whether they are over 16 years old), the system would confirm this without providing the exact age or date of birth.

It is a major aspect that the new version of the Regulation – as drafted in the proposal – will not require linking public and other records, and will explicitly prohibit the combination of data, in order to respect data management principles (eIDAS 2.0 Article 6a(7)).

This expectation meets a need that emerged in the early days of data protection law, namely the separation of public databases. This is still clearly necessary today, as the problem of information overreach (Szabó, 2012) remains, and the new involvement of large technology companies has only complicated the situation further in the 2010s. In order to overcome this, under the proposed system public databases will remain intact and will continue to operate in accordance with the previous procedures. Under the proposal, these will serve as the “background data” that will allow the above-mentioned ZKP identification to be carried out.

According to Romana Jerković¹⁶, the entire system should be built on principles such as “cybersecurity by design” and “privacy by design” (EPRS Policy Podcast, 2023). These are essential elements in today’s data protection environment, as the GDPR explicitly declares an obligation for data controllers to take and implement appropriate organisational and technical measures (Articles 24-25 GDPR) and to maintain a corresponding data management system.

4 Changes: effects and consequences

4.1 The opportunities and benefits

Based on an examination of the proposal and other documents, it appears that there are a number of positive benefits to be expected from achieving the stated and specific aims. However, in addition to these, there are certain benefits that are less obvious in the current communications, which may be direct or even indirect and can provide significant benefits to EU actors, regardless of their legal status.

Having listed the obvious benefits in advance, there is no doubt that if the plans are successfully carried out, a properly flowing and much more user-friendly system will be developed compared to the former. This can be deduced from its centralised nature and the well-communicated ‘one-stop-shop’ principle. The public and private services available through a central identification platform are expected to eliminate the necessity of endless profile and password management, thus making private and professional life easier and more efficient. Simplification of this process – if successful – could make online services more accessible and available to groups in society who have previously been hindered by complex, fragmented and sometimes inaccessible systems.

Re-regulating electronic signatures and making them available for free can have a significant beneficial impact on e-commerce, helping consumers and businesses to do business easier in the digital space. A less obvious but technology-neutral e-signature capability, which is widely available and based on the same set of rules, could – if implemented – significantly reduce the operational costs and environmental impact of public services and businesses. For example, very long contracts, service specifications, customer and employee information leaflets could be sent and signed in a fully electronic format without the need for printing in the future. This is well complimented by a qualified archiving service (eDocument Management) that can provide reliable and credible long-term storage, which will assist organisations and individuals in fulfilling their document conservation responsibilities.

Perhaps one of the most positive effects of the eIDAS 2.0 Regulation will be on data management practices and the implementation of informational self-determination. Primarily, the role of Digital Wallets can be significant in maintaining – and in many cases regaining – control over data. At present, service

¹⁶ Member of the European Parliament, Rapporteur for the Committee on Industry, Research and Energy

providers (predominantly in the private sector, but not entirely excluding the public sector) expect users to provide – and where appropriate, continue to provide – self-defined data content on various login interfaces and platforms.

To address this, a system of “notice and consent” given in the spirit of user awareness in relation to the previous regulations does not seem sustainable, for the simple reason that it is no longer expected that a person reads through hundreds of pages of informative material on a daily basis, investigate the scope of the data actually processed, make an informed decision on the processing of the data – with the necessary expertise, of course – and communicate this decision to the service provider through a variety of forms and channels (Solove, 2013). A centralised digital identity, if it can successfully put control back in the hands of the individual concerned, could effectively contribute to the restitution – at least in part – of the previous system. If nothing else, it will certainly promote transparency of data-based business practices and accountability of data controllers.

Taking data management further, making central identification available to all actors across borders and on equal terms would simplify the exercise of data subjects’ rights and at the same time make data controllers’ operations more secure. Currently, effective verification of identity and credible declarations both pose serious problems in practice within and outside organisations. The new Regulation would strongly support the identification and statements of individuals in the exercise of their rights. For example, exercising the right to access (a person’s request for a copy of their personal data) can be done simply and risk-free, as the controller can verify the existence of the right to access without excessive data requests.

If the ePost service can be applied in this area, there will also be significant improvement in the secure transmission of data. Finally, there is a rather distant, but still serious consequence of the introduction of eIDAS 2.0. The reorganisation of the different profiles should not only enhance the user experience but also reduce the quasi-monopoly position of service providers – particularly large technology companies. At present, giant companies¹⁷ such as Meta, Google, Microsoft, Amazon, ByteDance and Apple have the autonomy to define the scope of the data they collect and the way it is used on their own platforms.

The data subjects have minimal influence on this process, not only because of the platform’s own data management practices but also because of its position in the market. The profiles created on the platforms of the companies listed above can be accepted as a registration method for a number of ‘smaller’ providers (Impact Assessment Report pp. 8), but this gives the possibility to broaden the profile and link the records of the activities carried out on different platforms. This so-called digital footprint is currently difficult to restrain and practically impossible to eliminate (regardless of the right to erasure (Article 17 GDPR) that the GDPR would otherwise allow). However, the EU’s efforts to address this situation are evident, with more and more recent legislation in the digital legislative wave of recent years – such as the GDPR,

¹⁷ In the terminology of the Digital Markets Act (DMA): Gatekeepers

DSA¹⁸, DMA¹⁹, MI Regulation²⁰, e-privacy Regulation²¹ – clearly aiming at clarifying the situation of these service providers and securing data management practices. eIDAS 2.0 fits well within this line and is likely to prove effective in this regard.

4.2 The risks and disadvantages

For all its advantages, there are considerable risks to be identified and serious drawbacks in the event of failure or possible dysfunctionality of a provision of the regulation.

In many cases, previous advantages can easily turn into disadvantages if not properly applied. For example, the ‘one-stop shop’ system of the central Digital Wallet can lead to abuse in more serious cases and inconvenience in less serious ones. A system failure could lead to the loss of access not only to one platform but to all of them. Thinking this through, as Rob Rooker²² has noted, the system could also have the potential to influence or even prevent access to certain platforms or services (even if access is currently voluntary). With increased user vulnerability, it is possible that even with the best legislative intentions, the system will not be able to ensure transparency and could even lead to further abuse by creating the appearance of security.

From a technical point of view, difficulties are expected from several sides. One obvious problem may arise if the implementation is simply not right (even if it is due to a lack of interoperability). This may be due to slowness, difficulty of use or other features of the system, but ultimately the important thing is that users are used to a mature and already existing user-friendly infrastructure on social media platforms. In the event of a significant drop in quality (due to the voluntary nature of the use), it is possible that the space will remain under-utilised. More important and possibly more damaging than the former may be the implementation of an inadequate data and information security environment. From the previous examples, it is clear that the scope of use and the data content involved can be highly sensitive areas, so the data protection law’s risk-based approach raises serious expectations. In this context, particular attention should be paid to the secure storing and transmission of data, as accidental/unlawful access (i.e. in the event of a data breach [Articles 32, 33 GDPR]) could lead to the endangering of entire digital identities. The issue of access to databases should also be mentioned here because although the

18 Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act)

19 Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act)

20 Proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (artificial intelligence act) and amending certain union legislative acts

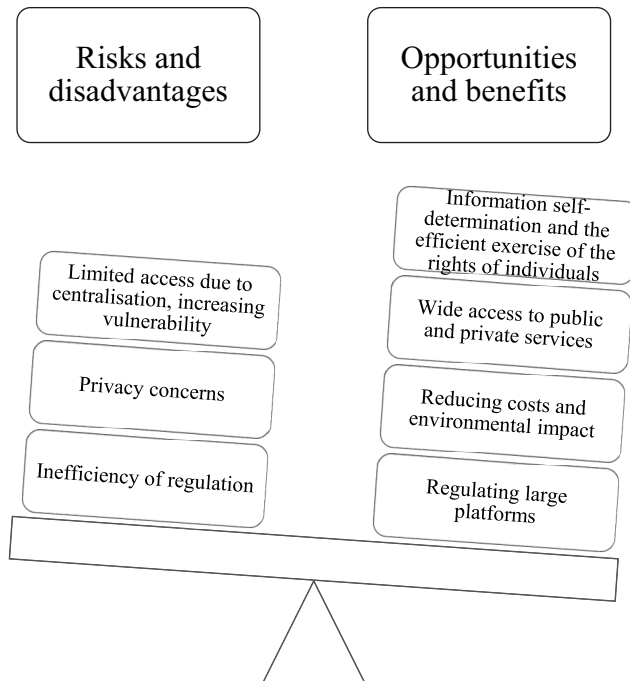
21 Proposal for a regulation of the European Parliament and of the Council concerning the respect for private life and the protection of personal data in electronic communications and repealing directive 2002/58/EC (regulation on privacy and electronic communications)

22 Member of the European Parliament (ECR)

proposal indicates that these databases can only be linked to the necessary extent, the legislator has raised an interpretative question which will certainly be answered differently in different Member States of the EU.

The provisions of the Regulation may prove ineffective. This may be due to user distrust or even widespread market resistance. In this case, most of the benefits will not be manifested, no reduction in the environmental impact and costs can be expected, and the Regulation will not contribute to a more efficient eGovernment and to reforming the position of large platforms.

Figure 1. Summary of possible impacts and consequences



Source: Authors' determination

5 National digital citizenship programme: digital citizenship – digital administration

5.1 From electronic to digital administration

The electronic handling of public administrations is just one of the “branching out” of the effects of technological developments on public administration. The need for change and change itself is evident, both from the state and from citizens and businesses. (Veale and Brass, 2019)

“In the past, customer needs were based on face-to-face interaction and paper-based administration, but with technological advances, mobile pen-

etration and digital literacy have increased to such an extent that the need for a change of approach in this area has become clear. Customers now also expect public administrations to provide them with the autonomy to choose the path, solution or even the means to interact with the administration and address their problems.” (Molnár, Sasvári and Tarpai, 2020).

In 2020 and 2021, changes to administrative legislation due to the pandemic, as well as individual management decisions have both pushed e-government to the forefront of administrative procedures, resulting in a significant drop in face-to-face contact with customers.²³

The essence of electronic administration is contained in 8. (1) of the Eüsztv.: the electronic handling of (procedural) acts. “ Unless provided otherwise by an Act or a government decree adopted by acting within original legislative power, a client may carry out administrative acts and make statements by electronic means before an electronic administration organ in the course administering his matters.”

By *electronic procedure*, we mean an administrative procedure that is carried out in absentia, using all the elements of modern infocommunication means. However, the relevant legislation does not include this type of procedure in this sense but uses a different approach instead of this complex aspect. This is the concept of *electronic administration*²⁴. Hence, the two concepts do not have the same meaning.

Finally, I must emphasise the complexity of electronic administration, which also poses considerable risks for the customer. Here, the complexity is not only technological but also legal.²⁵

The first steps taken in Hungary from electronic to digital public administration are less legal and more of a “decisional” nature: “A new era in government IT has begun with the establishment of the Digital Hungary Agency (DMÜ). The DMÜ will be in charge of state duties related to e-government, IT, the unification of e-government and IT developments, electronic communications for government purposes, and ensuring the infrastructural feasibility of public administration IT (DMÜ Introduction, 2022).

In December 2022, the DMÜ issued the National Digital Citizenship Programme (hereinafter: the Program) (Program, 2022), which essentially sets out the technology-based development of the Hungarian public administration until the end of the first “strategic period” in 2026.

The Programme is a fundamental document, it contains provisions on the exploitation of the national data assets and the use of cloud technology, but its

23 Horváth, T. Presentation on Issues that can be dealt with at the Government Office during a pandemic; Vas, R., Presentation on building authority procedures during the pandemic Administrative Procedural Law Online Professional Conference on Authority procedures in the pandemic period, (2021).

24 About the background: Fábíán, A., (2006). Gondolatok a Ket. elektronikus ügyintézésre vonatkozó szabályairól. Infokommunikáció és Jog. 2006/1.

25 Presentations of Horváth and Vas (see footnote 61.)

most important point is the introduction of digital citizenship ("Jön a digitális magyar állampolgárság", 2022).

Achieving "digital citizenship" requires the development of a "coherent online system providing an excellent user experience, radically simplifying communication between citizens and different government departments (e.g. administration, information) and contributing equally to citizen satisfaction and to the optimisation of public administration" (The Programme covers several topics, but the most relevant is the Concept of Digital Citizenship.)

The Programme is explicitly designed to achieve the objectives of the digital identity initiative launched by the European Union, focusing on the creation of basic services and customer-friendly channels on a single platform, and on redefining the digital relationship between the state and citizens. In today's modern and digital environment, it is essential for citizens to be able to communicate and manage all their interactions with the State and its institutions in a convenient, simple and immediate way. For this purpose, aligned with the eIDAS 2.0 requirements, the Programme will place particular emphasis on the promotion and full availability. For this purpose, aligned with the eIDAS 2.0 requirements, the Programme will place particular emphasis on the promotion and full availability of e-ID, ePost, eDocument Management and ePayment services for Hungarian users (Program, 2022 pp. 5-6.).

The term digital administration appears a total of 10 times in the 84-page document.²⁶ Although the Programme does not expressly define the concept of digital administration and its distinction from electronic administration, the main elements of its meaning can still be deduced relatively precisely.

The Programme approaches digital administration explicitly as a technological and not a legal advance. It does not even qualify digital administration as an objective of administrative reform, but it also considers the creation of the necessary legal conditions.

In the context of the Programme, digital administration²⁷ is primarily

- a) a mobile phone application,
- b) that would provide a "user experience",
- c) and it is widely accessible for a large number of cases involving a high number of customers,²⁸
- d) essentially simple electronic means of administration leading to changes in the basic public registers: typically document administration, motor vehicle administration, registrations of civil status, educational administrative matters, pension administration and entries in the land register (Program, 2022, pp. 21).

²⁶ See pps. 9, 13, 21, 23, 26, 27, 67 és 75.

²⁷ The Program also uses the concept of „mobile administration”: p23.

²⁸ „The transformation, starting in 2023, will be continuous, prioritising issues affecting a wider range of citizens (e.g.: renewal of ID cards, driving licences, car purchase, property purchase).” pp. 13.

One can agree with the statement that digital platforms in public administration and their use in the enforcement of public law is one of the future essences and realisations of the service principle and that the same principle can unfold when the state creates and operates digital platforms, (Giest and Samuels, 2023) but also when the customer chooses from the digital interfaces which one is most convenient for them and uses it in the course of their administration (Poysti, 2018). It is clear that the digital platform favoured by customers today is mobile technology.

5.2 Digital administration and existing legislation

The term “digital administration” does not exist in our current legislation. Act CL of 2016 on the General Administrative Procedure (hereinafter: the General Administrative Procedure Act) refers in several provisions to procedural legal facilities based on electronic, infocommunication technologies, their applicability and suitability, thereby essentially giving free passage even to “digital administration” as defined in the Programme.

The starting point is one of the fundamental principles of the General Administrative Procedure Act: *the principle of efficiency*. According to this principle: “In the interest of efficiency, the authority shall organise its activity in such a manner as to result in the least possible expense for all participants in the procedure and, without prejudice to the requirements of clarifying the facts of the case, for the procedure to be closed as expeditiously as possible with the application of advanced technologies.” [General Administrative Procedure Act 4.]

On the basis of this provision, it can be argued that the “use of advanced technologies” will speed up the “conclusion” of the proceedings, in other words, ultimately the decision on the merits.²⁹ In fact, advanced technology can mean anything, but primarily the use of information and communication technologies: “the public authority must give priority to the use of advanced technologies in its proceedings and, of course, must organise its own work as efficiently as possible, with emphasis on the use of electronic administration.” [Explanatory Memorandum of General Administrative Procedure Act 2-6.].

Efficiency in the administrative procedure (Kilényi, 1970) can therefore be understood in several dimensions: in terms of the client, the authority, and the procedure, but also in terms of the performance of administrative tasks in general, which in a given sector can be measured in forints. For example, in tax administration, the introduction of online cash registers, online invoicing systems or the Electronic Roadside VAT Control System could significantly increase the VAT revenues of the central budget (Varga, 2021).

The General Administrative Procedure Act regulates the “electronic procedure”, or more precisely electronic administration, from the viewpoint of *communica-*

²⁹ The reasons for changes in foreign legislation are similar, see also: Marcos, A., C., (2016). Electronic Government Innovations in the New Spanish Administrative Framework. Legislation Revista Jurídica de Castilla y León, 40.; Gedid, J., (2012). Administrative Procedure for the Twenty-First Century: An Introduction to the 2010 Model State Administrative Procedure Act. St. Mary's Law Journal, (44).

tion. This essentially means that the electronic way of contacting is a suitable tool to “steer” the customer’s participation and communication with the authority towards an electronic platform instead of a “platform” of presence.

The relevant provision of the General Administrative Procedure Act is the “general rules for contacts”. According to this provision, the authority may communicate with the client and the participants in the procedure by electronic means, both in writing and orally. The written electronic communication consists of electronic means defined in the Eüsztv.

A crucial point is the definition of *communication*. Communication essentially means communication between a client and a public authority, which may or may not include communication intended to have legal effect. On the other hand, the Regulation does not speak of electronic administrative procedures, but of electronic administration. In this respect, the concept of administration is not clear, but it is likely to include – in theory – all the elements of the administrative procedure that are recognised and regulated by the Eüsztv.

“It is a step forward that the legislator no longer strives only to make documents available electronically and to create interoperability between paper and electronic documents, but also refers to the electronic nature of certain aspects of the process.” (Veszprémi, 2021).

In addition, the General Administrative Procedure Act stipulates – as a guarantee – that unless otherwise provided by law, the form of communication is to be chosen by the customer on the basis of information provided by the public authority. The customer may switch from the chosen means of contact to another means available to the public authority. In the event of a situation threatening life or serious harm, the authority shall choose the means of contact. [General Administrative Procedure Act 26.]

In addition to the traditional written form, the General Administrative Procedure Act also considers the electronic form defined by Eüsztv. as written form. Where electronic means are used, Eüsztv. states that a declaration may be deemed to be in writing if the declarant is identified electronically in accordance with certain rules and it is ensured that the electronic document served is the same as the document approved by the declarant [Eüsztv. 17. (2)]. Electronic communication that does not meet the requirements of the Eüsztv. (e.g. a simple e-mail exchange or a telephone call without identification) is considered as oral communication under the General Administrative Procedure Act.

Although the concept of digital administration is not explicitly clarified in the Programme, it can be concluded that digital administration is not the same as automatic administration. In a somewhat simplistic way, an automatic procedure is an electronic procedure (electronic administration) in which “human intervention”, whether the client (electronic) or administrator interaction, is excluded *ex lege*.

It can also be stated that automatic decision-making may be used – subject to other conditions – in administrative proceedings initiated by public authori-

ties on request and *ex officio*. This form of administration essentially limits or excludes the exercise of most clients' rights, in fact, only the right to legal remedy can be exercised.

A key part of the extension of automatic decision making could be the issuing of certificates and extracts from administrative records. This would not only increase the service capacity of public administrations, meaning a positive change for customers but could also reduce the workload of administrators (Kárpáti, 2020).

6 Conclusions

It can be concluded that the domestic (public administration) digital framework has an existing, usable and actually used digital service palette. These follow the guidelines set by eIDAS and aim to work in accordance with its requirements.

However, it can be seen that (as with other EU trends) the system is highly fragmented, with elements not or not sufficiently supporting each other, and a significant disconnect between the public and private sectors. There is also concern that the existing platforms are less customer-friendly than expected. The current digitalisation coverage of the Hungarian public administration is only 16% of the general administration out of all online transactions (Program, 2022).

The concepts of EU identity, identification and digital citizenship in the EU can easily be brought together, but this interoperability also has its prerequisites. Among these, the technological requirements seem to be the easiest to meet, while the legal preconditions are predicted to be more complex and problematic. We only have to refer back to the advantages and disadvantages detailed in the eIDAS 2.0 provisions. A number of conditions are already in place that make these objectives technically achievable, but creating the right legal environment and promoting the fulfilment of the conditions for this may be a major challenge. Even in the most optimal situation, the feasibility of enforcing and monitoring implementation and enforcement may be questionable, as without them legal policy objectives become unattainable and constituted rights and obligations become void.

In order for electronic administration to be an electronic public administration procedure, it is necessary to develop a procedural/administrative model for an administrative procedure implemented. This is currently absent.³⁰ The model (modelled process) of electronic public administration can be adapted to the framework of digital public administration, which could be the basis for a comprehensive national legislation adapting the eIDAS rules. The situation as envisioned by the regulation is undoubtedly desirable, but without the necessary – social and technological – conditions for its implementation in the pub-

³⁰ For details of possible alternatives see also: Torma, A., (2008). *Az ügyintézés és a közigazgatási munkafolyamatok modellezéséről*. Miskolc University Press.

lic administration system and its effective application, it is difficult to imagine that it can meet the legislator's expectations in real life situations.

Legislation must meet the requirements to allow the customer to participate effectively in the electronic (digital) process (administration), replacing paper-based customer actions by post or in person, but ensuring the customer's rights under national and EU law (Kárpáti, 2020). The regulation of this model could lead to a general electronic procedural code that would or could replace the General Administrative Procedure Act in such procedures.

The third prerequisite is trust. Online platforms for both the digital society and digital public administrations. The reliability of platforms and trust in general is a precondition for appropriate, transparent and "clean" legislation (Poysti, 2018). This is where the legal and non-legal requirements of digital public administration converge.

The current Hungarian legal administrative regime is ready to meet the eIDAS 2.0 expectations, and it is apparent that a number of legal and technological solutions have been introduced in recent years that meet the preconditions for meeting the requirements, at a level that is acceptable in EU terms. However, to move to the next phase, the national administration will need to align its own law with this new management structure, in addition to the legal and infrastructural requirements of the Regulation. It would be important that the two systems do not coexist in parallel, but instead of hindering each other, they could both support Hungarian users on their way to a higher level of digitisation. In order to achieve this, it would appear to be a good approach to take into consideration the administrative, European Union and data protection law aspects discussed in this study and to implement them in a context-appropriate manner.

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Absence of an Oral Hearing in Administrative Disputes: A Comparative Analysis of Slovenia and Croatia

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ABSTRACT

Purpose: The right to an oral hearing is an essential element of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. This is particularly emphasised in administrative procedures where the parties are in a hierarchical relationship. The absence of an oral hearing can significantly limit a party's right to a fair trial. Therefore, this paper aims to explore the positive law and state of play in the Republic of Slovenia and the Republic of Croatia regarding the right to an oral hearing. The purpose of this paper is to analyse relevant legislation and case law with the goal of proposing future legislation that better aligns with effective legal protection.

Design/Methodology/Approach: Desk research was conducted to analyse current legal solutions and case law using sociological research methods. These involved analysing domestic and international legal texts and reviewing the rules governing national administrative procedures in the countries included in the research, as well as against decisions of the European Court of Human Rights. In addition, the research used a combination of primary and secondary data sources.

Findings: Administrative courts should prioritise procedural justice and equality of arms, even when there is no clear need for oral hearings, especially if one of the parties requests to appear before the court. To minimise damaging discretion, both parties should consent to relinquishing the right to an oral hearing, which should be mandatory by default.

Academic contribution to the field: The primary contribution of this paper lies in its *de lege ferenda* suggestions regarding the right to an oral hearing,

which could potentially enhance the protection of human rights in relation to a fair trial in both administrative disputes and administrative procedures.

Originality/Value: This research is original as it presents a comparative analysis of administrative procedure and disputes in selected Member States. To the best of the author's knowledge, no such comparative study has been conducted before. The findings of this research could have significant value as they highlight the need for improving procedural justice and equality of arms in ensuring a fair trial in administrative disputes.

Keywords: *administrative dispute, administrative law, European Court of Human Rights, fair trial, oral hearing*

JEL: K23, K40, K38

1 Introduction

The right to a fair trial is one of the fundamental human rights and a pinnacle achievement of modern legal systems. The concept of effective legal protection is entrenched within the European Union's *acquis communautaire* and in European Court of Justice's case law practice, as well as in the cases of the European Court of Human Rights.¹ Subjects who cannot present their legal interests fully in the procedure or cannot rely on the impartiality of the public authorities in the course of the administrative adjudication, in which their rights and interests are affected, are deprived of equal respect of equality of arms, fair trial and their human rights may as well be violated.²

However, in some cases the right to an oral hearing stands against other equally important principles of the administrative dispute procedure, most notably the principle of efficiency where the facts are clear or not disputed by the parties. Some authors also indicate that the right to an oral hearing is not an absolute right in administrative proceedings.³

A number of studies examined the right to a fair and public hearing in the broadest sense, as stipulated in the European Convention on Human Rights and Fundamental Freedoms⁴, within criminal proceedings.⁵ Also, literature

1 Correia, S. (2011). Administrative Due or Fair Process: Different Paths in the Evolutionary Formation of a Global Principle and of a Global Right, in Anthony, G. *et al.* (eds.), *Values in Global Administrative Law*, Hart Publishing, Oxford, pp. 313–362.

2 Correia, S. (2011). Administrative Due or Fair Process: Different Paths in the Evolutionary Formation of a Global Principle and of a Global Right, in Anthony, G. *et al.* (eds.), *Values in Global Administrative Law*, Hart Publishing, Oxford, pp. 313–362.

3 For example, see: Žuber, B., Lovšin, Š. (2019). Judicial dialogue in the light of protocol no. 16 to the European Convention on Human Rights. *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, vol. 40 (2), pp. 915–916. However, the refusal to allow such a hearing, firstly, must be reasoned by a court or a tribunal. See more: Zrvandyan, A. (2016). *Casebook on European fair trial standards in administrative justice*. Strasbourg: Council of Europe, pp. 73–74.

4 Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, referred also as European Convention on Human Rights and the Convention further in the article.

5 Hirvelä, P. and Heikkilä, S. (2021). Right to a fair trial: a practical guide to the Article 6 case-law of the European Court of Human Rights. *Intersentia*; Ilić, I. and Knežević, S. (2020). *Scope of Ar-*

extensively focused on the right to a fair trial within a reasonable time which remains one of the most common basis for Article 6 violations⁶, on access to justice in general⁷ and also on its implications on country-specific level.⁸

One of the first analysis of the applicability of Article 6(1) to administrative proceedings was conducted in 1975.⁹ Regarding the civil limb, analysed research focused on harmonization of procedural guarantees with the Convention's rights in non-criminal matters.¹⁰ Authors noted cases establishing the general entitlement to a hearing under Article 6 of the Convention, but also that the right to an oral hearing is not absolute, especially in cases whereas a public hearing has been held at least at one instance or due to exceptional circumstances.¹¹

Due to the COVID-19 pandemic, literature also extensively focused on ensuring the Convention's right to a fair trial in online hearings.¹² The results of such research is twofold. On the one hand, Oliveira *et al.* conclude that the digitalisation of judicial administrative procedures provides for "more than just an update of technological tools for judicial operators. It signifies

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- title 6 of the European Convention on Human Rights - Contribution of the European Court of Human Rights Practice. *Balkan Social Science Review*, 16, pp. 39–55. <https://doi.org/10.46763/BSSR20160391>; Guran, M. (2019). Short considerations on the scope of the right to a fair trial provided by art. 6 of the ECHR – the concept of "criminal charge. *Law review (Romania)*, 2, pp. 157–165.
- 6 See: Langford, I. (2009). Fair Trial: The History of an Idea. *Journal of Human Rights*. 8(1), pp. 37–52, DOI: 10.1080/14754830902765857; Borracetti, M. (2011). Fair Trial, Due Process and Rights of Defence in the EU Legal Order, in Giacomo, D. (ed.) *The EU Charter of Fundamental Rights. Ius Gentium: Comparative Perspectives on Law and Justice*, vol 8. Springer, Dordrecht.
- 7 Gerards, J. H., Glas, L. R. (2017). Access to justice in the European Convention on Human Rights system. *Netherlands Quarterly of Human Rights*, 35(1), pp. 11–30. <https://doi.org/10.1177/0924051917693988>
- 8 Further reading on the implementation of the right to a fair trial in the Republic of Croatia: Uzelac, A. (2004). Vladavina prava i pravosudni sustav: Sporost pravosuđa kao prepreka pridruživanju, in Ott. K. (ed.), *Pridruživanje Hrvatske Europskoj Uniji, Izazovi institucionalnih prilagodbi*, volume 2, pp. 99–123, Republic of Macedonia: Zendeli, E. (2013). The Challenges of the Implementation of Paragraph of Article of the European Convention on Human Rights and Fundamental Freedoms in the Judicial System of the Republic of Macedonia. *Journal of Politics and Law*, 6(2), pp. 193–201, for Republic of Serbia Milošević, M., Knežević Bojović, A. (2018). Trial Within Reasonable Time in EU Acquis and Serbian Law. *EU and Comparative Law Issues and Challenges Series (ECLIC)*, 1, pp. 447–470. <https://doi.org/10.25234/eclic/6540>, for Republic of Montenegro Council of Europe (prepared by: Roagna, I.) (2018). The right to trial within reasonable time under Article 6 ECHR.
- 9 Harris, D. J. (1975). The application of Article 6 (1) of the European Convention on Human Rights to Administrative Law. *The British Year Book of International Law*, 47(1), pp. 157–200.
- 10 Lillo Lobos, R. (2022). Understanding due process in non-criminal matters: how to harmonize procedural guarantees with the right to access to justice. Springer, pp. 109–155, Galič, A. (2017). The inconsistency of case law and the right to a fair trial, in Uzelac, A., van Rhee, C. (eds.) *Revisiting procedural human rights. Fundamentals of civil procedure and the changing face of civil justice*. Intersentia, Cambridge, pp. 17–51.
- 11 Lillo Lobos, R. (2022). Understanding due process in non-criminal matters: how to harmonize procedural guarantees with the right to access to justice. Springer, pp. 142–145; Helmreich, M. (2013). Absence of an oral hearing before the Independent Administrative Panel. *Vienna Online Journal on International Constitutional Law*, 7(4), pp. 541–546; Paužaitė-Kulvinskienė, J. (2016). The principle of effective legal protection in administrative law in Lithuania, in Z. Szente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London: Routledge, pp. 190–217.
- 12 See for example research on the right to hear a case within a reasonable time and the right to public hearing during the pandemic: Paduch, A. (2021). The Right to a Fair Trial Under Article 6 ECHR During the Covid-19 Pandemic. *Central European Public Administration Review (Online)*, 19(2), 7–25. <https://doi.org/10.17573/cepar.2021.2.01>

a paradigm shift and a change in the nature of the legal process".¹³ On the other hand, whilst acknowledging the positive aspects of remote hearings, Bilevičiūtė notes that Lithuanian legislative framework lacks complete insurance of "rights to attend one's trial, to communicate confidentially with the lawyer, to put questions to witnesses and to challenge evidence" in administrative procedures.¹⁴ Concerns about insuring the right to a fair trial as guaranteed under Article 6 of the European Convention on Human Rights have been researched regarding remotely held criminal procedures as well.¹⁵

Relevant literature on oral hearings before international tribunals demonstrated that the right to an oral hearing appears to be more restricted than before national tribunals, noting that zero oral hearings have been conducted before the International Labour Organization Administrative Tribunal since 1989.¹⁶

Furthermore, authors have discussed the right to an oral hearing in terms of procedural fairness and social psychology, indicating that hearing people in person enhances procedural fairness judgments and contributes to better acceptance of court's decisions¹⁷, while also acknowledging that the oral hearings can even be a disadvantage for claimants.¹⁸

Finally, papers have discussed the use of experts and scientific evidence in the light of the rights to a fair trial, concluding that the right for the defendant in criminal cases to participate in and challenge the use of such evidence could be improved and that the European Court of Human Rights should have the competence to review admissibility and impact of such evidence.¹⁹

The first section of this paper examines the development and positive law within the two selected countries. Following that, the conventional framework of the European Court of Human Rights shall be laid down and analysed. The main research part of the paper is the analysis of the most relevant cases

13 Oliveira, A. M., Pedro, R. L. D., Correia, P. M. A. R. and Lunardi, F. C. (2023). An Overview of the Portuguese Electronic Jurisdictional Administrative Procedure. *Laws*, 12(5), 84. <https://doi.org/10.3390/laws12050084>

14 Bilevičiūtė, E. (2022). Actual issues of remote court hearings in administrative procedure. *Acta Prosperitatis*, 13, pp. 7–23.

15 See Kamber, K. (2022). The Right to a Fair Online Hearing. *Human Rights Law Review*, 22(2). <https://doi.org/10.1093/hrlr/ngac006>, Kulesza, C. (2021). Remote Trial and Remote Detention Hearing in Light of the ECHR Standard of the Rights of the Accused. *Białostockie Studia Prawnicze*, 26(3), pp. 205–221. <https://doi.org/10.15290/bsp.2021.26.03.11>

16 For International Labour Organization Administrative Tribunal see Treichl, C. (2019). The Denial of Oral Hearings by International Administrative Tribunals as a Factor for Lifting Organizational Immunity before European Courts: A(nother) Critical View. *International Organizations Law Review*, 16(2), 407–446. <https://doi.org/10.1163/15723747-20181139> and For European Court of Justice Rosas, A. (2014). Oral Hearings before the European Court of Justice. *Maastricht Journal of European and Comparative Law*, 21(4), pp. 596–610. <https://doi.org/10.1177/1023263X1402100402>,

17 De Graaf, C. V. (2021). Procedural fairness: Between human rights law and social psychology. *Netherlands Quarterly of Human Rights*, 39(1), pp. 11–29. <https://doi.org/10.1177/0924051921992749>

18 Johannesson, L. (2023). Silence and Voice in Oral Hearings: Spatial, Temporal, and Relational Conditions for Communication in Asylum and Compulsory Care Hearings. *Social & Legal Studies*, 32(3), pp. 410–416. <https://doi.org/10.1177/09646639221118654>. The study concerned asylum and compulsory care hearings in Sweden.

19 Vuille, J., Lupària, L., Taroni, F. (2017). Scientific evidence and the right to a fair trial under article 6 ECHR. *Law, Probability and Risk*, 16(1), pp. 55–68. <https://doi.org/10.1093/lpr/mgx001>.

stemming from the European Court of Human Rights and national courts. Finally, the main scientific contribution of this paper is *de lege ferenda* suggestions, which contribute to a higher level of human rights protection in the context of a fair trial.

2 Methodology

The purpose of this paper is to provide an overview of the importance and effect exercising the right to be heard, with an analysis of the current legal state of play in two countries: the Republic of Croatia and the Republic of Slovenia. Although comparative research of two countries already exists,²⁰ comparative papers relating to the topic of oral hearings in administrative disputes has not yet been conducted. The paper deals with cases from the national courts and from the European Court of Human Rights, where cases deal with (potential) violations of human rights or fundamental freedoms regarding the absence of an oral hearing in administrative procedure. The study is exploratory and interpretative in nature. To examine the research topic, the method of analysis of domestic and international legal texts was utilized. It was necessary to assess the administrative procedure rules in both countries included in the research, as well as legal framework of the Council of Europe, in order to examine the issue of oral hearings in administrative disputes and identify effective solutions. Beyond Slovenia and Croatia, further country-specific practices regarding the access to justice in general²¹ and on the right to an oral hearing was also analysed for the purposes of this paper.²² In addition, empirical research using sociological research methods was conducted to analyse current legal solutions and case law. Data used for this research includes both primary and secondary data: the author analyses prior research, legislation and decisions of the European Court of Human Rights²³ and national courts.

20 See for example an comparative analysis of an administrative appeal: Đanić Čeko, A., Kovač, P. (2020). COMPARATIVE ANALYSIS OF AN ADMINISTRATIVE APPEAL IN CROATIAN, SLOVENIAN, AND EU LAW. EU and Comparative Law Issues and Challenges Series (ECLIC), 4, pp. 1065–1096. <https://doi.org/10.25234/eclic/11940>

21 Republics of Austria, Hungary, Lithuania, and Macedonia were analysed in this respect. See: Lachmayer, K., Szente, Z., eds. (2016) *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London, Routledge.

22 On Republic of Finland's civil and appeal procedure see: Kiesiläinen, J. (2008). Efficiency and justice in procedural reforms: the rise and fall of the oral hearing, in van Rhee, C., Uzelac, A. (eds.) *Civil justice between efficiency and quality: from lus Commune to the CEPEJ*. Intersentia, Oxford, pp. 29–45, where a request by a party seems to be enough to arrange the main hearing. On Republic of Austria's administrative procedures see: Helmreich, M. (2013). Absence of an oral hearing before the Independent Administrative Panel. *Vienna Online Journal on International Constitutional Law*, 7(4), pp. 541–546. <https://doi.org/10.1515/icl-2013-0407>, on the United Kingdom of Great Britain and Northern Ireland see Gordon, A. (2013). Article 6 ECHR, Civil Rights, and the Enduring Role of the Common Law. *European Public Law*, 19(1), Mills, A. (2012). The Requirement of an Oral Hearing in Judicial Review Claims, *Judicial Review*, 17(4), pp. 326–329 and Samuels, A. (2005). A Right to an Oral Hearing in Quasi-Judicial Proceedings? *The Cambridge Law Journal*, 64(3), pp. 523–527.

23 For a comprehensive overview see: Council of Europe (2022). *Guide on Article 6 of the European Convention on Human Rights. Right to a fair trial (civil limb)*. Strasbourg. At <https://www.echr.coe.int/documents/d/echr/guide_art_6_eng>, accessed 12 November 2023.

3 National Legislation

For Slovenia - and Croatia also, the General Administrative Procedure Act of the Kingdom of Yugoslavia is the first regulation, dating back from 1930. It was based on the example of the Austrian regulation from 1925. Judicial review of administrative acts was already in force with the Act on the Council of State and Administrative Courts of 1921, based on the French model of administrative jurisprudence. Within the next ruling regime, general principles of administrative procedure were introduced in 1946, while the Administrative Disputes Act was in force starting from 1952. A codified federal General Administrative Procedure Act was enacted in 1956, with subsequent modernizations.²⁴

3.1 Slovenia

The General Administrative Procedure Act served as the basis of the regulation in force in the independent Republic of Slovenia, which was adopted in 1999, with several revisions. A new Administrative Dispute Act was adopted in 1997. Finally, a completely new Administrative Dispute Act was passed in 2006 and came into force in 2007.²⁵

“With regard to the significance and number of administrative procedures, the General Administrative Procedure Act represents one of the most important acts in the legal system of the Republic of Slovenia. According to the records of the Ministry of Public Administration, around 10 million first-instance administrative decisions are issued in Slovenia every year.”²⁶

A final administrative act can be subject to judicial review before administrative courts. The procedure before administrative courts can be initiated by a claim after the administrative act is final. The Slovenian Constitution states that there is a special judicial review procedure of the legality of final individual acts with which state authorities, local community authorities and bearers of public authority decide the rights or obligations and legal interests of individuals and organizations, if other judicial protection is not provided by law for a particular matter.²⁷

The Administrative Court in Slovenia is ruled by the Administrative Dispute Act and is split into 5 departments: Department for public finances; Department for property relations; Department for protection of constitutional rights; Department for environment, spatial planning and construction; Department for customs and other taxes. The seat of the Administrative Court

24 Kerševan, E. (2016). The principle of effective legal protection in administrative law in Slovenia, in Z. Szente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London: Routledge, pp. 266–267.

25 Kerševan, E. (2016). The principle of effective legal protection in administrative law in Slovenia, in Z. Szente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London: Routledge, pp. 266–267.

26 Koprić, I. et al. (2016). *Legal remedies in administrative procedures in Western Balkans*. Danilovgrad: Regional School of Public Administration, p. 60.

27 Article 157, Constitution of the Republic of Slovenia, Official Gazette RS, nb. 33/91-I, 42/97, 66/2000, 24/03, 69/04, 68/06, 47/13, 75/16, 92/21.

is in Ljubljana and deconcentrated departments in Celje, Maribor and Nova Gorica.²⁸

In short, the person entitled to start the administrative dispute as a plaintiff can (with exceptions) only be the person who was a party or an accessory participant in the proceedings of issuing an administrative act, also having legitimate interest in starting the proceedings before the Administrative Court. The administrative act can be challenged both regarding factual and legal issues. Finally, legal remedies (namely appeal, revision, and repeated procedure) against the decisions by the Administrative Court are decided by the Administrative Chamber of the Supreme Court of the Republic of Slovenia. However, appeals against judgments of the Administrative Court are possible in a rather limited number of cases.^{29,30}

Article 59 (paragraphs 1 to 3) of the Slovenian Administrative Dispute Act regulates the main topic of this paper: "The Administrative Court may issue a decision without holding a hearing if the facts on which the administrative decision is based are uncontested. Regardless of this provision, the court may also decide without holding a hearing, even if there is a dispute regarding the facts of the case between parties, in the following circumstances:

1. if, on the basis of the action, the impugned legal act and the administrative case files, it is apparent complainant's request shall be granted and the administrative act shall be annulled in line with Article 64(1) of the Act, whereas no third party with opposing interest has participated in the dispute;
2. if new facts and evidence submitted by the parties in their action before the Administrative Court are inadmissible (in accordance with Article 52 of the Act) or not relevant for the decision;
3. if the parties merely propose evidence not necessary to establish disputed facts, in cases those can be established even without reviewing the proposed evidence.
4. if the court has already decided on a dispute between the same parties on the same factual and legal basis
5. if the court decides only on the basis of the documents and the parties have agreed that the main hearing does not take place, and the court is not bound by the facts that were established in the process of issuing the administrative act.

Regardless of subsection (1), the court shall decide at a hearing if:

28 Čarni, M. and Košak, Š. (2013). A Guide to the Republic of Slovenia Legal System and Legal Research. At <<https://www.nyulawglobal.org/globalex/Slovenia1.html>>, accessed 14 October 2022.; Koprić, I. et al. (2016). Legal remedies in administrative procedures in Western Balkans. Danilovgrad: Regional School of Public Administration, p. 61.

29 Kerševan, E. (2016). The principle of effective legal protection in administrative law in Slovenia, in Z. Sente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London: Routledge, pp. 266–280.

30 Administrative Dispute Act, Official Gazette RS, nb. 105/06, 107/09, 62/10, 98/11, 109/12, 10/17, 49/23.

1. it concerns a person who should have participated in the administrative proceedings as party or a third party and it is not a case provided for in subsection (2) of section 229 of the Administrative Procedure Act or a substantially identical provision of another statute governing the procedure of issuing the administrative act;
2. during the administrative proceedings, a party was not able to provide a statement on the facts relevant for the contested decision."³¹

3.2 Croatia

At the beginning of the 1990s, Croatia also took over the former federal general administrative procedural law, however with some adaptations. After lengthy preparations for the new General Administrative Procedure Act, the first draft of the new law was prepared in 2008 and the Act finally entered into force in 2010 (Official Gazette HR, nb. 47/09).³² The General Administrative Procedure Act was amended only once afterwards, and the amended framework is in force since January 2022³³.

The new Croatian Administrative Disputes Act³⁴ was adopted two years later, coming into force in 2012. Since then the system of administrative justice has been organized as a two-tier system with four administrative courts of first instance (Zagreb, Split, Rijeka and Osijek) and the High Administrative Court in Zagreb which as a rule decides on the appeals filed against first instance administrative court decisions.³⁵ The Administrative Dispute Act of 2010 broadens the matter of the administrative dispute and ensures legal protection in every administrative procedure.³⁶

The previous Administrative Dispute Act regulated in Article 34 that, as a rule, disputes are solved in a non-public session, while only due to the complexity or clarity of facts of the matter, the court may decide to hold an oral hearing. For the same reasons, the party may also propose an oral hearing.³⁷ However, oral hearings were held quite seldom.³⁸ This setup was not in line with the requirements of Article 6 of the Convention.³⁹

31 Administrative Dispute Act, Official Gazette RS, nb. 105/06, 107/09, 62/10, 98/11, 109/12, 10/17, 49/23 Article 59, paragraphs 1–3.

32 Koprić, I. and Đulabić, V. (2009). *Modernizacija općeg upravnog postupka i javne uprave u Hrvatskoj* (Modernisation of the General Administrative Procedure and Public Administration in Croatia). Zagreb: Institut za javnu upravu and Društveno veleučilište.

33 General Administrative Procedure Act, Official Gazette HR, nb. 47/09, 110/21.

34 Administrative Disputes Act, Official Gazette HR, nb. 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/21.

35 Koprić, I. et al. (2016). *Legal remedies in administrative procedures in Western Balkans*. Danilovgrad: Regional School of Public Administration, pp. 62–63.

36 Article 3 Administrative Disputes Act, Official Gazette, nb. 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/21.

37 Administrative Dispute Act, Official Gazette SFRY 4/1977, 36/1977, Official Gazette HR 53/1991, 9/1992, 77/1992.

38 Đerđa, D. and Kryška, D. (2018). *Neka rješenja upravnog spora u usporednom pravu: kako unaprijediti hrvatski upravni spor?*. Zbornik Pravnog fakulteta Sveučilišta u Rijeci, 39(1), pp. 91–126.

39 Britvić Vetma, B. (2012). *Europska konvencija za zaštitu ljudskih prava (članak 6) i Zakon o upravnim sporovima iz 2010*. Zbornik radova Pravnog fakulteta u Splitu, 49(2), pp. 395–410. <https://hrcak.srce.hr/84239>

The principle of the oral hearing is provided for, as a general rule, in Article 7 of the Croatian Administrative Dispute Act. "In an administrative dispute, the court shall decide in an oral, direct and public hearing. Courts may adjudicate in an administrative dispute without holding an oral hearing only in the cases laid down further in the Act"⁴⁰, especially in articles 36 and 73.

"The court may resolve a dispute by a decision without holding a hearing:

1. if the respondent acknowledged the statement of claim in full;
2. in a case where the adjudication is based on a final judgment rendered in a model dispute⁴¹;
3. if the court establishes that a particular decision, action or administrative contract is defect so that it prevents an assessment of its lawfulness;
4. if the complainant disputes only the application of law, the facts of the case are indisputable, and if the parties in the complaint or in the response to a claim do not have request for holding a hearing.
5. if the parties explicitly agree to adjudicate without holding a hearing, and the court finds that it is not necessary to present new evidence."⁴²

"The High Administrative Court decides about the appeals at council sessions, without holding a discussion. If the High Administrative Court deems necessary, it may hold a hearing."⁴³

Above regulations, indeed, represent a derogation from the oral hearing principle as set out in Article 7 in favour of the principle of efficiency.

4 European Court of Human Rights

"The European Court of Human Rights⁴⁴ is an international court set up in 1959. It rules on individual or State applications alleging violations of the civil and political rights set out in the European Convention for the Protection of Human Rights and Fundamental Freedoms."⁴⁵

Since its establishment in 1959, the Court has delivered more than 24.500 judgments.⁴⁶ These are binding on the countries concerned and have led governments to alter their legislation and administrative practice in a wide range

⁴⁰ Article 7 Administrative Disputes Act, Official Gazette, nb. 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/21.

⁴¹ Model dispute solution is regulated in Article 48 of the Administrative Dispute Act. Due to the content limitation of this paper, the model dispute is not inspected in detail.

⁴² Article 36 of the Croatian Administrative Dispute Act. The 5th subparagraph was added in additions to the Act in 2012, as well as the wording "substantial law" was amended by deleting "substantial" in the 4th subparagraph. See more: Staničić, F., Britvić Vetma, B. and Horvat, B. (2017). *Komentar Zakona u upravnim sporovima*. Zagreb: Narodne novine, pp. 131–134.

⁴³ *Ibid.* Article 73.

⁴⁴ Also referred to as European Court, the Court or ECtHR further in the paper.

⁴⁵ Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, referred also as European Convention on Human Rights and the Convention further in the article.

⁴⁶ European Court of Human Rights (2022). Overview 1959-2021 ECHR. Strasbourg: Council of Europe.

of areas. The Court's case-law makes the Convention an adaptable living instrument for surpassing new challenges and consolidating the rule of law and democracy in Europe.

4.1 Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms

Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms can be understood as a set of rights within the system of the European Court of Human Rights and is very important when it comes to the principle of effective legal protection in administrative procedures and disputes. "Article 6(1) of the European Convention on Human Rights provides that, in the determination of their civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law."⁴⁷ Administrative procedures are strongly influenced by the guarantees of the European Convention on Human Rights, especially through the procedural guarantees under the Article 6(1) of the Convention. Although the guarantees only apply to procedures concerning "civil" and "criminal" matters, both fields have been subject to an extensive interpretation through the Court's decisions.⁴⁸

The European Court of Human Rights has held that even in relatively trivial cases, a party cannot generally be denied a public hearing in court procedures aimed at simplifying or expediting cases.⁴⁹ In addition, the European Court of Human Rights concluded in *Fischer v. Austria* that, unless there are exceptional circumstances that justify dispensing with a hearing, the right to a public hearing under Article 6(1) implies a right to an oral hearing at least at one level of jurisdiction.⁵⁰

The exceptional character of the circumstances that may justify not holding any oral hearing in proceedings concerning a "civil" right is closely related to the nature of the meritum that had to be adjudicated by the competent tribunal. This does not mean that refusing to hold an oral hearing may be justified only in rare cases. Such prime examples are cases where the proceedings concerned exclusively legal or highly technical issues.⁵¹

"There may be proceedings in which an oral hearing may not be required. For example, where there are no issues of credibility or contested facts which

47 Council of Europe, European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14, 4 November 1950, Article 6(1).

48 Breuer, M. (2016). Creating a European-wide standard of effective legal protection: The European Convention on Human Rights, in Z. Sente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law : A European Perspective*. London: Routledge, pp. 42–46. See more: Šarin, D. (2015). *Pravo na pristup sudu u praksi Europskog suda za ljudska prava*. Pravni vjesnik, 31(3-4), pp. 269–271.

49 *Scarth v. The United Kingdom*, Application no. 33745/96 (ECtHR, 22 July 1999).

50 *Fischer v. Austria* Application no. 16922/90 (ECtHR, 26 April 1995).

51 Cases in question are, for example *SchulerZgraggen v. Switzerland*, Application no. 14518/89 (ECtHR 24 June 1993), *Varela Assalino v. Portugal*, Application no. 64336/01 (ECtHR 25 April 2002) and *Speil v. Austria* (dec.), Application no. 42057/98 (ECtHR 5 September 2002).

necessitate a hearing and the courts may fairly and reasonably decide the case on the basis of the parties' submissions and other written materials."⁵²

4.2 Summary of data

Data shows that a total of 964 cases were solved by the European Court of Human Rights which concerned breaches of Article 6 specifically in administrative proceedings. 814 of them were judged as violations of the article.⁵³

A total of 40 cases concerning breaches of the right to oral hearing appeared before the European Court of Human Rights. 28 of them were concluded as breaches due to the absence of an oral hearing. Interestingly, 16 violations were found in Austria,⁵⁴ 5 in Sweden and one from Czech Republic, Finland, France, North Macedonia, Slovakia, Slovenia and Turkey.

As for the Court's case law regarding the Republic of Croatia, the Court decided on 18 violations of the Article 6 in administrative proceedings. However, there were no absence of oral hearing violations.

As for the Republic of Slovenia, six (6) cases in which violations of Article 6 in the administrative proceedings occurred, with the only absence of an oral hearing breach was in the *Mirovni inštitut* case⁵⁵. The case of *Produkcija plus storitveno podjetje d.o.o.* was categorized as a criminal procedure, but contains principles and implications applicable within administrative disputes, hence it was analysed.⁵⁶

5 Analysis and Discussion

5.1 Slovenian cases

This part of the paper briefly introduces and analyses the two key cases of breaches of the right to an oral hearing which concern the Republic of Slovenia before the European Court of Human Rights: *Mirovni Inštitut* and *Produkcija Plus storitveno podjetje d.o.o.* cases.

5.1.1 *Mirovni Inštitut v. Slovenia*

In this case, the applicant institute alleged that the lack of reasoning in a decision of the Administrative Court and the absence of an oral hearing before

⁵² See *Döry v. Sweden*, Application no. 28394/95 (ECtHR 12 November 2002). Note that the case concerns the civil limb.

⁵³ Data extracted from the HUDOC database website <https://hudoc.echr.coe.int/eng>, accessed 17 September 2022. It is important to note that Committee decisions appeared on HUDOC only as of April 2010. Decisions concerning single judge cases are not published. Commission decisions prior to 1960 exist in hard copy only in the Court Archives.

⁵⁴ This might be the case since Austria's administrative dispute system regulates that the oral hearing is an exception, rather than a rule. See more in: Đerđa, D. (2010). *Sudske odluke u upravnim sporu - pozitivno i buduće pravno uređenje*. Zbornik Pravnog fakulteta u Rijeci, 31(1), pp. 459-460.

⁵⁵ *Mirovni Inštitut v. Slovenia*, Application no. 32303/1 (ECtHR 13 June 2018).

⁵⁶ *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia*, Application no. 47072/15, (ECtHR 3 January 2019).

it amounted to a violation of the right to a fair trial under Article 6(1) of the Convention.⁵⁷

Mirovni inštitut is a private institute that carries out research in the field of social sciences. The case dates back to 2003 when the Slovenian Ministry of Education, Science and Sport (Ministry) made two calls for tenders for making financial awards for scientific research projects, on which the Mirovni Inštitut submitted a tender. The tenders were joined into one proceeding by the Ministry without explanation and eventually awarded to three other subjects.

Mirovni Inštitut subsequently lodged several actions against the Ministry: it argued, *inter alia*, that the evaluation procedure had been unfair because some of the evaluators had been biased, as shown by the fact that only those research programmes in which the evaluators were leaders or members of research teams obtained financing. The applicant institute expressly requested a hearing at which witnesses could be heard with regard to the alleged procedural errors in the evaluation of the programmes. Additionally, it submitted a letter which one of the witnesses, K., had sent to the Minister and several other addressees in which K. notified them of problems he had detected in the tender procedures in which he had participated as an evaluator.⁵⁸

After the parties had exchanged a number of written submissions, the Administrative Court, without holding a hearing, dismissed the action. In its decision of 2 February 2011, the court gave an extensive account of the proceedings before the Ministry and the submissions of both parties. The reasons for the decision were given on a single page. Invoking section 71(2) of the Slovenian Administrative Dispute Act, the Administrative Court chiefly referred to the submissions of the Ministry. It considered, *inter alia*, that the Ministry had not acted unlawfully in joining the proceedings. No reasons were given for not holding a hearing. None of the evidence relied on by the applicant institute in their appeal was acknowledged or referred to in the court's reasoning.⁵⁹

The Inštitut lodged an appeal on points of law and complained that the Administrative Court had not held a hearing even though the facts of the case had been contested, and the applicant institute had explicitly requested a hearing at which witnesses could be heard. It also argued that the Administrative Court had failed to address its allegations that errors had been made in the evaluation procedure, and complained that insufficient reasoning had been given for the decision. The Supreme Court rejected the appeal as inadmissible. No reasons were given in its decision on the merits of the applicant institute's complaints. Finally, the applicant institute then lodged a constitutional complaint, which was dismissed as the Constitutional court found that it did not concern an important constitutional question or entail a violation of human rights with serious consequences for the applicant institute.⁶⁰

57 Mirovni Inštitut v. Slovenia, Application no. 32303/1 (ECtHR 13 June 2018), paragraph §4.

58 Mirovni Inštitut v. Slovenia, Application no. 32303/1 (ECtHR 13 June 2018), paragraphs § 8-11.

59 Mirovni Inštitut v. Slovenia, Application no. 32303/1 (ECtHR 13 June 2018), paragraphs § 12-13.

60 Mirovni Inštitut v. Slovenia, Application no. 32303/1 (ECtHR 13 June 2018), paragraphs §14-17.

The Court ruled the application admissible, as the applicant institute clearly enjoyed a procedural right to the lawful and correct adjudication of the tenders. Furthermore, should the tender be awarded to the applicant institute, the latter would have been conferred a civil right. After granting the application admissible, the European Court of Human Rights considered the merits of the application.⁶¹

The Court reiterated that: “in proceedings before a court of first and only instance, the right to a “public hearing” within the meaning of Article 6(1) entails an entitlement to an “oral hearing” unless there are exceptional circumstances that justify dispensing with such a hearing. In proceedings before two instances, at least one instance must, in general, provide such a hearing if no such exceptional circumstances are at hand.”⁶² In Slovenia, the Administrative Court is the first judicial instance and the only one with full jurisdiction (not only limited to law but to factual issues).

As:

1. the facts were disputed by the parties in this case,
2. the Inštitut explicitly requested an oral hearing,
3. presenting further evidence (hearing witness K, *inter alia*) could have been relevant for the outcome of the proceedings and
4. the Administrative Court neither acknowledged the applicant institute’s request that a hearing be held, nor gave any reasons (or a legal basis) for not granting the request,

the European Court of Human Rights concluded correctly that the proceedings were not fair and that, accordingly, there has been a violation of Article 6(1) of the Convention.⁶³

5.1.2 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia*

In this case, the applicant, *Produkcija plus storitveno podjetje d.o.o.* (a private media company) alleged that Articles 6 and 13 of the Convention had been breached on account of the lack of an oral hearing, the lack of opportunity to be heard, and have witnesses examined on its behalf. The proceedings concerned the imposition of a fine for the obstruction of an inspection and proceedings concerning a violation of competition rules.⁶⁴

On 10 August 2011, the Competition Protection Office (later the Competition Protection Agency, hereinafter referred to as “Office”) initiated proceedings against the applicant company following a complaint from two television stations that the applicant company had abused its dominant position. On the same day, the Office issued an order to inspect the premises, which contained a warning that if the inspection was obstructed, an order imposing a

61 *Mirovni Inštitut v. Slovenia*, Application no. 32303/1 (ECtHR 13 June 2018), paragraphs §28-30.

62 *Fröbrich v. Germany*, Application no. 23621/11, (ECtHR 16 March 2017), paragraph §34.

63 *Mirovni Inštitut v. Slovenia*, Application no. 32303/1 (ECtHR 13 June 2018), paragraph §45.

64 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraph §3.

fine amounting up to 1% of the applicant company's annual turnover in the preceding business year could be issued.⁶⁵

During the inspection, the officers were apparently assaulted and asked to leave the premises by Mr P., who worked as a contractor for the company and refused to allow them to continue the inspection. According to the report, at 9.31 a.m., the officers left the building because they believed that the inspection would not be possible without police assistance. At 9.57 a.m., after the arrival of the police, the officers again entered the applicant company's premises. At 10 a.m. Mr V. arrived. He apologized for the inconvenience and was willing to cooperate. At 10.45 a.m., the officers started the inspection, which was then carried out without any obstructive behaviour on the part of the applicant company. By an order of 21 February 2012 the Office fined the applicant company 105.000 euros (EUR), 0.2% of the company's annual net turnover in the preceding year, for obstructing the inspection on 11 August 2011. The obstruction had been Mr P.'s unwillingness to cooperate with officers and to immediately facilitate access to evidence and its preservation.⁶⁶

On 22 March 2012, the applicant company brought an action and an application for an interim measure against the above order. The applicant requested an oral hearing, maintaining that a direct examination of the evidence was required to properly establish the facts of the case. In particular, the four witnesses who had been present at the premises on the day of the alleged obstruction would prove that the applicant company had not obstructed the inspection or refused to cooperate with the officers. They would also show that the officers had not properly introduced themselves and had tried to enter the premises in an aggressive manner.⁶⁷

On 26 November 2013, the Supreme Court dismissed the applicant company's action. It noted from the outset that the applicant company was not allowed to introduce new facts and evidence in the judicial review proceedings and that they would not be taken into consideration. The court emphasised that although the applicant company had contested the facts as established by the Office, it had not challenged the fact that the officers could not immediately after their arrival at the company's premises secure the evidence. According to the Supreme Court, the applicant company had merely argued that the above-described acts had not constituted an obstruction of the inspection. In the Supreme Court's opinion, this was not a question of fact but purely of law. The only important fact was that the authorised persons could not immediately start securing the evidence. Finally, the applicant institute then lodged a constitutional complaint, which was not accepted, as the Constitutional Court found that it did not concern an important constitutional

65 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §6-7.

66 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §8-10.

67 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraph §11.

question or entail a violation of human rights with serious consequences for the applicant institute.⁶⁸

In the proceedings related to the determination of a violation of competition rules (supervision proceedings), on 24 April 2013 the Agency decided that the applicant company had been abusing its dominant position. It refused to hold a hearing on the grounds that it was not necessary to hear the witnesses proposed by the applicant company, and that the applicant company had sufficient opportunity to present its case in writing.⁶⁹

On 24 May 2013, the applicant company filed an action against the Agency's infringement decision, asserting that the Agency had violated its right to adversarial proceedings and to defend itself. It also urged the Supreme Court to examine the proposed witnesses at an oral hearing. On 3 December 2013, the Supreme Court dismissed the action. It held that the examination of the witnesses proposed by the applicant was unnecessary. This was because the facts of the case had already been fully established by the Agency, which had provided logical and convincing reasons for each of the central issues in dispute. Consequently, it refused to hold a hearing. Subsequently, the Constitutional Court also rejected the appeal.⁷⁰

The Court reiterated that an oral, and public, hearing constitutes a fundamental principle enshrined in Article 6(1) and that it is particularly important in the criminal context, where an accused has an entitlement to have his case "heard", with the opportunity, *inter alia*, to give evidence in his own defence, hear the evidence against him, and examine and cross-examine the witnesses. The Court also reflected on the fact that, despite the applicant company expressly requesting that a hearing be held, the Supreme Court neither acknowledged the request nor gave any reasons for not granting it. That is even more necessary as the Supreme Court was the first and only tribunal to examine the applicant company's case, and as such, it was required under Article 6(1) of the Convention to examine not only the legal aspects of the case but also to review the facts (full jurisdiction) on which the applicant company's punishment was based and which the applicant company disputed.⁷¹

Conclusively, the European Court of Human Rights found that the applicant company was deprived of a right to have the factual aspects of the administrative decision issued against it reviewed by the tribunal with full jurisdiction and that the Article 6(1) of the Convention had been violated.⁷²

68 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §12-15.

69 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §17-18.

70 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §19-21.

71 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §53-58, Zuber, B., Lovšin, Š. (2019). Judicial dialogue in the light of protocol no. 16 to the European Convention on Human Rights. *Zbornik Pravnog fakulteta Sveučilišta u Rijeci*, vol. 40 (2), pp. 914-915.

72 *Produkcija Plus storitveno podjetje d.o.o. v. Slovenia* Application no. 47072/15, (ECtHR 3 January 2019), paragraphs §59-60, Zuber, B., Lovšin, Š. (2019). Judicial dialogue in the light of

After analysing both cases, it is evident that the applicant received somewhat unsatisfactory remuneration despite the decision of the European Court of Human Rights decided in favour of their application. The main reason is that the Slovenian Administrative Dispute Act does not envisage in its Article 96 (Renewal of the procedure) that renewal is possible if, following a final judgment of the European Court of Human Rights, it was decided on a violation of fundamental human right or freedom in a way different from the judgment of the court. The Croatian Administrative Dispute Act foresees the exact wording as ground for renewal of the procedure⁷³. Therefore, it would be useful if the Slovenian Administrative Dispute Act were amended to provide this option to applicants whose rights have been found violated before the European Court of Human Rights.

5.2 Croatian cases

The Republic of Croatia did not have any administrative proceedings that involved a breach of the right to an oral hearing, as outlined in the Article 6(1) of the Convention. There was a case relating to civil law matters in which the right to an oral hearing had been violated.⁷⁴ However, civil and criminal matters fall beyond the scope of this paper.

In a case that appeared in second instance at the High Administrative Court, the applicant was awarded a right to an oral hearing which was denied at the Administrative Court level. The Administrative Court was erred in applying the provision of the Article 36(4) of the Administrative Dispute Act, as the Court deemed that the complainant contested only the application of substantive law, the facts of the case were indisputable, and neither party in the complaint nor in the response to the claim had requested holding a hearing. In the concrete case regarding health security rights, the applicant requested the reference of an expert to be provided as evidence. Therefore, the High Administrative Court rightly decided that the Article 36(4) had been wrongfully invoked by the first instance court.⁷⁵

In a case before the Constitutional Court, the applicant was granted invalidity pension due to illness. However, the applicant considered herself healthy and therefore contested the administrative decision, the Administrative Court in Rijeka's decision as a judicial body of first instance, and the High Administrative Court's decision which also confirmed the invalidity pension. The applicant disputed the expert's opinion and the medical documentation. As the applicant contested facts, she expected that a hearing in front of the court would be held, what she also noted in the appeal on the Administrative Court's decision. The applicant argued in the appeal that there were no legal terms to invoke Article 36(4) of the Administrative Dispute Act since the facts of the case were

protocol no. 16 to the European Convention on Human Rights. Zbornik Pravnog fakulteta Sveučilišta u Rijeci, vol. 40 (2), pp. 914–915.

73 Article 76 of Croatian Administrative Disputes Act, Official Gazette HR, nb. 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/21.

74 Adžić v. Croatia, Application no. 19601/16 (ECtHR 02 August 2019)

75 High Administrative Court of the Republic of Croatia, case Usž-1927/15-8, 30 November 2016.

not indisputable. The High Administrative Court argued that the applicant did not provide any new evidence necessary to determine the facts on which her assumptions were based on. Therefore, and also since neither party requested an oral hearing (the applicant merely “expected” one at the Administrative Court level, only what she composed in writing), there was indeed a legal basis to adjudicate without a hearing. Subsequently, the Court rejected the claims of the applicant. The Constitutional Court agreed with the former decisions on the grounds that the applicant had failed to propose any evidence for the courts to assess and also did not explicitly request a hearing.⁷⁶

In a recent case, the Constitutional Court reiterated the principle when the dispute concerns only a legal issue, and not factual matters that are undisputed, the administrative courts do not violate any human rights or the Constitution by not holding an oral hearing, referring to Article 36(4) of the Administrative Dispute Act.⁷⁷

Also, Croatia envisaged that the court of first instance shall provide an oral hearing and may only exceptionally deny it within its rights set by law. At the High Administrative Court’s level, the oral hearing is an exception, but still allowed if the Court deems it necessary. The solution is in par with the vision of the ECtHR and an oral hearing is very likely to occur at the first instance unless it is clearly not required, if one of the reasons outlined in Article 36 of the Administrative Dispute Act is applicable.⁷⁸

A potential issue may arise in procedures where it is not envisaged to file a complaint at the administrative court level, but directly before the High Administrative Court (similar situation is with the Slovenian Supreme Court) as a body of first (and only) judicial instance authorised to resolve the administrative dispute. Such a procedure is the public procurement procedure, where the entire process may remain without an oral hearing prior to the dispute before the High Administrative Court following a complaint against the decision of the State Commission for Supervision of Public Procurement Procedures (DKOM)⁷⁹, because, as mentioned *supra*, the High Administrative Court holds oral hearings only if it deems it necessary.⁸⁰

76 Constitutional Court of the Republic of Croatia, case U-III-357/2017, 25 April 2018.

77 Constitutional Court of the Republic of Croatia, case U-III/4581/2016, 29 March 2018.

78 Britvić Vetma considers this requirement fulfilled within the current Croatian legislative framework. Britvić Vetma, B. (2012). *Europska konvencija za zaštitu ljudskih prava* (članak 6) i Zakon o upravnim sporovima iz 2010. Zbornik radova Pravnog fakulteta u Splitu, 49(2), pp. 405-406. <https://hrcak.srce.hr/84239>. See also Döry v. Sweden, Application no. 28394/95 (ECtHR 12 November 2002).

79 The Croatian State Commission for Supervision of Public Procurement Procedures may opt not to hold an oral hearing, even when there is a plea for an oral hearing made by either of the parties involved. Article 427 in relation to Article 434 of the Public Procurement Act, Official Gazette HR n. 120/16, 114/22.

80 Article 73(3) of the Croatian Administrative Disputes Act, Official Gazette HR, nb. 20/2010, 143/2012, 152/2014, 94/2016, 29/2017, 110/21.

6 Conclusion

As some authors assert that “administrative law is a concretised constitutional law”⁸¹, effective legal protection becomes a necessity, especially for parties, which are hierarchically in a subordinate position.

Despite administrative courts in Croatia and Slovenia may, within their scope of authorities, use their discretion given by law when deciding not to enable oral hearings before the court, procedural justice and equality of arms should prevail, even when there is no obvious need for oral hearings, if one of the parties requests appearing in front of the court. Also, in administrative cases within the general administrative procedure, the parties are in principle in an unfair hierarchical relationship. Enabling oral hearings should be emphasized especially during administrative disputes, as the asymmetry of parties in administrative procedures prior to the administrative dispute could still be present without an oral hearing.

Regarding *de lege ferenda*, it should reiterated that the right to be heard is a fundamental procedural right. Subjects not allowed an oral hearing, as a vital instrument of the whole concept of a right to a fair trial, need to be provided with improved protective rights to avoid cases of illegal absence of an oral hearing from occurring and procedural rights in view of reopening the case where a severe violation has been found,

Subjects are entitled to an oral hearing to resolve a dispute of any substance between themselves and the state. At the very least, appellants should have an opportunity to be heard, to understand the process and have confidence in the fairness of the process as a whole. Therefore, in most cases, administrative procedures and disputes should require an oral hearing before at least one instance. Additionally, hearings before the first instance administrative court would almost always ensure the right to a fair trial.

Accordingly, to ensure that oral hearings are not arbitrarily refused, they should be obligatory unless the parties agree to waive their right. It should be mandated that an administrative court of full jurisdiction must hold an oral hearing upon request from a party, whether explicit or implied. Based on the conducted analysis, both Slovenian and Croatian legal frameworks should consider including provisions allowing for oral hearings before the first instance if requested so by any party submitting or disputing evidence and facts or contesting legal or procedural matters, unless the parties waive their right in writing. This would ensure respecting Article 6(1) of the Convention in almost every case, and would also be in line with practices from the United Kingdom in relation to procedures before final tribunals of full jurisdiction, where the legislative framework in principle “contemplates that agreement is required to proceed without an oral hearing whenever there is a decision which would constitute the end of the case”.⁸² Another example is the Hungarian General

81 Werner, F. (1959). *Verwaltungsrecht als konkretisiertes Verfassungsrecht*. Deutsches Verwaltungsblatt, vol. 74, pp. 527–533.

82 Mills, A. (2012). The Requirement of an Oral Hearing in Judicial Review Claims, *Judicial Review*, 17(4), pp. 326–329, DOI: 10.1080/10854681.2012.11426747.

Rules of Administrative Procedures and Services which grants the parties with a right to be heard without exceptions.⁸³

The literature review showed the tendency towards narrowing down the right to an oral hearing⁸⁴ and the focus seems to be switching on ensuring a fair trial within a reasonable time. Some authors also indicate that oral hearings could sometimes be difficult to organize and would result in prolonged adjudication or higher expenses.⁸⁵ This finding is contrary to other studies which have shown that both very quick and very lenient judicial decision making processes produce more uncertainty for both the parties and the general public, with “timely” being the preferred outcome.⁸⁶

To take into account both arguments, a reasonable approach to tackle this issue for both legal frameworks would be to regulate that administrative courts should provide a detailed justification in writing as to why they have dispensed with an oral hearing despite one of the parties requested it. Such a provision would have prevented the Mirovni Inštitut case from being brought before the European Court of Human Rights. The same requirement could also be extended to respective general administrative procedures.

Another consideration could be to allow *lex specialis* to determine any special types of shortened or emergency procedures⁸⁷ where oral hearings could be dispensed with due to the protection of public interest.⁸⁸ For this recommendation, authorities could add a similar safeguard as found in Article 24(4) of the Austrian Federal Act on Proceedings of Administrative Courts which explicitly requires that dispensing with a hearing in spite of a party’s request must not be contrary to Article 6(1) of the Convention and Article 47 of the Charter of Fundamental Rights of the European Union.⁸⁹

Finally, for the Republic of Slovenia, in relations to reopening the case where a severe violation has been found, better protection on the national level in

83 Gárdos-Orosz, F. and Temesi, I. (2016). The principle of effective legal protection in Hungarian administrative law, in Z. Sente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London: Routledge, p. 165.

84 For example in the Republic of Austria, Helmreich, M. (2013). Absence of an oral hearing before the Independent Administrative Panel. *Vienna Online Journal on International Constitutional Law*, 7(4), pp. 543–546. On the decision level of the ECtHR, see Lillo Lobos, R. (2022). Understanding due process in non-criminal matters: how to harmonize procedural guarantees with the right to access to justice. Springer, p. 143.

85 Samuels, A. (2005). A Right to an Oral Hearing in Quasi-Judicial Proceedings?. *The Cambridge Law Journal*, 64(3), pp. 523–527. <http://www.jstor.org/stable/4500818>.

86 Valkeapaa, A., Seppala, T. (2014). Speed of Decision-Making as a Procedural Justice Principle. *Social Justice Research*, 27, p. 305; Outlaw, R. et al. (2019). How Fair versus How Long: An Integrative Theory-Based Examination of Procedural Justice and Procedural Timeliness. *Personnel Psychology*, 72(3), pp. 361–386.

87 Gordon indicates that national security seems to be the main justification for limiting the right to a hearing in the United Kingdom. See: Gordon, A. (2013). Article 6 ECHR, Civil Rights, and the Enduring Role of the Common Law. *European Public Law*, 19(1), pp. 75–96.

88 Sente, Z. (2016). The principle of effective legal protection in administrative law – a comparison, in Z. Sente and K. Lachmayer, eds., *The Principle of Effective Legal Protection in Administrative Law: A European Perspective*. London: Routledge, pp. 356–393.

89 Article 24(4) of the Austrian Federal Act on Proceedings of Administrative Courts (Original version: Federal Law Gazette I No. 33/2013, as amended by: Federal Law Gazette I No. 109/2021). It is worth noting that the concrete provision can be applied only if an oral discussion would not further clarify the legal matter.

which cases such as Mirovni Inštitut and Produkcija plus may fully enjoy the rights as given in the Article 15(4) of the Slovenian Constitution (which expressly guarantees the right to obtain redress for any violation of human rights and fundamental freedoms) may be provided if the Slovenian Administrative Dispute Act added the clause for applying for renewal in situations when in a final judgment of the European Court of Human Rights it was decided on a violation of fundamental human right or freedom in a way different from the judgment of the court – as the Croatian Administrative Disputes Act regulates.

However, the *de lege ferenda* proposal for broadening the obligation for oral hearings in administrative law should not be assessed as a separate element, but also taking into account its public policy implications in the context of the overall reform of the judicial system. Although international organizations clarify that the “European Administrative Space” encompasses the right a hearing in administrative decision making procedures⁹⁰, extending the right to a hearing and obliging authorities to justify each dispense of that right could add another layer of formalization of the procedures and affect their overall length. This could be seen as contrary to the conclusions of some authors that administrative proceedings should use the simplest available (preferably digital) solutions in to conclude files within reasonable time.⁹¹ This could, in turn, ultimately lead to a less positive perception of the public administrations and judiciary in the eyes of the general public. However, assessed literature and cases show that omitting the right to an oral hearing, especially without providing written justification, could ultimately lead to more detrimental – and longer – outcomes. The social and public policy impact assessment of adding *de lege ferenda* provisions is an issue that was not addressed in this paper, but could pose an important topic for further research.

The information and views set out in this article are those of the author and do not necessarily reflect the official opinion of the Institution.

90 OECD (1999). European Principles for Public Administration. SIGMA Papers, 27. Paris.

91 Rozczynski, B. (2022). Simplification and Electronisation of Administrative Procedure in the Visegrad Group Countries – a Sociological and Legal Approach. Central European Public Administration Review, 20(2), pp. 123-146. <https://doi.org/10.17573/cepar.2022.2.06>

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Povzetki (Summaries in Slovenian Language)

1. Nesebičnost: mednarodna primerjalna analiza ene ključnih javnih vrednot

Christina W. Andrews, Michiel de Vries

Namen tega prispevka je proučiti način za merjenje in razjasnitev pojma nesebičnost.

Z uporabo inovativnega pristopa k merjenju nesebičnosti ocenjujemo njeno prisotnost v različnih regijah po svetu. Raziskujemo tudi dejavnike, ki prispevajo k njenemu pojavu, in njihov medsebojen vpliv pri napovedovanju njene prisotnosti. Stopnja nesebičnosti se po svetu precej razlikuje. Tako ugotavljamo, da na verjetnost, da bo posameznik izkazoval nesebičnost, močno vpliva regija, v kateri prebiva, pomembno vlogo pa ima tudi delovno mesto – v državah OECD delo v javnem sektorju povečuje nagnjenost k nesebičnosti, v Afriki pa je ravno nasprotno.

Zasnova raziskave vključuje multivariatno analizo podatkov iz Svetovne raziskave vrednot, pri čemer uporablja enostavne regresijske analize in binarno logistično regresijo.

Glavne ugotovitve kažejo, da se vpliv dejavnikov, ki tradicionalno veljajo za pomembne, kot sta verska pripadnost in zaposlitev v javnem, zasebnem ali ne-profitnem sektorju, med posameznimi regijami razlikuje. Interakcijski učinki, značilni za posamezno regijo, se kažejo na primer pri vplivu delovnega mesta na nagnjenost k nesebičnosti. Zaposleni v javnem sektorju bodo precej bolj verjetno nesebični kot njihovi kolegi v zasebnem sektorju, toda medtem ko delo v javnem sektorju povečuje verjetnost nesebičnosti v državah OECD, je v Afriki ravno obratno.

V prejšnjih akademskih študijah je bilo takšnim interakcijskim učinkom posvečeno le malo pozornosti. Prevladovala je domneva, da je vpliv verske pripadnosti, zaposlitve v javnem sektorju, spola itd. po vsem svetu enak. Ta študija pa dokazuje nasprotno.

Kar zadeva **praktične posledice**, rezultati naših analiz kažejo, da je predvsem pomembno, da so raziskave o vrednotah kontekstualizirane. To še posebej velja, kadar želimo svetovati izvajalcem na določenem področju. Naša raziskava je pokazala, da lahko isti dejavniki, ki krepijo nesebičnost v enem delu sveta, zmanjšajo njeno prisotnost v drugih regijah, zato univerzalen pristop nikakor ni ustrezen.

Ključne besede: javne vrednote, nesebičnost, primerjalna analiza, interakcijski učinki, regionalni vpliv

2. Odnos podjetij do korupcije v izbranih srednjeevropskih državah

Nenad Vretenar, Ana Marija Filipas, Martina Briš Alić

Namen: Korupcija je prisotna po vsem svetu, tudi v srednjeevropskih državah, ki na tem področju še vedno zaostajajo za vodilnimi državami EU (glede na Svetovne kazalnike upravljanja 2023). Ker je samo korupcijo težko izmeriti, beležimo predvsem percepcije korupcije. Cilj prispevka je analizirati odnos do korupcije v izbranih srednjeevropskih državah in oblikovati zaključke o dejavnikih, ki vplivajo na zaznavo korupcije. Raziskava, ki se osredotoča na razlike med pravno-formalno in dejansko preglednostjo, je zajela Češko, Madžarsko in Poljsko kot države z manjšimi razlikami ter Hrvaško, Slovaško in Slovenijo kot države z večjimi razlikami med pravno-formalno in dejansko preglednostjo.

Zasnova/metodologija/pristop: Na podlagi podatkov Eurobarometra smo z logistično regresijo analizirali odnos do korupcije v obeh skupinah držav, ki ju sestavljajo po tri srednjeevropske države z večjimi ali manjšimi razlikami med pravno-formalno in dejansko preglednostjo. Iz vsake skupine smo oblikovali po en model, tj. model 1 in model 2, s skupnim številom opazovanj 901 oziroma 902. Modela sta izkazala primerne indekse ustreznosti in omogočila napovedi, na podlagi katerih smo lahko oblikovali svoje zaključke. Vsi anketiranci so bili predstavniki podjetij na odločevalskih položajih, kar zagotavlja, da rezultati odražajo percepcije podjetij in ne splošne javnosti.

Ugotovitve: Odnos do korupcije v proučevanih državah je povezan s percepcijo klientelizma in nepotizma v podjetjih, percepcijo korupcije pri javnih naročilih, zaznavanjem povezav med politiko in podjetji ter odnosom do davkov. V skupini, kjer je razlika med pravno-formalno in dejansko stopnjo preglednosti majhna, je odnos podjetij do korupcije odvisen tudi od tega, kako ustrezna se jim zdi infrastruktura in kako zapleteni se jim zdijo upravni postopki. V državah, kjer so te razlike precejšnje, pa na odnos do korupcije vplivajo pogoste spremembe zakonodaje, težave pri izterjavi dolgov ter razlike pri dojemanju resnosti vprašanja podkupnin glede na vrednost podkupnine.

Akademski prispevek k znanstvenem področju: Raziskava omogoča boljše razumevanje dejavnikov, ki vplivajo na zaznavanje korupcije v srednjeevropskih državah z vidika podjetij. Pri tem uvaja metodologijo, ki je primerna za analizo podatkov, zbranih z anketo, zlasti ker omogoča kategoričnost odvisne spremenljivke. Z uporabo podatkov iz indeksa preglednosti za razlikovanje med državami študija spodbuja nadaljnje teoretične in empirične raziskave razmerja med korupcijo in preglednostjo, s povezovanjem zaznanih težav podjetij s splošno percepcijo korupcije pa pomaga opredeliti morebitna problematična področja v proučevanih državah.

Izvirnost/vrednost: Predhodne raziskave so pokazale, da je korupcija pogostejša tam, kjer so razlike med dejansko in pravno-formalno preglednostjo večje. Ta raziskava kaže, da lahko proučevanje obsega teh razlik učinkovito prispeva k boljšemu razumevanju dejavnikov, ki vplivajo na odnos do korupcije. Članek zato razliko med pravno-formalno in dejansko preglednostjo uporablja

kot merilo za analizo dejavnikov, ki vplivajo na zaznavanje korupcije. Takšen pristop je omogočil oblikovanje dveh ločenih logističnih regresijskih modelov z visoko napovedno močjo.

Ključne besede: pravno-formalna preglednost, dejanska preglednost, korupcija, odnos do korupcije, podjetje

3. Analiza raziskav na področju umetne inteligence v javni upravi: pregled literature in analiza besedila

Nejc Lamovšek

Namen: Glavni namen študije je proučiti, kako lahko analiza akademskih raziskav, podprta z digitalnimi orodji, izboljša naše razumevanje uporabnosti, funkcij in izzivov, povezanih z uporabo naprednih umetnih tehnologij (UI) v javni upravi.

Metodologija: Metodologija temelji na uporabi digitalnih orodij, zlasti Voyant-Tools in Chat Generative Pre-Trained Transformer (GPT-4), za analizo besedil v kombinaciji z izbrano znanstveno literaturo s področja umetne inteligence in javne uprave.

Ugotovitve: Rezultati naše študije kažejo, da raziskovalci enakovredno poročajo o prednostih in slabostih uporabe umetne inteligence v javni upravi. Prispevek izpostavlja prednosti uporabe umetne inteligence, hkrati pa poudarja pomen etične in ustrezne ureditve tega področja.

Vplivi v praksi: Naš inovativni pristop k razvoju in uporabi kombinirane metodologije, ki vključuje specializirana digitalna orodja za analizo znanstvene literature, uvaja novo razsežnost v proučevanju znanstvenih besedil in lahko vpliva na oblikovanje javnih politik na področju javne uprave.

Izvirnost: S proučevanjem uporabe umetne inteligence v javni upravi študija predstavlja prispevek k znanosti, saj vprašanje umetne inteligence v javni upravi do sedaj še ni bilo ustrezno raziskano.

Ključne besede: digitalna orodja, umetna inteligenca, GPT-4, javna uprava, predpisi

4. Pomen upravnega okolja – modeli upravljanja v lokalni upravi

Stefanie Vedder, Benjamin Friedländer, Simon Bogumil-Učan, Tanja Klenk

Namen: V zadnjih desetletjih so znanstveniki in strokovnjaki s področja javne uprave z vsega sveta preizkušali različne upravne reforme, s katerimi bi oblikovali modele upravljanja, ki bi bili primerni za izvajanje nalog javne uprave. Tako lahko danes razlikujemo med (vsaj) tremi konkurenčnimi modeli upravljanja. To so: novi javni menedžment, novo javno upravljanje in (neo)weberjanski model. Čeprav je vsak od teh modelov univerzalno uporaben, različne veje

posameznih upravnih sistemov delujejo v različnih okoliščinah in opravljajo različne naloge. Članek obravnava vprašanje, ali in v kolikšni meri posamezne veje javne uprave v določenem upravnem sistemu podobno dojemajo globalne javnoupravne koncepte.

Zasnova/metodologija/pristop: Članek s pomočjo primerjalne analize proučuje dojetanje globalnih javnoupravnih konceptov v različnih upravnih vejah. V študiji sta kot primera uporabljeni nemška finančna in socialna uprava, ki sicer izhajata iz podobno toge weberjanske tradicije, a se razlikujeta po nalogah, ki jih opravljata, in okoljih, v katerih delujeta. Rezultati temeljijo na raziskavi, opravljeni v lokalnih izpostavah obeh uprav.

Ugotovitve: Ugotavljamo, da se v strukturnem in operativnem smislu v obeh upravah ohranja trdna weberjanska tradicija, kar kaže na močno odvisnost od zgodovinskega razvoja (t. i. odvisnost od poti) pri dojetanju upravljanja. So pa značilnosti novega javnega menedžmenta in novega javnega upravljanja bolj izrazite v socialni kot v finančni upravi, kar pripisujemo razlikam v nalogah in različnim odnosom, zlasti do političnih akterjev.

Akademski prispevek k znanstvenem področju: Študija, ki dopolnjuje dosedanje podrobne analize (ne)uspešnosti posameznih reform javne uprave, obravnava dolgoročni razvoj strukture in dojetanja javne uprave, ki vključuje tudi več reform. Ob ugotovitvi, da upravna tradicija vsekakor vpliva na oblikovanje celotnega sistema javne uprave, se prispevek osredotoča na specifične učinke upravnih tradicij na posamezne organizacije, s čimer ponuja izhodišče za prihodnje primerjalne raziskave.

Izvirnost/pomembnost/vrednost: Prispevek z izbiro primerjalne metodologije in empiričnih študij dokazuje, da se je namesto operacionalizacije reform javne uprave z večjim številom kazalnikov (po možnosti specifičnih za posamezno državo) bolj smiselno osredotočiti na minimalno število paradigem, ki jih je mogoče tudi jasneje razmejiti. S takim pristopom zagotavljamo podlago za razširitev primerjalne analize na druge države in upravne sisteme.

Ključne besede: *finančna uprava, socialna uprava, lokalno upravljanje, upravna kultura, odvisnost od poti*

5. Analiza deloholizma in izgorelosti med zaposlenimi na upravnih enotah in v dveh izbranih bankah v Sloveniji

Tatjana Kozjek, Anja Bandelj

Namen: Deloholizem in izgorelost imata lahko škodljive učinke tako na zaposlene kot na organizacije v zasebnem in javnem sektorju, zato so na tem področju vsekakor potrebne nadaljnje raziskave. Namen prispevka je statistična analiza razlik v spremenljivkah deloholizem in izgorelost (vključno s čustveno izčrpanostjo, depersonalizacijo in osebno učinkovitostjo) med upravnimi enotami in izbranimi bankama ter med udeleženci na vodstvenih in nevodstvenih položajih in med spoloma. Cilj raziskave je bil analizirati povezave med delo-

holizmom, čustveno izčrpanostjo, depersonalizacijo in osebno učinkovitostjo. V raziskavi je sodelovalo 621 zaposlenih iz 58 upravnih enot in 404 zaposleni iz dveh izbranih (zasebnih) bank v Sloveniji.

Zasnova/metodologija/pristop: Uporabljeni so bili različni metodološki pristopi, vključno s statističnimi testi, kot so multivariatna in faktorska analiza, Kolmogorov-Smirnov test in Shapiro-Wilk test, Mann-Whitney U test ter Spearmanov koeficient korelacije ranga.

Ugotovitve: Rezultati raziskave niso pokazali statistično značilnih razlik v spremenljivkah deloholizem in izgorelost niti med upravnimi enotami in izbranimi bankama niti med udeleženci na vodstvenih in nevodstvenih delovnih mestih ali med spoloma. Je pa raziskava razkrila močno pozitivno korelacijo med deloholizmom in čustveno izčrpanostjo, šibko pozitivno korelacijo med deloholizmom in depersonalizacijo ter rahlo negativno korelacijo med deloholizmom in osebno učinkovitostjo.

Izvirnost/vrednost: Raziskava prispeva k vse večji ozaveščenosti o deloholizmu in izgorelosti, s čimer organizacijam ponuja dragocen vpogled v reševanje teh vprašanj in izboljšanje dobrega počutja zaposlenih. Poleg tega bogati obstoječo literaturo o deloholizmu in izgorelosti v slovenskem kontekstu.

Ključne besede: upravne enote, banke, izgorelost, deloholizem, Slovenija

6. Trendi na področju digitalizacije javne uprave – v luči zakonodaje EU in domačega razvoja

Adrián Fábíán, Gergő Kollár

Namen: Ureditev parametrov vseh vrst identitete – vključno z njenimi elementi, avtentičnostjo in avtentikatorjem, preverljivostjo ter postopkom preverjanja – zahteva posebno pozornost. Pri tem je verjetno najbolj kritičen element njena pojavnost v digitalnem prostoru. Glavni cilj prispevka je proučiti predlog za spremembo uredbe eIDAS, ki vzpostavlja okvir za evropsko digitalno identiteto.

Zasnova/metodologija/pristop: Tematika je v prispevku obravnavana z vidika prava EU in zadnjega strateškega dokumenta madžarskega vladnega odločevalca, vključene pa so tudi znanstvene ugotovitve z zadevnega področja. V članku je ocenjeno trenutno stanje, obenem pa so izpostavljeni predvidljivi in možni učinki novih zakonodajnih sprememb.

Ugotovitve: V članku so predstavljene prakse, ki jih za izhodišče določa uredba eIDAS, in trenutno stanje digitalizacije na Madžarskem (predvsem v javni upravi).

Vpliv v praksi: Poleg tega bomo poskušali opredeliti morebitne priložnosti in prednosti ter tveganja in slabosti, povezane z novim trendom digitalizacije javne uprave v EU in na Madžarskem.

Izvirnost/vrednost: Po vzpostavitvi temeljev na tem področju bomo pregledali naravo spremembe in odziv v državi (nacionalni program za digitalno državljanstvo), da bi ocenili prizadevanja na evropski in madžarski ravni.

Ključne besede: varstvo podatkov, digitalna identiteta, eIDAS 2.0, e-uprava

7. Odsotnost ustne obravnave v upravnem sporu: primerjalna analiza Slovenije in Hrvaške

Mario Rašić

Namen: Pravica do ustne obravnave je pomembna sestavina 6. člena Evropske konvencije o varstvu človekovih pravic. To še posebej velja v upravnih postopkih, v katerih so stranke v hierarhičnem razmerju. Odsotnost ustne obravnave lahko bistveno omeji pravico stranke do poštenega sojenja. Namen tega prispevka je preučiti pozitivno pravo in stanje na področju pravice do ustne obravnave v Republiki Sloveniji in Republiki Hrvaški. Prispevek analizira zadevne predpise in sodno prakso ter podaja predloge za prihodnjo zakonodajo, ki naj bo boljše usklajena z učinkovitim pravnim varstvom.

Zasnova/metodologija/pristop: Izvedena je bila teoretična raziskava, ki je analizirala trenutne pravne rešitve in sodno prakso z uporabo socioloških raziskovalnih metod. Te so vključevale analizo domačih in mednarodnih pravnih besedil ter pregled pravil, ki urejajo nacionalne upravne postopke v državah, vključenih v raziskavo, v primerjavi z odločitvami Evropskega sodišča za človekove pravice. Uporabljena je bila kombinacija primarnih in sekundarnih virov podatkov.

Ugotovitve: Upravna sodišča bi morala dati prednost procesni pravičnosti in enakopravnosti strank v postopku, tudi če ni očitne potrebe po ustni obravnavi, zlasti če ena od strank zahteva, da nastopi pred sodiščem. V izogib zlorabi diskrecijske pravice bi morali obe stranki pristati na odpoved pravici do ustne obravnave, kar bi moralo tudi sicer biti del uveljavljenega postopka.

Prispevek k znanosti: Prispevek podaja predloge za ureditev pravice do ustne obravnave, s katerimi bi okrepili varstvo človekovih pravic v zvezi s poštenim sojenjem tako v upravnih sporih kot v upravnih postopkih.

Izvirnost/vrednost: Izvirnost raziskave je v primerjalni analizi upravnih postopkov in sporov v izbranih državah članicah. Po avtorjevem najboljšem vedenju takšna primerjalna študija še ni bila izvedena. Ugotovitve te raziskave bi lahko imele pomembno vrednost, saj poudarjajo potrebo po izboljšanju procesne pravičnosti in enakopravnosti strank pri zagotavljanju poštenega sojenja v upravnih sporih.

Ključne besede: upravni spor, upravno pravo, Evropsko sodišče za človekove pravice, pošteno sojenje, ustna obravnava

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