

# Central European Public Administration Review

with Special Section:  
“The Public Sector during and after  
the Covid-19 Pandemic – Challenges  
in Central Europe and Other Countries  
pursuing European Principles”

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**PART I**

**Regular Section**





# Gender Differences in Implementing Organizational Change in Romania's Central Public Administration

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## ABSTRACT

The present study analyses the gender differences in implementing organizational change in Romania's central public administration, from a subordinates' perspective, in order to establish whether female leaders are more likely to adopt change in comparison to their male counterparts. The research methodology consists of an opinion survey conducted in the central public administration of Romania based on a questionnaire. The study reveals that female leaders are perceived in a positive, yet not in a better manner than men. They are considered transformational leaders capable of involvement in the process of organizational change of public institutions. There are no significant differences between the perceptions of men and women as leaders, although almost all the differences are in favour of men. The study shows a strong correlation between transformational leadership and leaders' capacity of implementing the management of change, the relationship being stronger in the case of female leaders who should continue to strengthen transformational behaviours.

*Keywords:* female leaders, female leadership advantage, organizational change, transformational leadership

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## 1 Introduction

Women have not always been perceived as suitable for leadership positions. In time, the perception about female leaders has changed and the topic has become attractive for researchers from different fields of study. Typically, the subject was treated in connection with phenomena like discrimination or stereotypes and concepts such as masculine values, the glass ceiling or gender segregation became prominent in many studies about gender, leadership, and discrimination conducted in the academic area and in other fields (see. Eagly, 2007; Eagly and Carli, 2003a, 2003b; Vecchio, 2002, 2003). The idea that women could use different leadership methods became rapidly the purpose of many studies which revealed contradictory results, ranging from the idea that women were not suited for being leaders because the female role was not congruent with the leader role (Eagly and Karau, 2002), to the point that women could become better leaders than men (Eagly, 2007; Eagly and Carli, 2003a, 2003b; Vecchio, 2002, 2003).

Many studies concluded that the qualities that female leaders exhibited and the leadership styles they used (primarily the transformational style) led to perceptions of women as efficient and better suited for leading modern organizations which present different characteristics from those in the past (Jogulu et al., 2006; Powell and Graves, 2003; Bass and Avolio, 1994; Eagly and Johnson, 1990, Eagly et al., 2003). Consequently, it is relevant to study perceptions about female leaders in the private sector as well as in the public administration in order to establish if women are considered suitable for leadership positions, and capable of assuming this role in an efficient and effective way. Such findings can enhance understanding of change generation and management in an environment extremely rigid to change and innovation.

In Romania, public administration is regarded as a feminine field where 66% of the public servants are women (National Agency of Civil Servants, 2019). Consequently, many leadership positions such as head of office, head of department or director, are occupied by female leaders (Profiroiu and Nastacă, 2018). This situation can have many causes. It could be a consequence of women's qualities, competencies and aptitudes in management or simply the presence of larger numbers of women among public servants. Many of them have raised through the ranks and reached senior positions in time.

In this context, the leadership styles of female leaders in public administration and their capacity of bringing change in a sector where innovation, progress, and modernization are hard to achieve due to the legal frame and bureaucracy, deserve to be studied. In addition, the role of female leaders in change management is important in the context of the public administration reform and this study will hopefully contribute to an exploration of factors at play in societies where reform is underway. Civil servants' perception about their female hierarchic superiors and these leaders' capacity of bringing change, could lead to improved understanding of female leaders' importance in the management of change and in the public administration reform.

## **2 Literature review**

### **2.1 Leadership and gender: from incongruity to female leadership advantage**

The connection between leadership and gender was approached in many research papers and it is still a matter of interest because the perception about female leaders has changed considerably. Moreover, the number of women in positions of high decision in the private and public sector as well as in politics is higher than ever. Despite the progress that has been made, there are still fields where gender equity does not exist and occupational segregation is still present.

Authors as Powell and Butterfield (1994) concluded that the lower presence of women in powerful positions was not to be accounted by women's lack of training in management or leadership, by lack of professional experience or because of discriminatory labor legislation. Therefore, the answer might be related to the differences between men and women in the way they lead (Book, 2000; Helgesen, 1990; Loden, 1985; Rosener, 1995). Another cause could be the "glass ceiling", a set of "invisible barriers" which prevent many qualified women to achieve leadership positions in organizations because of their gender (Morrison, et al., 1987). Other explanations could be the double standards of evaluation of female leaders (Foschi, 1996, 2000) or the way society apprehends the leadership and gender issues.

Other factors that could explain the reduced number of female leaders are culture, the position of women in society and the opinion about female leaders which is affected by stereotypes and social values. All these aspects have influenced the perception of women's effectiveness as leaders. Theories such as the role congruity theory (Eagly and Karau, 2002) or the expectation states theory (Berger et al., 1977; Ridgeway, 1997, 2011) support the idea that women are undervalued as leaders and their effectiveness is perceived as lower than it really is.

The literature regarding leadership and effectiveness revealed contradictory results. Some authors (e.g., Carroll, 2006; Eagly, et al., 1992) considered that men were more effective leaders than women, while others (Bass and Avolio, 1994; Loden, 1985; Book, 2000; Helgesen, 1990; Rosener, 1995) suggested that women could become better leaders than men. The latter's theory was based on the assumption that men and women practiced different leadership styles. More recent theories brought into discussion the potential existence of the female leadership advantage, based on the fact that women might lead in ways that are particularly effective in contemporary organizations, which display different characteristics from the past (Eagly et al., 2003; Eagly, 2007; Eagly and Carli, 2003a, 2003b; Vecchio, 2002, 2003; Omar and Davidson, 2001).

Another important aspect that should be considered when studying gender and leadership is the presence of stereotypes. According to some authors (Abele, 2003; Bakan, 1966; Fiske and Stevens, 1993), society expects women

to exhibit the so-called, communal traits. Society has associated women with qualities like modesty, kindness, tenderness, willingness to help and concern for others' well-being, which made them relationship-oriented. On the other hand, men have been perceived as being competent, aggressive, independent, decisive, and forceful. These are agentic traits that make them achievement-oriented (Abele, 2003; Bakan, 1966; Fiske and Stevens, 1993; Tost and Rosette, 2010). Therefore, such communal traits have disadvantaged women in leadership positions namely because that the image of a leader is automatically associated with the agentic traits exhibited by men (Eagly and Karau, 1991, 2002; Eagly, et al., 1995; Eagly, et al., 1992; Heilman, 2001). The fact that women's behavior is considered communal has caused a negative perception of female leaders because their gender role is considered incongruous with the leader role (Eagly and Karau, 2002). This incapacity of associating the image of a women with the image of a leader and research on role congruity, revealed that this perceived incompatibility has negative effects for women evaluation as regards leadership effectiveness (Eagly et al., 1995), leader emergence (Eagly and Karau, 1991), leadership abilities (Eagly et al., 1992), and the practiced leadership styles (Eagly and Johnson, 1990; Eagly and Johannesen-Schmidt, 2001; Eagly, et al., 2003).

In Romania's case, a valuable amount of studies addressing leadership and gender issues in the public administration could be identified, but they do not analyze either the leadership styles of men and women in the public administration' institutions, or the gender differences in the practiced leadership that might have positive impact on the management of change implementation, within these institutions. These researches aimed at identifying the causes of the lower representation of women in top management positions within the public institutions (Macarie and Moldovan, 2012) and focused predominantly on discrimination regarding access to public positions (Moldovan, 2016), investigating the presence of gender segregation in this area, or the reasons for women failures to break the glass ceiling and get access to decision-making positions related to the highest management levels (Macarie, 2006; Șandor et al., 2011; Macarie and Moldovan, 2012). Other studies analyzed the presence of women in positions with high power of decision in the Central Public Administration and their evolution during time with the purpose of revealing the presence of vertical and horizontal discrimination in this field and women success by breaking the glass ceiling and occupying the most important non-political positions from the top management of the public institutions, such as Directors (Moldovan, 2016; Profiroiu and Nastacă, 2018).

Another research regarding the presence of women in leadership positions from the Romanian public administration institutions (Macarie et al., 2011) revealed that the majority of the respondents considered that only in some cases women and men have equal opportunities regarding access to the positions with high power of decision within the public institutions and the presence of gender stereotypes and prejudices against female leaders from this field. Also, the study revealed the disadvantages that women in leadership positions in the public institutions might have, such as: less time spent with

family, stress, inevitable involvement in conflicts, taking responsibility for the team's mistakes, neglecting the time needed for rest, the hostile environment they have to face at certain times, less time spent in the organization than a man leader, excessive sensitivity and the fact that women give up faster when in a conflict (Macarie et al., 2011).

Other studies approached leadership and gender related to the organizational cultures (Macarie et al., 2008; Macarie et al., 2011) and the impact of organizational values (such as feminine and masculine values) on female leaders (Macarie and Moldovan, 2012). These studies revealed the most common obstacles encountered by women holding leadership positions, such as: the rigidity of the organizational culture, the indifference and apathy of the team, the need to demonstrate their skills and competences to their superiors, the outdated mentality, insufficient and incorrect information, lack of trust given by staff and superiors, which slows or blocks the communication process, resistance to change in organization, rejection of innovation and overcoming emotional reactions.

More than that, an important number of studies addressed the leadership topic in the Romanian public administration (Hințea, 2007; Stănescu and Roșca, 2010; Bibu and Moș, 2012; Țiclău, 2012; Mora and Țiclău, 2013; Hințea, 2015; Țiclău and Hințea, 2016; Nastacă, 2020; Profiroiu et al., 2020). Many of them analyzed the leadership styles practiced in the Romanian public administration, focusing on the transformational and transactional styles (Țiclău and Hințea, 2016; Filip, 2015; Țiclău et al., 2013; Stănescu and Roșca, 2010), without approaching the gender impact on the practiced leadership.

The relatively low number of studies linking leadership and gender in public administration in Romania created the opportunity to investigate whether women in public leadership positions have the necessary characteristics of efficient leaders, if they are perceived in a positive manner as being suitable to lead these institutions and to implement in a successful manner, the management of change. The originality of this research is that it focuses on the leadership styles of men and women from the Romania's Central Public Administration and their capacity of implementing the management of change.

## **2.2 Transformational leadership and gender- the key to organizational change**

Transformational leadership is characterized by the fact that the leader motivates followers to put the collective interest first, considering that employees are one of the most important resources in the organization. For this reason, the leader takes responsibility for their professional development. The usage of this leadership style requires a great attention to values, emotions, and stimulation of human resources' creativity in order to find innovative solutions to solve problems (Bass, 1999; Bass and Avolio, 2000; Garcia Morales et al., 2008a, 2008b). A leader will try to develop a professional and emotional connection with his followers, trying to inspire them and help them embrace the mission and organizational values. The transformational leader will use

charisma to gain the trust of his subordinates and inspire them, showing them why it is important to have a joint mission, giving a purpose, direction and meaning to their work (Bass, 1999). Organizational objectives are very important for this leader who will try to develop among his followers, the notion of commitment needed to achieve these goals and the best possible results (Bass, 1999; Bass and Avolio, 2000). Other characteristics of transformational leadership include promoting the idea of innovation in the organizational culture, searching and disseminating the best knowledge that can lead to increased organizational performance (Bass, 1999; Bass and Avolio, 2000). This leader is an adept of the intellectual stimulation of his followers, promoting lifelong learning, knowledge building, skills and competence development for employees to have different perspectives and find new solutions to prevent or solve organizational problems. This leader inspires his followers, shows them the trust and respect he has for the organization and culture, is proud to be associated with his organization, and will use charisma to generate these kinds of emotions and feelings among his followers (Bass, 1999; Conger, 1999; Bass and Avolio, 2000).

The leader encourages his followers to trust themselves, their leaders and their organization, motivates, develops a very good communication relationship and has high expectations of his followers (Bass, 1999; Bass and Avolio, 2000; Conger, 1999).

This leadership style is characterized by four dimensions that correlate between them: charisma or the idealized influence, inspirational motivation, intellectual stimulation and individualized consideration (Burns, 1978; Bass, 1985, 1998; Bass and Avolio, 1993).

The transactional leadership focuses on exchanges between leaders and their subordinates, the existing relationship between them being a cost-benefit relationship (Bass 1985, 1998, 2000, 2008; Burns, 1978). The central idea of this style of leadership is the transaction that takes place between leaders and followers. The relationship entails costs and benefits for both sides (Kuhnert and Lewis, 1987). As far as leaders are concerned, these exchanges enable them to meet their performance targets, to solve their tasks, motivate their subordinates, implement contractual provisions, find reward methods, avoid risks and focus on improving the organization's efficiency (McCleskey, 2014). As regards subordinates, this style enables them to fulfil their own interests and to focus on achieving organizational objectives such as increasing services and products' quality, reducing costs and increasing production (Sadeghi and Pihie, 2012).

As a result of this exchange relationship, subordinates will receive what they need (usually financial benefits) assuming that the leader is the one who knows the needs of his subordinates and what are the methods that motivate them the most. In order for the practice of this style of leadership to have positive effects, such as increasing efficiency or organizational performance, it is necessary that the group of followers to be motivated by this system of rewards and sanctions and recognize the leader's position of authority (Kuhnert, 1994; Mora and Țiclău, 2013).

In the case of transactional leadership, followers are motivated by the leader's promises, his praise and the rewards they receive. Deviations are corrected by negative feedback or disciplinary sanctions. The leaders react when their followers achieve what they have "transacted". In the type of behavior called the contingency reward, leaders either plot tasks or consult with their followers about what needs to be done, promising rewards and allocating the necessary resources. When leaders engage in active behavior (active management- by exception) they oversee the performance of their subordinates and correct their mistakes. When leaders engage in passive behavior (passive management- by exception), they will expect to be made aware of the mistakes made by subordinates and then take steps to correct them, giving negative feedback or reprimands (Bass and Steidlmeier, 1999).

The fact that the relationship between leaders and followers is based on exchange, does not only mean the extrinsic motivation of subordinates. Transactional leaders not only use material rewards, but depending on the needs and expectations of their subordinates, they provide the support they need. If the subordinate needs more intrinsic motivation, then the leader will also try to satisfy these needs, through recognition of merits, praise and respect shown for the work done.

The gender impact on leadership styles was emphasized in research about transformational and transactional leadership. Studies showed that transformational leaders exhibited "communal" traits, like individualized consideration and consequently, this style seemed to be more related to women (Eagly and Johannesen-Schmidt, 2001, p. 787). Authors (Van Engen et al., 2001, p.74) named this leadership style a "feminine" one because it focused on the „intellectual stimulation of the leader and the individualized consideration given to subordinates“, aspects considered to be attributes of the feminine gender.

These studies about transformational leadership style showed that the communal traits exhibited by female leaders had positive effects for contemporary organizations and could lead to female leadership advantage (Bass and Avolio, 1994; Dezso and Ross, 2008; Lowe and Kroeck, 1996). Another argument in favor of the female leadership advantage was generated by research on double standards of competence (Foschi, 1996, 2000; Tost and Rosette, 2010). The double standards of competence theory suggested that women in top management might receive favorable evaluations of their leadership abilities because performing such highly masculine roles meant they have already provided information about their abilities and must have been very competent to have attained success in a role that requires usually agentic traits.

Despite many studies on transformational and transactional styles, results remain inconclusive. Eagly et al.'s (2003) findings provided a better picture of the relation between gender and leadership styles. The results showed that women are more transformational and more committed to rewarding their employees (which is transactional leadership component) than men are and men's behavior was associated more often than women's with passive leadership styles: management by exception (active and passive) and laissez-faire.

Although these differences between the leadership styles of men and women were small, authors showed that men dominated in the whole study.

However, Kanter (1977) assumed that when women and men occupy the same hierarchic position they behave in similar ways, considering that they have the same leadership role. It follows that the differences between female and male leaders can be minimized or absent when they occupy the same hierarchic position. This situation may not become manifest in practice because gender roles continue to influence their behavior (Eagly and Johannesen-Schmidt, 2001).

These findings are important for measuring the perception about women and their capability of bringing change into organizations. If women are considered more transformational than men and transformational leaders are the most capable of bringing change into organizations (Bass, 1999), then female leaders should be perceived more positively as more capable of embracing and developing the change process, inclusively in public organizations.

### **2.3 Female leaders and the management of change**

In a continuously changing environment, it is impossible for organizations to survive, evolve and compete without embracing and implementing change on a daily basis. Continuous change in an organization requires "frequent, purposeful adjustments that are small but ongoing and cumulative in effect" (Weick and Quinn, 1999; Carter et al., 2012, p. 942, Brown and Eisenhardt, 1997).

Bass and Avolio, (1994) believed that women were transformational leaders, capable of bringing change in today's organizations which need to adapt in a continuously changing and evolving environment. The private sector has the necessary means to keep up with the continuous internal and external changes, but public administration is held on by bureaucracy, legislation, and an inflexible organizational culture. In this context, female leaders from public administration have to modernize a system conducted in an old fashion way, recognized for its resistance to change. Therefore, the transformational traits that women exhibit should address the precise needs of public administration institutions in order to achieve organizational change.

Studies on the subject showed that organizational change should be approached from both employees' and leaders' perspectives. Both sides should adapt their behavior in order to implement and maintain a changing process, until the moment when organizational change becomes a normal and usual phenomenon.

Feldman and Pentland (2003) argued that employees should modify both their work routines and social practices (such as attitudes and relations with managers and colleagues), in order to sustain the process of continuous change. Therefore, they must preserve the most effective work practices and integrate them with new and more efficient ones, in order to cope with the challenge of daily adaptation to change. As a consequence, employees often



face difficulties and tensions because they try to maintain their level of performance and at the same time, adapt to their new job requirements (Kanfer and Ackerman, 1989).

In the changing process, employees need support from their superiors, because they must adapt to the new realities of their work while being efficient and maintaining organizational performance, so superiors must act more like leaders and less like managers. (Bass and Riggio, 2006). Studies concerning leadership styles and organizational change showed a correlation between transformational leadership and effective management during the change process (Pawar and Eastman, 1997; Bass and Riggio, 2006). This happens because leaders who use transformational style are the only ones who "recognize the need for change, create and share compelling visions with employees, guide them through adaptations, and inspire them to accomplish the challenging goal of institutionalizing change" (Carter et al., 2012, p. 942; Bass, 1999).

Transformational leaders inspire, motivate, help employees to embrace change, to understand the importance of performance as well as the opportunities of developing their careers, raise the self-confidence, following the team's interest rather than the self-interest (Bass, 1999). Transformational leaders coach and guide, they raise respect and trust and consequently develop a strong relationship with employees (Liu and Batt, 2010). More than that, social exchange theory (Blau, 1964) considers that employees' behaviors are influenced by tangible and intangible rewards from their leaders (Graen and Uhl-Bien, 1995; Wilson, et al., 2010). On one hand, employees need financial rewards, but on the other hand they will behave in a certain manner if the leaders trust them, inspire, teach them or have understanding and supportive attitudes. Consequently, employees who developed good relationships with their hierarchic superiors should be more efficient, will achieve performance and will feel part of a team so they will support their managers and colleagues (Cropanzano and Mitchell, 2005). Other studies considered that high-quality relationships with the hierarchic superiors lead to performance (Gerstner and Day, 1997; Howell and Hall-Merenda, 1999) and organizational change behavior (Ilieş et al., 2007).

In conclusion, employees led by transformational leaders should react favorably to change as regards both their attitude and behavior, because of the powerful influence exerted by leaders.

### **3 Research Methodology**

The present study is underpinned by a series of theories regarding the gender differences in leadership styles (Carroll, 2006; Eagly et al., 1992; Bass and Avolio, 1994; Loden, 1985; Book, 2000; Helgesen, 1990; Rosener, 1995), the transformational and transactional leadership styles (Bass and Avolio, 1994), the relation between organizational change and transformational leaders (Bass, 1999) and on the idea that women and men behave similarly when occupying the same leadership positions (Kanter, 1977).

### **3.1 Aim and objectives of the research**

The aim of the study is to measure civil servants' perception about the role of female leaders in Romania's Central Public Administration in supporting and managing organizational change. The research process has tried to establish if female leaders are perceived as being more open towards the process of change or in a similar manner with male leaders, and if they are considered visionary transformational leaders who can bring novelty inside an inflexible and change-resistant system.

The main objectives of the study are:

Ob.1: To investigate the gender differences regarding leaders' capacity of implementing the management of change in Romanian Central Public Administration.

Ob.2: To establish if leaders' gender is a variable which influences the perception about their capacity of bringing organizational change.

Ob.3: To establish if the leadership style practiced predominantly in the public administration is the transformational one which would make the organizations more open to change.

Ob.4: To explore civil servants' perception about the organizational change implementation' phase in public institutions.

### **3.2 Research design and data collection**

The research methodology consists of an opinion survey which has been conducted using a questionnaire. The questionnaire was built by the authors and it was designed specifically for the Central Public Administration' authorities. Its purpose was to measure the civil servants' perception about their leaders' capacity of bringing change into the public administration, as well as about the change implementation phase underway in public institutions. The civil servants were asked to express their opinion regarding the attitude and behavior of their Directors/General Directors.

The institutions in the sample were selected through a convenience sampling method, which included the most accessible persons for research participation. The questionnaires were applied in 13 Ministries, four subordinated institutions in Romanian Central Public Administration and the General Secretariat of Government's Office.

The questionnaire consists of three parts. The first part contains six identification questions: age, the hierarchic position, seniority into the institution, seniority into the public function, gender, gender of the Director/General Director, as well as two questions about public servants' preference regarding their leaders' gender.

The second part contains four questions designed to measure the perception about leaders' capacity of bringing change into public institutions in view of

establishing if female leaders were more open towards change. The perception of the civil servants was measured through four dimensions: the attitude towards the human resource, the attitude towards change, the attitude with regard to the new problems and the practiced leadership styles. Each dimension included between four and eleven sub items which presented specific behaviors that Directors' might exhibit in the leading process.

The attitude towards the human resource was measured using ten items that presented leadership behaviors which characterize the relationship between leaders and their' subordinates. The respondents were asked to evaluate the frequency of these behaviors in leaders' general attitudes.

The attitude with regard to the new problems was measured by ten items that represented leadership behaviors which leaders might exhibit in face of new problems and in the solving process. In this case too, respondents were asked to evaluate the frequency of these behaviors in leaders' general attitudes. The items used for measuring these two dimensions are leadership behaviors specific to transactional and transformational leaders and were built based on the characteristics identified in the literature review concerning these leadership styles. The items were built starting from these theories, being adapted to the specificities of the public administration.

The items from the questionnaire are presented in section 3.2.1 along with the study's results. The practiced leadership styles dimension was measured using 11 sub items which were built in accordance with Burns, (1978), Bass and Avolio (1985) theories about transformational and transactional leadership styles. The questions measuring the practiced leadership do not replicate the items from the instrument created by Bass and Avolio to measure leadership and its outcomes (the Multifactor Leadership Questionnaire) (Bass, 1985; Hater and Bass, 1988; Bass and Avolio, 1990, 1993, 1994), but they were built starting from the characteristics of the transformational and transactional leaders, as presented in their theories (Burns, 1978; Bass, 1985, 1998, 2000, 2008; Avolio, 1999; Avolio and Bass, 2004; Bass and Avolio, 1993). Also, it should be mentioned that these leadership styles cannot be exhibited in the same manner as in the private organizations, consequently all the items were built considering public institutions specific characteristics. The sub items contained eight behaviors exhibited by transformational leaders, as well as two behaviors exhibited by transactional leaders. In order to create a more comprehensive picture of the leaders in the sample, a sub item which described a form of passive leadership was included.

The reason why the questionnaire's items were built based on the theories of the transformational and transactional leadership is that these styles are connected with organizational change process.

The attitude toward change dimension was measured through four questions regarding leader's behaviors concerning the process of change in the public institution and gender's impact on the organizational change process. These questions are meant to investigate civil servants' personal opinions. The items used in the questionnaire are presented in section 3.2.1 along with the results.

All the questions were designed to measure the frequency of the mentioned situations and behaviors in the leaders' general attitudes, using the Likert scale. The civil servants were asked to rate their' leaders' behaviors in those situations on a scale from one to five where the scale meant: 1-not at all, 2- to a small extent, 3- to a medium extent, 4- to a high extent, 5-to the highest extent. The five mentioned items from the scale are explained as it follows: 1 and 2 (not at all and to a small extent) represent a negative perception of the civil servants, 4 and 5 (to a high and to the highest extent) means that respondents have a positive perception related to their leaders and 3 (to a medium extent) represents a neutral perception.

The third part of the questionnaire contained two closed questions concerning the opinion of the civil servants with regard to the changing phase in which the public institution was as well as the changes that have been implemented.

### 3.2.1 Data collection

The questionnaire was administrated via email between January and June 2019. The civil servants voluntarily filled in the questionnaire after being assured of confidentiality and anonymity. The collected data were processed in SPSS. The results were used to validate the hypothesis of the study and to answer the research objectives.

Based on the literature review regarding the gender differences in leadership and especially on the studies regarding transformational leadership and gender, the following hypothesis have been designed:

*H1: As female leaders are considered to exhibit transformational behaviors more than men, consequently they should be perceived as being more open toward implementing change management process.*

*H2: Civil servants' perception on their leaders' capacity of implementing the management of change will be influenced by leaders' gender.*

*H3: The most exhibited leadership style in the Central Public Administration is the transformational one which will influence the process of organizational change.*

*H4: If civil servants' will perceive their leaders as being transformational leaders, it will be observed that they appreciate that the public institutions started to implement the change process.*

### 3.2.2 The main characteristics of the sample

In the Romanian Civil Service, based on the level of powers and attributions, the public functions are divided in: public functions corresponding to senior (high) civil servants, management public functions and execution public functions. The execution public functions are structured in professional grades based on the seniority in the occupied public position as it follows: beginner, assistant, principal and superior grade, which is the maximum level (The Administrative Code, 2019).

For the present research, the sample was formed by execution public servants and civil servants in management positions. 200 civil servants from 18 institutions responded to the questionnaire.

Regarding the structure of the sample, all the respondents occupied general class I public functions (university education at graduate level at the very least). The civil servants from management occupied positions of *head of office and head of department*, positions related to the middle and first-line management levels. The civil servants from the sample evaluated their Directors/General Directors' behaviors (leadership positions from the top management of the studied institutions) and not the behaviors of their direct hierarchic superiors.

As regards respondents' responsibilities, 181 (90.5%) were execution civil servants and 18 (9.5%) were civil servants in management positions. In terms of professional expertise, 12 respondents (6.06%) were beginners, 55 (27.78%) were assistants, 19 (9.60%) were middle officers (principal grade) and 112 (56.57%) were senior officers (superior grade) with over 7 years of experience in the public administration. Only two respondents preferred not to mention their professional grades.

As far as the tenure in the institution was concerned, 8% (16 respondents) had up to one year of experience, 30% (60 respondents) had between one and five years of experience, 9% (18 respondents) had between 5 and 7 years of experience and 53% (104 respondents) had over 7 years of experience.

Regarding the gender distribution of the respondents, 81% (162) were women and 19% (38) were men. 69% of the respondents (138) had women as Directors/General Directors and for 31% (62) the position was occupied by men.

## **4 Data analysis and main findings of the study**

### **4.1 Data analysis**

The collected data was coded and introduced in SPSS. The data were analyzed using Descriptive Statistics, Compare Means, as well as Linear Regression and Correlation functions. All the results were analyzed by comparing the means between the answers of the civil servants who were led by females and the ones who were led by males.

### **4.2 Main findings of the study**

#### **4.2.1 Female leaders' capacity of implementing organizational change**

The following section presents the results of the study as well as the hypothesis validation. At the beginning of the questionnaire the civil servants were asked about their preference regarding the Director's gender. Only 10% (21) wanted to be led by a female leader while 19% (37) preferred to be led by a man. For the majority of the respondents (71%), the leaders' gender was irrelevant.

The civil servants were also asked if they consider that the head of the institution in which they worked should be a man or a woman. The majority (73%) considered that gender was not important. Only 7% (14) considered that their institutions should be led by female leaders and 20% (41) by male leaders.

In the first section of the analysis, for each dimension through which the perception of the civil servants was measured (the attitude towards the human resource, the attitude towards change, the attitude in regard to the new problems and the practiced leadership styles), the responses of the civil servants were compared in terms of the Director's/General Director's gender in order to observe if there were significant differences between the opinions of the two groups. After comparing the means for each sub item of the four dimensions, composite variables were calculated for each dimension in order to observe if female leaders scored higher than men or not. After comparing the means between the two groups another composite variable (Variable Capacity of Change-VOC) was created by computing the average between the scores obtained by leaders on the four dimensions. The purpose was to compare the differences between the two groups concerning civil servants' perception of their leaders' capacity to implement the management of change within the public institutions from the sample. In order to test the first hypothesis (Female leaders are more open towards the change process), the Independent Samples T-Test was used.

**Table 1: Comparison of perception regarding the attitude towards human resources**

Attitude towards human resource	Director's gender		
	F	M	Differences
Rewards subordinates according to their performance	3.25	3.47	0.22
Involves subordinates in solving problems	4.17	4.21	0.04
Listens to and appreciates the ideas of the execution public servants	3.91	3.94	0.03
Discusses constantly to his/her subordinates about their problems and those of the institution	3.54	3.76	0.22
Treats the problems of the subordinates, directly and according to everyone's needs.	3.60	4.00	0.4
Encourages and allows subordinates to participate in training courses abroad	3.46	3.34	0.12
Organizes exchanges with other home or foreign institutions.	3.01	3.19	0.18
Encourages and takes measures to increase the number of experts and specialists from the directorate he/she is leading	3.60	3.63	0.03
The public servants from the institution are proud to be associated with the image of the institution	3.67	3.85	0.18
Uses non-financial motivation techniques	3.25	3.44	0.19

Source: authors

It could be observed that there were no significant statistical differences between the two groups under analysis (0.03- 0.22 points). For 9 of the sub items, the differences were in favor of male leaders while women scored higher for one sub item only. The comparison showed that the civil servants considered that their leaders behave almost in the same manner in relation to human resources, exhibiting the specific behaviors from a medium to a high extent.

**Table 2: Comparison of perception concerning the attitude with regard to the new problems**

The attitude with regard to the new problems	Director's gender		
	F	M	Differences
Uses brainstorming for problem-solving	3.19	3.23	0.04
Makes decisions after consultation with the subordinates	3.34	3.42	0.08
Is open for innovative solutions which can bring change into the institution	3.72	3.92	0.2
Uses innovative solutions, different from the solutions applied to the old problems	3.53	3.71	0.18
Solves problems in a manner which can generate long term changes	3.57	3.89	0.32
Initiates innovative projects in order to prevent new problems	3.54	3.82	0.28
Implements innovative projects in order to prevent the occurrence of new problems in the long term	3.56	3.82	0.26
Prefers to make decisions by herself/himself without taking into account the opinion of her/his team.	2.85	2.97	0.12
Organizes meetings with the subordinates in order to debate the emerging problems.	3.55	3.65	0.1
Includes the opinions of the civil society in his/her decisions.	3.11	3.39	0.28

Source: authors

As far as the perception concerning leaders' attitude with regard to emerging problems, there were no significant differences between the two groups (0.01-0.32 points). Male leaders tended to score higher than women did to all presented items but it could not be established whether they treated the new problems differently from women. Both groups exhibited that behavior to a small or medium extent. The data showed that the civil servants considered that both types of leaders exerted the mentioned behaviors from a medium to a high extent, except for one case.

**Table 3: Comparison of perception regarding the practiced leadership styles**

The practiced leadership styles	Director's gender		
	F	M	Differences
He/she involves in solving problems only when they got very serious (passive)	2.64	2.85	0.21
Prefers to prevents rather than solve (transformational)	3.61	3.68	0.07
Appoints explicit assignments to the subordinate civil servants. (transformational)	3.93	4.13	0.2
Pursues the errors, mistakes, irregularities or deviations of the subordinates. (transactional)	3.59	3.90	0.31
He/She is interested in the necessities of every subordinate. (transformational)	3.53	3.76	0.23
Considers that every person from his/her team has different needs, expectations, and competencies. (transformational)	3.67	3.73	0.06
He/ She confident that the objectives of the organization can be achieved. (transformational)	4.11	4.06	0.05
Uses satisfying managing daily activities. (transformational)	3.62	3.85	0.23
Rewards the execution civil servants through non-financial instruments. (transactional)	3.15	3.23	0.08
Suggests new approaches of solving problems. (transformational)	3.54	3.76	0.22
Involves directly in solving the problems. (transformational)	3.99	4.18	0.19

Source: authors

In order to observe the leadership styles used in the public institutions, 11 behaviors were presented to the sample asking them to rate their leaders' attitude on a scale from 1 to 5. The results showed no significant differences (0.07-0.31 points) between the attitudes of men and women. The small differences were in favor of male leaders, apart from one case: the transformational behavior, namely inspiring confidence in goal achievement. The results were partially in accordance with Eagly et al. (2003) who stated that men tend to be associated more often with the passive leadership behavior while „women are more transformational and more committed to rewarding their employees” (p.578) which was not proven in this case. In the present situation, the differences between the leadership styles of men and women were small, but in favor of male leaders, which was in contrast with Eagly et al. (2003) who observed that gender differences were small, but in women's favor.



**Table 4: Comparison of perception regarding the attitude towards change**

The attitude towards change	Director's gender		
	F	M	Differences
Do you believe that your leader has been implementing changes since he/she has occupied this position?	3.41	3.37	0.04
Do you evaluate that the changes implemented by your Director as being positive?	3.43	3.56	0.13
Do you believe that your director is leading in a different manner than the old one?	3.47	3.56	0.07
Do you believe that the director's gender influences the organizational change?	2.88	3.04	0.16

Source: authors

Regarding the attitude towards change, female leaders scored higher at the first subitem but for the whole dimension, the differences between the two groups were not significant. The civil servants' opinion was that the director's gender influences the organizational change process only to a medium extent.

**Table 5: Comparison of perception regarding the four dimensions of the organizational change**

	Director's gender	N	Mean	Std. Deviation	Std. Error Mean
Attitude towards human resource (V1)	F	138	3.5449	.98448	.08380
	M	62	3.6823	.92851	.11792
Attitude with regard to new problems (V2)	F	138	3.3949	.95584	.08137
	M	62	3.5806	.83780	.10640
Practiced leadership styles (V3)	F	137	3.5806	.86217	.07366
	M	62	3.7390	.83360	.10587
Attitude towards change (V4)	F	138	3.3007	1.10414	.09399
	M	62	3.3871	1.15382	.14654

Source: authors

Table 6: The Independents Samples T-Test's results

Independent Samples Test										
F		Levene's Test for Equality of Variances		t-test for Equality of Means						
		Sig.	t	df	Sig. (2-tailed)	Mean Difference	Std. Error Difference Lower	95% Confidence Interval of the Difference		
								Upper		
V1	Equal variances assumed	.860	.355	-928	198	.354	-.13733	.14793	-.42906	.15440
V2	Equal variances assumed	.985	.322	-1.319	198	.189	-.18572	.14083	-.46343	.09199
V3	Equal variances assumed	.002	.969	-1.212	197	.227	-.15838	.13063	-.41599	.09923
V4	Equal variances assumed	1.022	.313	-.505	198	.614	-.08637	.17119	-.42396	.25121

Source: authors

The T-Test showed that the first hypothesis (*As female leaders are considered to exhibit transformational behaviors more than men, consequently they should be perceived as being more open toward implementing change management*) was not validated, considering that the level of Significance was higher than 0.05 which meant that there were no significant differences between the two groups. The civil servants considered that their leaders' capacity of bringing change was almost the same irrespective of gender. The results were in accordance with Kanter's theory (1977) who states that women and men who occupy the same hierarchic position behave in similar ways, due to fulfilling the same leadership role.

Even if female leaders scored less, on the whole, it could be observed that they were evaluated in a positive manner by their' subordinates. The findings are in line with the double standards of competence theory (Foschi, 1996, 2000) which states that women from top management might receive favorable evaluations about their behavior because performing these highly masculine roles meant that they had already provided information about their abilities and must have been very competent to occupy positions with such high power of decision, generally associated with masculine gender.

#### 4.2.2 Gender influence on the organizational change process

The second section of the analysis presents the relationship between organizational change and leaders' gender. Even if the previous showed that both female and male leaders are perceived in a similar manner, civil servants' opinion on gender influence needs to be further investigated. In order to test the second hypothesis (*Civil servants' perception on their leaders' capacity of implementing the management of change will be influenced by leaders' gender.*), a correlation between the composite Variable Organizational Change and civil servants' answers about gender influence on the organizational change has been computed. The results showed that despite perceptions of similar behavior regard gender, the civil servants considered gender as a variable which influenced the process of change. The findings could indicate the presence of stereotypes (Abele, 2003; Bakan, 1966; Fiske and Stevens, 1993) that lead to different expectations and opinions in regard to leader's behavior according to their gender.

**Table 7: Correlation between leaders' gender and their capacity to implement change**

Correlations				
Director's gender			The perception of gender influence on organizational change.	VOC
F	The perception of gender influence on organizational change.	Pearson Correlation	1	.429**
		Sig. (2-tailed)		.000
		N	138	137
	VOC	Pearson Correlation	.429**	1
		Sig. (2-tailed)	.000	
		N	137	137
M	The perception of gender influence on organizational change.	Pearson Correlation	1	.510**
		Sig. (2-tailed)		.000
		N	62	62
	VOC	Pearson Correlation	.510**	1
		Sig. (2-tailed)	.000	
		N	62	62

\*\* . Correlation is significant at the 0.01 level (2-tailed).

Source: authors

The data indicate a relationship between the leaders' capacity of implementing organizational change and their' gender, which validated the second hypothesis. The relation is a moderately positive one. The results showed that the civil servants considered that the Directors' gender could influence their' capacity of bringing organizational change even if they did not express this belief when they evaluated their leaders' behaviors.

#### 4.2.3 Transformational leaders and organizational changing process

In the next section, the third hypothesis (*The most exhibited leadership style in the Central Public Administration is the transformational one which will influence the process of organizational change*) was tested, using a regression model. The purpose was to investigate, a likely relation between the capacity of change (namely VOC variable) and the practiced leadership styles. The hypothesis validates as the results showed that the most frequently exhibited behavior was the transformational one. In addition, a strong relation between transformational leadership and the capacity of change was established. The data also showed the potential existence of the female leadership advantage. Even if currently women and men present almost the same leadership behavior, the higher impact of transformational behavior on women's capacity to implement change revealed by the regression model may indicate that in the future, women might be perceived as being better leaders than men

**Table 8: Comparison between the leadership styles exhibited by gender**

Gender of the Director		Mean	Std. Deviation
F	VOC	3.4518	.84695
	Transformational behavior	3.7482	1.03489
	Transactional behavior	3.3759	.97162
	Passive behavior	2.65	1.337
M	VOC	3.5973	.79755
	Transformational behavior	3.8931	.96317
	Transactional behavior	3.5645	1.01418
	Passive behavior	2.85	1.377

Source: authors

The data show that the leaders in the sample exhibited primarily transformational behaviors, followed by transactional behaviors. The differences between groups were not significant and were in men's favor. It could be observed that men scored higher in passive behavior, too. It could also be observed that men also scored higher at the capacity of implementing the management of change. The civil servants considered that their leaders were capable of changing the organization from a medium to a high extent. Even

if women did not score higher, they were perceived in a positive manner as being capable of implementing change almost as men were. The findings are important considering the process of public administration reform as the leaders are perceived as being opened to change, trying to use innovation and new ways of managing.

**Table 9: Correlation between leadership behaviors and leaders' capacity to implement organizational change**

		Director's gender	VOC
F	Pearson Correlation	VOC	1.000
		Transformational behavior	.908
		Transactional behavior	.784
		Passive behavior	-.261
	Sig. (1-tailed)	VOC	.
		Transformational behavior	.000
		Transactional behavior	.000
		Passive behavior	.001
	N	VOC	137
		Transformational behavior	137
		Transactional behavior	137
		Passive behavior	137
M	Pearson Correlation	VOC	1.000
		Transformational behavior	.793
		Transactional behavior	.643
		Passive behavior	-.004
	Sig. (1-tailed)	VOC	.
		Transformational behavior	.000
		Transactional behavior	.000
		Passive behavior	.489
	N	VOC	62
		Transformational behavior	62
		Transactional behavior	62
		Passive behavior	62

Source: authors

**Table 10: The regression model for leadership behaviors and leaders' capacity to implement organizational change**

Gender of the Director		R	R Square	Adjusted R Square	Std. Error of the Estimate	Change Statistics				
						R Square Change	F Change	df1	df2	Sig. F Change
F	1	.920 <sup>a</sup>	.846	.842	.33612	.846	243.497	3	133	.000
M	1	.815 <sup>c</sup>	.664	.647	.47377	.664	38.290	3	58	.000

a. Predictors: (Constant), Passive behavior, Transactional behavior, Transformational behavior

b. Dependent Variable: VOC

c. Predictors: (Constant), Q11.1, VTR, VTZ

ANOVA <sup>a</sup>							
Gender of the Director	Model		Sum of Squares	df	Mean Square	F	Sig.
F	1	Regression	82.530	3	27.510	243.497	.000 <sup>b</sup>
		Residual	15.026	133	.113		
		Total	97.557	136			
M	1	Regression	25.783	3	8.594	38.290	.000 <sup>c</sup>
		Residual	13.018	58	.224		
		Total	38.802	61			

a. Dependent Variable: VOC

b. Predictors: (Constant), Passive behavior, Transactional behavior, Transformational behavior

c. Predictors: (Constant), Passive behavior, Transactional behavior, Transformational behavior

Coefficient <sup>a</sup>									
Gender of the Director	Model	B	Std. Error	Unstandardized Coefficients		Standardized Coefficients		t	Sig.
				Beta					
F	1	(Constant)		.428	.148			2.880	.005
		Transformational behavior		.623	.047	.762	13.383	.000	
		Transactional behavior		.184	.047	.211	3.927	.000	
		Passive behavior		.026	.024	.040	1.082	.281	
M	1	(Constant)		.834	.294			2.832	.006
		Transformational behavior		.534	.083	.645	6.416	.000	
		Transactional behavior		.187	.080	.238	2.335	.023	
		Passive behavior		.006	.046	.010	.130	.897	

a. Dependent Variable: VOC

Source: authors

The data showed that the variation of the independent variables (the leadership styles) influenced the variation of the dependent variable (organizational change) in a proportion of 84% in women's case and 66% in men's case. The Beta Standardized Coefficients indicated a strong relation between transformational behaviors and the capacity of change (76% in women's case and 64% in men's case). The data showed no significant relationship between passive and transactional behavior and leaders' capacity of change in men's case. In women's case, the relationship between transactional style and the capacity of change was positive, but weak.

#### 4.2.4 Institutional change

The last hypothesis assumed that *if civil servants' will perceive their leaders as being transformational leaders, it will be observed that they appreciate that the public institutions started to implement the change process*. The hypothesis was validated by computing the frequencies of the civil servants' responses to the question: "In which phase of the changing process do you appreciate that the institution is?".

**Table 11: The perception about the institutional change phase**

		Frequency	Percent
Valid	At the beginning	17	8.5
	Intermediary phase	80	40.0
	Advanced phase	66	33.0
	No changes	37	18.5
	Total	200	100.0

Source: authors

The frequencies of responses showed that the majority of the respondents (40%) considered that the institution in which they were working was in an intermediary phase of change implementation and 33% that the institutions were already in at advanced phase of implementing organizational change.

### 4.3 Discussions

The study revealed female leaders are perceived as being transformational leaders almost to a high extent. They also exhibit transactional traits from a medium to a high extent. The findings are in accordance with Bass and Avolio (1994) who considered women as transformational leaders, suited and capable of changing the contemporary organizations. Women also scored less than men at the passive leadership, as Eagly et al. (2003) suggested in their analysis, but the results are not in accordance with the authors' findings, female leaders being perceived less transformational as men. The perception about female leaders is that they exhibit almost the same leadership behav-

iors than men do, even if they were not considered more transformational. The findings are in concordance with Foschi's (1996, 2000) theory regarding the double standards of competence. As female leaders managed to occupy positions with power of decision it is possible that they already proved their competencies and aptitudes. Consequently, gender does not influence anymore the way that female leaders are perceived. The fact that both types of leaders are perceived as behaving almost in the same manner is in accordance with Kanter's theory (1977) which suggested that men and women behave in a similar manner when they occupy the same hierarchic positions.

Even if, theoretically, there were small differences between the behaviors of the two compared groups, the fact that those differences were in men' favor could show that stereotypes are still present in the opinions of the public servants regarding their leaders' behaviors, but at lower intensity. The research showed that women are not perceived negatively and that they are considered suitable for leadership positions. The small difference of perception could indicate that the civil servants do not regard the female leaders as better than male leaders.

Also, the civil servants considered that the top executives had the capacity of changing the organizations from a medium to a high extent. Even though the study did not show that women as leaders are embracing change faster and more efficiently than men, the results suggested that in the future the female leadership advantage might appear. The fact that women exhibited mostly transformational behaviors has shown both their ability to change public organizations and their' important role in public sector reform. The strong relationship established between the transformational behaviors and the capacity of change indicates that women are open to change to a similar extent to men. The fact that the relationship was stronger in women's case indicates that if women continue to exhibit transformational behaviors, they can truly become better leaders. The research showed that women leader's characteristics have been positively appreciated by their' subordinates, which indicated as other authors suggested (Bass and Avolio, 1994; Dezso and Ross, 2008; Lowe and Kroeck, 1996) that the communal traits exhibited by women are suited for the modern public sector organization.

Another finding which is in women' favor is the fact that the civil servants considered that the organizational change process is influenced by gender to a medium extent, which might be a chance for women to prove that they could become innovative leaders.

Also, the majority of the civil servants (over 70%) considered that the public organizations are in intermediary and advanced phases of the changing process which leads to the idea that leaders are approaching the managing process from a different perspective, including innovation and new manners of leading.



## **5 Conclusions and research limitations**

A limitation of the present research was the fact that not all the ministries from the Central Public Administration were involved in the study. Wider participation could have provided a better picture of the female leaders' capacities of implementing the organizational change.

Another limitation can reside in the unbalanced structure of the sample. The sample should have been more balanced with at least 60% of the respondents being led by female leaders and 40% by male leaders as to respect the structure of civil servants' population in the Romanian Public administration. Also, the massive presence of execution public servants into the sample (90%) has possibly generated an uneven distribution of the answers. The balanced participation of execution and senior civil servants would have created a more realistic perception of leadership behaviors. As the civil servants from management positions are closer to the Directors/General Director their opinion might differ from the execution civil servants'. The study could be usefully conducted at the level of Local Authorities where the situation may be different as most of the Director positions are held by men. Another limitation could be the fact that the research is a study of perception, consequently it cannot be affirmed for certain that leaders' behaviors influence the process of implementing change, but rather that this is civil servants' personal opinion. Also, leaders' gender impact on organizational change process is also a matter of perception which reveal the presence of gender stereotypes inside the studied institutions, but at a low intensity. Therefore, these findings might not be similar in other organizations where gender stereotypes could be present at a lower intensity.

The main findings of the study have positive implications for female leaders in the context of public administration reform. Because women are the majority of the civil servants (66% according to the National Agency of Civil Servants, 2019), a positive perception about their leading behaviors leads to the idea that they have the necessary qualities for occupying positions with high power of decision. Previous studies have shown that men have certain prejudices towards female leaders and would evaluate them in a less positive manner (Ayman et al., 2009; Norris and Wylie, 1995; Tomkiewicz and Adeyemi-Bello, 1995). Also, other authors have observed, that women would have negative perceptions of female leaders, more than men (Garcia-Retamero and López-Zafra, 2006; Parks-Stamm et al., 2008; Rudman, 1998) and for this reason, they would not associate effective leadership behaviors and characteristics with the feminine gender. In feminine working areas these prejudices could be more observed. In the institutions, the results are in women's favor because they are perceived in similar manners with their male counterparts. The study's results have positive implications for the Central Public Administration because it is important that civil servants' to be led by persons in whom they trust and about whom they have positive opinions. This will make them accept easier the process of organizational change.

Even if they are not considered better leaders than men, the differences of perception regarding the two types of leaders shows that women's position have improved and they acquired the necessary skills for leading in modern and transformational ways. Organizational change is part of the public administration reform, so if the positions with power of decision are held by effective leaders which try to use innovation as much as they can, it could be stated that the public institutions are starting to change and to react in a different manner as from the past.

The perception of the civil servants regarding the stage of change implementation in public institutions showed, that the public administration is starting to become an environment less and less characterized by rigidity and resistance to change. Even if bureaucracy still exists and the legislation should be adapted in order for the public administration to adapt and evolve in today's flexible environment, the fact that the civil servants from top management are trying to implement the management of change shows that the administrative reform started.

Even if the civil servants have not had a preference regarding their leaders' gender, they considered that gender is important when implementing organizational changes. Taking into consideration that women are being considered transformational leaders who approach the problems in innovative ways, they have the chance to be perceived as better leaders than men and female leadership advantage to be present into the public sector. For this to happen it is recommendable that female leaders adjust their leading behaviors. They should try to find more non-financial motivational techniques to inspire the civil servants and make them more involved in their activities. Also, they should exhibit more their communal traits and pay attention to their subordinates needs. As a motivation technique, female leaders should encourage and allow more the attendance of the civil servants at courses, trainings and experience exchanges with other public institutions. This will facilitate the know-how transfer, helping the organization to develop and implement the positive aspects from other organizations. The civil servants should be more involved in the decision-making process. The civil servants from top management should organize much more brainstorming sessions because the civil servants would feel useful and involved so the quality of their work would improve. Another aspect which should be changed is the fact that leaders tend to pursue errors and mistakes to a high extent, which will not lead to a high quality of work and will not improve the relationships between leaders and subordinates.

In conclusion, because the female leaders from Romania's Central Public Administration are considered transformational leaders, who use innovation and try to implement the management of change, they have the opportunity to become better leaders in the future. The civil servants' perception that top managers' gender influences the organizational change process is in men's favor and suggests that women should improve their leading behaviors trying to exhibit more, their communal traits. The positive perception of female

leaders shows that they are capable of reforming the public organizations, but they still have to show more, their abilities and competencies.

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# Predictions of State and County Top Civil Servants Regarding the Abolition of County State Administration Offices: Two Sides of the Same Coin?

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## ABSTRACT

In January 2020, county state administration offices, as first-line state administration offices in Croatia, were abolished and their competences transferred to county second-level units of local self-government. This organizational change represents administrative decentralization. The purpose of this article is to examine whether there are any differences in the predictions regarding the effects of this organizational change between two groups of civil servants: state civil servants (heads of county state administration offices and heads of their internal organizational units) and county civil servants (heads of county organizational units), and which are the factors that shape their predictions. A questionnaire was sent to the respondents in June 2019. The statistical analysis of the data (response rate 52%) shows a statistically significant difference between the predictions of the two groups in relation to all four categories of effects of this organizational change (inputs, processes, outputs, and outcomes). There is only one point where there is no difference: both groups agree that the county governor's role will grow. The difference in predictions is explained by two factors of cognitive biases: the organization's interest to survive and expand its power, and uncertainty (strategic, structural, and job-related). The paper offers an academic contribution to the field of administrative decentralization by giving insights into the predictions of different actors on the effects of such change before its implementation

and by introducing factors of cognitive biases as explanations for discrepancies in the predictions.

*Keywords:* civil servants' predictions, abolition of county state administration offices, administrative decentralization, factors of cognitive biases

*JEL:* H83

## 1 Introduction

Reallocation of public tasks among different levels of government through decentralization measures is a trend that has been characterizing European states for the last few decades. European countries pursue different strategies of reallocation of public tasks, varying from political and administrative decentralization to deconcentration. While political decentralization relates to the complete transfer of state functions to local self-government units whose democratically elected representative bodies have full powers over their regulation, financing, and execution, administrative decentralization represents only a moderate way of restructuring intergovernmental relations in which local self-government units do not have regulatory powers over the transferred state functions. Administrative decentralization is called incomplete, false decentralization and it leads to differentiation between two groups of local self-government affairs: delegated affairs (*übertragen*) that local units execute for the state government under restricted autonomy, and self-governing affairs that local units autonomously regulate and execute. Deconcentration involves the transfer of state administration tasks from the central level to local level state administration organizations (Kuhlmann et al., 2014, pp. 205-207). The effects of such intergovernmental changes, especially those related to the performance of decentralized/deconcentrated tasks, have been the subject of a considerable amount of recent research aimed at conceptualizing decentralization effects and testing them in a series of empirical studies of decentralization effects in European countries (Reiter et al., 2010; Kuhlmann and Wollmann, 2011; Ebinger et al., 2011; Kuhlmann et al., 2014; Kuhlmann, 2015; Ebinger and Richter, 2015; Kuhlmann and Wayenberg, 2016).

After a decade of "decentralization silence", Croatia's new State Administration System Act adopted in June 2019 introduced changes in Croatian intergovernmental settings. County state administration offices, as first-instance state administration bodies, were abolished and their tasks (except for supervisory and inspection tasks that were linked to central state administration) were transferred to the counties – Croatian second-level local self-government units. The tasks were transferred to the counties' delegated scope of competence, authorizing counties only for their execution while the central state retained its regulatory authority over the transferred tasks. The transfer of tasks to county government represents an organizational change in the form of administrative decentralization. This paper aims to assess whether the predictions of state (heads of county state administration offices and heads of their internal organizational units) and county (heads of counties'

organizational units) civil servants regarding the effects of administrative decentralization differ and what factors shape these predictions.

The paper assumes that subjective factors which have been recognized as important in shaping civil servants' attitudes, behaviors, and judgments (Battaglio et al., 2018) influence their predictions, resulting in the different views that state and county civil servants hold on this organizational change. The two factors of cognitive biases considered to be relevant for creating different predictions of state and county civil servants, drawn from organization theory, are (i) the organization's interest to survive and expand its power, and (ii) uncertainty as a feature of every organizational change. Analysis of these factors enabled the formulation of a theoretically grounded hypothesis that the predictions of state and county civil servants on the effects of this organizational change would differ.

The categorical apparatus used to conceptualize indicators to measure civil servants' predictions is derived from the literature on the performance evaluation of decentralization measures (Reiter et al., 2010; Kuhlmann and Wolmann, 2011; Ebinger et al., 2011; Ebinger and Richter, 2015; Kuhlmann, 2015; Kuhlmann and Wayenberg, 2016) and upgraded by new indicators. The predictions of civil servants are examined concerning four categories of effects (inputs, processes, outputs, and outcomes). The data on civil servants' predictions were gathered by a questionnaire sent to the heads of the respective organizational units in June 2019, a few months before the organizational change was implemented. The response rate to the questionnaire was 52%. The gathered data were statistically analyzed to determine whether there is a statistically significant difference between the answers of the two groups of respondents.

The theoretical contribution of the paper is twofold. First, it gives an overview of the factors of cognitive biases that might shape the predictions of state and county civil servants on the effects of the organizational change. Second, it contributes to the body of literature dealing with decentralization, particularly administrative decentralization, by offering insights into predictions related to the effects of administrative decentralization conducted in the Croatian context.

## **2 Abolition of county state administration offices and administrative decentralization in 2019**

Until January 2020, the Croatian state administration system comprised central (ministries, state administration organizations, and state offices) and first-instance (county state administration offices - *uredi državne uprave u županijama*) state administration bodies. County state administration offices as first-instance state administration bodies were established in 2001 and were organized in each county to act in parallel with the institutions of county self-government administration. The county state administration offices' legal status was regulated by state administration system acts (Official Gazette

nos. 75/93, 48/99, 15/00, 127/00, 59/01, 119/03, 79/07; Official Gazette nos. 150/11, 12/13, 93/16, 104/16) and Government decrees. The head of county state administration offices (*predstojnik*) was appointed by the Government on the proposal of the Minister of Public Administration based on public recruitment and the offices were responsible to the Ministry of Public Administration. Mostly, they were internally organized into four or five organizational units. An analysis of their institutional development showed that their role in territorial management had been decreasing over time, both in relation to their personnel and financial capacity and their scope of competence so the abolition of the offices might be considered as the natural end of their institutional path (Lopžič, 2020). According to an analysis of their scope of competence (Lopžič, 2020), there were 69 tasks assigned to county state administration offices in 2018, most of them in the area of general administration, education, culture, and social services. Unlike other first-instance state administration bodies in European countries that perform more tasks of a planning and coordinative character (see Bjorna and Jenssen, 2004; CoE, 2015), almost all of the tasks performed by county state administration offices were of an implementing nature. An insight into county state administration offices' actual activities shows that they were predominantly engaged in general administration and resolving citizens' status rights (83.1% of resolved cases in 2015) (Ministry of Public Administration, 2016). Thus, the role of county state administration offices consisted of the execution of very detailed and exhaustive state regulations without any influence on the policy-making of the central state or their adaptation to specific local interests or groups of users (Lopžič, 2020).

Counties (*županije*), as second-level local self-government units in Croatia, were created in 1993. The status of the counties is regulated by the Act on Local and Territorial (Regional) Self-Government (Official Gazette, nos. 33/01, 60/01, 129/05, 109/07, 125/08, 36/09, 36/09, 150/11, 144/12, 19/13, 137/15, 123/17, 98/19, 144/20) and they are headed by the county assembly (*županijska skupština*) as a legislative body, and a directly elected governor (*župan*) as an executive body. Although Croatia has five historical regions (Koprić et al., 2017), twenty counties were created to weaken the local self-government system and create units easily controllable from the centre. The territorial boundaries of counties were tailored according to political necessities, resulting in great disparities in their size, population density, and economic activity (Koprić, 2010, p. 672). The Croatian local self-government system is still highly centralized with an overall share of local self-government units in public expenditure of 26% (UCLG, 2016). The counties' share is even lower than those of local units: in 2018, they had a share of 15.3% in total local revenues and 15.6% in total local expenses (Ministry of Finance, 2019) which indicates their low financial capacities. Their capacity varies considerably among counties (Croatian Chamber of Commerce, 2018, p. 5). An examination of their internal organizational structure and the number of county civil servants per county inhabitant shows great disparities among counties in these aspects, too (Đulabić, 2018).

Counties have so far been the main “winners” of decentralization measures in Croatia (Koprić and Đulabić, 2018, p. 255). They took over decentralized tasks in firefighting (1999), healthcare, education, and social care (2001), the issuing of building permits, spatial planning, and maintenance of public roads (2007), and environmental protection (2008 - onwards). However, these decentralization measures represented “false decentralization”, leaving counties and other local units that took over the tasks without real influence on the provision of decentralized tasks and not changing to any great extent their position regarding decentralized functions (Koprić, 2014, p. 139). The evaluations of decentralization measures show that counties are highly dependent on central state grants for decentralized functions to become “financial branches of the state” (Jambrač, 2017, p. 212), with growing disparities in their capacity to perform decentralized tasks (Jambrač, 2017) which has ultimately led to increasing social inequalities (for social services) (Babić, 2018). The very existence of counties, their poor performance, and the necessity to transform them into real regions has been a topic of discussion since their creation in 1993.<sup>1</sup>

The county state administration offices were abolished in January 2020 and their competences were transferred to the county (*županije*) delegated scope of competence. The abolition of the offices was introduced by a new State Administration System Act (SASA - Official Gazette, no. 66/19) adopted in June 2019 that was followed by the amendments of sectoral laws in October 2019. The aims of the abolition of county state administration offices were decentralization by the transfer of tasks to the counties’ delegated scope of competence and rationalization of the state administration system by reducing the number of state administration bodies and state civil servants (Croatian Government, 2019, p. 20). Counties took over all the tasks performed by the offices, except supervisory and inspection tasks that were affixed to central state administration bodies, as well as nearly 2,000 officials working in the offices. Due to this organizational change, the number of county civil servants almost doubled.<sup>2</sup> According to the SASA, the county governor, as the holder of executive power in the counties, is responsible for the execution of the transferred tasks (Art. 35 SASA). The execution of the transferred tasks is supervised in the regime of administrative supervision where central state bodies are entitled to supervise the legality and regularity of the work and treatment of citizens and other parties, and civil servants’ competence for the direct performance of state administration tasks (Art. 25 SASA).

### **3 Theoretical framework and hypothesis**

The main research question of the paper is whether the predictions of state and county civil servants on the effects of the abolition of county state ad-

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1 For an overview of such arguments, see Koprić et al., 2017, pp. 61–69.

2 In 2018, 2,276 people were working for county government (Ministry of Finance, 2019) compared with almost 2,500 people working for county administration offices.

ministration offices and the transfer of their tasks to the counties' delegated scope of competence differ and, if so, which factors shape the predictions.

Predictions, as the estimations of future events, are based on the objective knowledge of a certain phenomenon and existing circumstances and their causal relation with future outcomes. Reasoning based on knowledge, information, experience, and logical evaluation is emphasized by rational choice and decision-making theories that view individuals as rational actors who behave in conditions of perfect certainty. The rational model of human behaviour is contested in behavioural studies (Barros, 2010; Wheeler, 2018) as well as in organization theory, resulting in the concept of bounded rationality due to the limited knowledge and computational capacity of organizational members (Simon, 1990). Comparative empirical studies on the effects of decentralization indicate that national specificities, especially the main features of local self-government systems and the nature of transferred tasks, play a great role in the realization of decentralization effects (Reiter et al., 2010; Kuhlmann and Wollmann, 2011; Ebinger et al., 2011; Kuhlmann et al., 2014; Kuhlmann, 2015; Ebinger and Richter, 2015; Kuhlmann and Wayenberg, 2016). Reasoning, even in the context of bounded rationality, based on objective factors about the main features of Croatian local self-government systems and the nature of tasks transferred from county state administration offices to counties should lead to similar predictions by both state and county civil servants. Taking into account the characteristics of Croatian territorial government, it could be assumed that the effects of administrative decentralization would be low.

The extensive analysis by Battaglio's et al. (2018) of scientific papers on factors that shape the attitudes of civil servants shows that cognitive biases systematically affect public policy and management decisions, as well as civil servants' preferences, estimates, judgements, and behaviours. In this paper, two groups of factors of cognitive biases that may affect civil servants' predictions on the effects of administrative decentralization are considered: (i) the organization's interest to survive and expand its power, and (ii) uncertainty as an accompanying feature of every organizational change. It is assumed that these two factors may have a distinctive effect on shaping predictions of the two categories of respondents (state versus county civil servants), and thus are relevant for the formulation of the hypothesis.

The primary goal of every organization to conserve its own existence and expand or increase its power is expressed in ecological theories of the organization (Bidwell and Kasarda, 1998) and pictured in Morgan's (2006, pp. 33-70) image of the organization as an organism that constantly needs to adapt to its environment in order to progress and survive. As explained by the political control approach to the termination of public organizations, public administration organizations are highly dependent on political interests, unlike private organizations that primarily depend on their own strategies to survive (Kuipers et al., 2018). The conservation of public organizations may become a goal of the politicians and civil servants working in them, regardless of the

broader public interest (Koprić et al., 2014, p. 10; Morgan, 2006, pp. 248-251). This point of view suggests that the abolition of county state administration offices could provoke the primary impulse of state civil servants to protect their own organization no matter what outcomes the abolition would have on the provision of public services. At the same time, it suggests that county civil servants might hold a positive view on the abolition of county state administration offices. Due to this organizational change, the number of civil servants working in county government would almost double which significantly reduces the possibility of the reorganization of county self-government through a reduction of their number which is advocated by public administration scholars who claim that Croatia should be organized in a smaller number of regions as second-level local self-government units (Koprić, 2015; Đulabić, 2015).

Improving an organization's power is another factor that may shape the positive predictions of county civil servants about the abolition of county state administration offices. Heads of county offices could expect their position and powers to expand since the newly integrated state civil servants could come under their jurisdiction, and their organizational unit could consequently grow in size and importance. They would gain control in resolving administrative matters in new administrative areas and thus have greater influence on the social life of their local units (especially in the area of small and medium-sized enterprises) (Koprić, 2019, p. 12). This is supported by the fact that the tasks of county state administration offices were transferred solely to the county government and not to other local units with sufficient capacities to take on the tasks (i.e. big towns although they asked for these tasks). Additionally, *ex ante* evaluation of the abolition of county state administration offices showed that the main reason for this organizational change was to strengthen the role of counties in the Croatian political-administrative system and to prevent attempts to abolish them or reduce their number (Lopižić and Manojlović Toman, 2019). The eagerness of counties to take over the tasks of county state administration offices could also be explained by strategic rationality ("the civil servant prefers the prime responsibility for policy areas to lie at the level where he or she is working, especially when he or she is directly involved in this policy area"), as stated by de Vries (2013, p. 11) which speaks in favor of taking responsibility for new tasks.

Each organizational change is accompanied by the uncertainty that civil servants experience during the process which results in fears, anxieties, and resistance to change (de Vries, 2013, p. 3). In this particular case, it is expected that state civil servants face greater amounts of uncertainty than county civil servants in relation to all dimensions of uncertainty (strategic, structural, and job-related) as defined by Bordia et al. (2004).

Strategic uncertainty refers to "uncertainty about reasons for change and the future viability of the organization, in addition to uncertain business environments" (Bordia et al., 2004, p. 510). The abolition of county state administration offices has not been anticipated in any strategic document on the future

development of Croatian public administration.<sup>3</sup> Moreover, these documents proposed the strengthening of county state administration offices by merging ministerial branch offices into their structure. The reform was prepared in a few months and, until the last moment, it was not specified when the offices would be abolished which probably led to great uncertainty for civil servants working in county state administration offices. Counties experienced strategic uncertainty as well, but to a lower degree. A certain amount of uncertainty there stemmed from the fact they did not know how many state civil servants would be transferred to their administration or how they would be financed – from the state or their own budget. However, this organizational change did not jeopardize the future or future visibility of their organization, which might have given them some security.

Structural uncertainty refers to “changes to the inner workings of the organization, such as reporting structures and functions of different work-units” (Bordia et al., 2004, p. 510). Due to this organizational change, state civil servants were to be moved from county state administration offices with a highly uniform organizational structure to county administration that is highly diversified among counties, both in relation to the number of civil servants per county inhabitant and the internal organizational structure (Đulabić, 2018, pp. 459-464). They did not know whether their organizational unit would be organized as an independent county office or merged with other county offices. They would have to adopt new working practices and routines and adapt to probably different organizational cultures. Furthermore, as threat-rigidity theory suggests, the two dominant methods organizations employ to deal with threatening events are the centralization of control and an increase in the level of formalization in the organization (Wynen et al., 2019, pp. 7-8). Since state civil servants were those entering into new organizations, it was expected that the counties would adopt centralizing and formalizing practices for the newly integrated state civil servants, requiring them to change their working methods and adopt them to fit those existing in the counties, which could have increased their level of uncertainty. Supervision over the execution of the public tasks, however, remains the same since the SASA prescribes an identical supervision procedure over county state administration offices and county self-government units in the execution of the transferred tasks.

Job-related uncertainty refers to “uncertainty regarding job security, promotion opportunities, changes to the job role, etc.” (Bordia et al., 2004, p. 510). It was expected that state civil servants, especially those in higher positions, would face a high degree of uncertainty since they did not know whether they would retain their leading positions or become subordinated to the heads of county offices. Losing their managerial position could be considered to have very negative implications that might have led to strong opposition to organizational change (Huerta Melchor, 2008, p. 16). The legal status of state civil servants was not to change considerably since the Act on Civil

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3 Strategy on the Development of Croatian Public Administration 2015-2020; The Action Plan of the Croatian Government 2017-2020; The Strategic Plan of the Ministry of Public Administration 2019-2021.



Servants and Employees in Local and Territorial (Regional) Self-Government (Official Gazette, nos. 86/08, 61/11, 04/18, 112/19) follows the provisions established in the Act on State Civil Servants (Official Gazette, nos. 92/05, 140/05, 142/06, 77/07, 107/07, 27/08, 34/11, 49/11, 150/11, 34/12, 49/12, 37/13, 38/13, 01/15, 138/15, 61/17, 70/19, 98/19) (Marčetić, 2013). Thus, the legal rules regulating their behaviour remain basically the same. However, there was a positive implication related to their position because the salary of most civil servants transferred to counties was to grow since the salaries in county administration are higher than those in state administration. The job uncertainties faced by county civil servants are somewhat lower since their position is not expected to change. This is in line with the empirical study conducted by de Vries (2013) who examined the effects of the reorganizations of Dutch municipalities and provinces. His research showed that civil servants that were in doubt whether they would keep their present job showed “less satisfaction with the organization they are working for, less positive attitudes about politicians and politics, less public service motivation, more criticism about the performance of their colleagues, less affinity to their organization and less pride in their work”.

The overview of factors that may influence predictions of the two categories of respondents allows the following hypothesis to be formulated:

H: State civil servants' predictions on the effects of the abolition of county state administration offices differ from the predictions expressed by county civil servants.

## **4 Research Methodology**

### **4.1 Indicators**

In contemporary literature on decentralization (Reiter et al., 2010; Kuhlmann and Wollmann, 2011; Ebinger et al., 2011; Kuhlmann et al., 2014; Kuhlmann, 2015; Ebinger and Richter, 2015; Kuhlmann and Wayenberg, 2016), the performance effects of administrative decentralization are evaluated through three dimensions: inputs (democratic control and accountability, transparency), processes/procedural aspects (horizontal and vertical coordination), and outputs (efficiency, effectiveness, and homogeneity of delivered services). This paper follows the aforementioned division into three dimensions (inputs, processes, and outputs) and develops indicators for each category. However, these categories are extended with the category of outcomes following Kuhlmann and Wollmann's (2011, p. 481) division of three steps or “loops” in the evaluation of institutional reforms at the subnational level<sup>4</sup> and the classical production model of performance that consists of the input-process-output-

4 They explain that the first step (“loop”) consists of identifying whether and why certain institutional changes have taken place. In the second step, an evaluation of the changes that the institutional reform has brought about in the operation (“performance”) of organizations under consideration is conducted (performance evaluation). The last step or “loop” is outcome evaluation, where the outcomes of the reforms are sought.

outcome relationship (Van Dooren et al., 2015, p. 21). Outputs are considered to be only those results on which the organization has a direct influence. According to Bouckaert and Halligan (2008, p. 16), outputs are never an end in themselves in public organizations. These organizations have to be oriented towards long-term outcomes that are of vital importance for citizens. Outcomes can be divided into intermediate (short-term) and final (long-term) outcomes. However, the problem with outcomes is that they are never the sole product of a certain organization, but the context (environment) has an impact on them, particularly on final, long-term outcomes (Van Dooren et al., 2015, p. 24).

In this paper, the input dimension refers to effects related to the democratic control and accountability of counties, including the potential growth in the importance/influence of the county representative/executive body, the greater involvement of citizens and other stakeholders in the decision-making process, and greater transparency. The process dimension refers to the effects related to horizontal and vertical coordination, including coordination within the counties that took over tasks, coordination between the county and other public bodies, and the influence and control of the central government over counties. The output dimension refers to effects related to the efficiency and quality of public services among counties, including financial and personnel costs, the availability and expediency of delivering services to citizens, strengthening the professionalism of county officials, as well as the use of new managerial techniques such as strategic planning, digitalization, etc. Outcomes are defined in a threefold manner: overall citizen satisfaction which should be the goal of every institutional change, ensuring the equity of citizens which is one of the basic values in public administration, and fostering regional development which is one of the primary roles of second-level self-government units (see Table 1).

**Table 1: Research dimensions and indicators**

<b>Dimension</b>	<b>Definition</b>	<b>Indicators</b>
Inputs	Democratic control and accountability	<b>I1</b> Citizens will show greater interest in the work of the county's administrative bodies and the county's governor <b>I2</b> Higher level of citizen participation in the work of the county's administrative bodies (petitions, submitting proposals, citizen assemblies, etc.) <b>I3</b> Growth in the importance of the county's representative body <b>I4</b> Growth of the county governor's role <b>I5</b> Higher turnout for elections for the county's representative body and governor
	Transparency	<b>I6</b> Increase of transparency of the county's administrative bodies (publication and availability of information)
Processes	Vertical coordination	<b>I7</b> Supervision of the central state over the counties' tasks is of higher quality and uniformity <b>I8</b> Supervision of the central state over the counties' tasks is of higher intensity <b>I9</b> Higher level of collaboration between the counties and the local units on their territory <b>I10</b> Better collaboration between counties and central state bodies
	Horizontal coordination	<b>I11</b> Better coordination within the counties' bodies <b>I12</b> More intensive collaboration among the counties <b>I13</b> Better collaboration with branch offices of central state bodies and other public bodies on the territory of the county
Outputs	Efficiency and quality in service provision	<b>I14</b> Decrease in expenditure for providing decentralized public services <b>I15</b> Speeding up the provision of decentralized public services <b>I16</b> Increasing the number of services provided in decentralized areas of services <b>I17</b> Better quality of services through better education of civil servants
	Modernization of county public management	<b>I18</b> Increasing/starting to implement new work techniques and instruments (i.e. use of new technologies, citizens satisfaction surveys, a strategic approach to service delivery)
Outcomes	Citizen satisfaction	<b>I19</b> Increase in citizens' satisfaction with provided services <b>I20</b> Decrease in the number of appeals and other complaints made by citizens about the decisions of county bodies
	Equity of citizens	<b>I21</b> Increasing the accessibility of services <b>I22</b> Ensuring the equal quality of services over the entire state territory <b>I23</b> Ensuring services are adjusted towards specific groups of users
	Regional development	<b>I24</b> Increasing the rate of investments in the county <b>I25</b> Decreasing the rate of emigration from the county <b>I26</b> Increasing the use of EU funds

Source: authors

## 4.2. Methodological Approach

The predictions of state and county civil servants are examined through a questionnaire that was sent to (a) heads of county state administration offices (20), (b) heads of county state administration offices' internal organizational units (82), and (c) heads of county self-government administration bodies (180). As the heads of the main organizational units of the county state administration offices and county government, these state and county civil servants have the broadest knowledge on the present situation in the Croatian political-administration system, its strengths, and weaknesses. Thus, they represent a proper sample to examine whether some of the examined subjective factors of cognitive biases can influence their predictions. However, one should keep in mind that, as some research has shown (Frazier and Swiss, 2008; Van de Walle et al., 2016, p. 18), top civil servants might have a better opinion of their organization's performance than lower-ranked civil servants. For this reason, the predictions of the surveyed civil servants cannot be considered as the general attitude of their organizations.

The questionnaire was distributed in June 2019, a few months before the formal abolition of county state administration offices. Since the questionnaire was delivered before the abolition of county state administration offices, the predictions expressed by the respondents were not biased by the actual effects of the implementation. The online questionnaire was distributed, and 148 (52%) responses were received, out of which 67 responses from state civil servants (categories a and b) and 81 responses from county civil servants (category c).

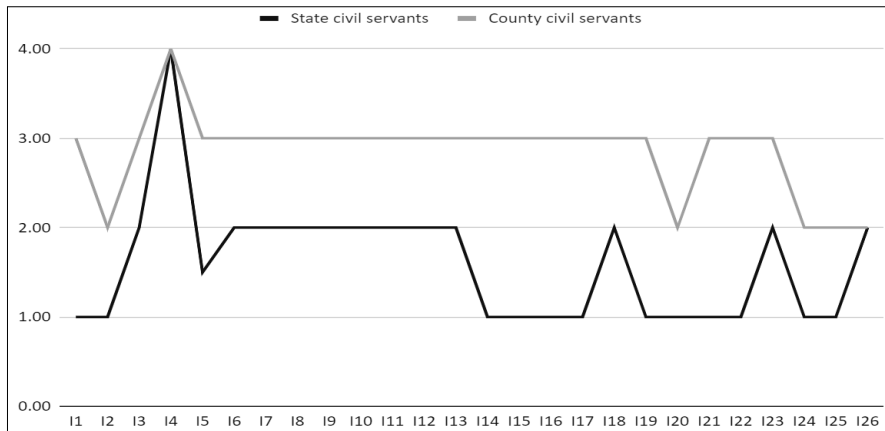
The respondents had to rank each of the indicators listed in Table 1 and specify the degree to which they predicted that the abolition of the offices and transfer of their tasks to the counties' delegated scope of competence would contribute to the attainment of the indicator. The answers were offered on a four-point Likert scale, with the possibility also to choose "I don't know/don't want to respond". The lowest point (1) indicates that the respondent considers administrative decentralization to have the lowest effect on the indicator (I do not think the abolition of offices will have any effect on...), point (2) indicates that the respondent considers it would have a small effect (I think the abolition of offices will have a small effect on ...), point (3) indicates that the respondent considers it would have a medium effect (I think the abolition of offices will have a medium effect on...) while the highest score was 4 (I think the abolition of offices will have a high effect on...). The results were analyzed through the use of SPSS and the U-test.

## 5 Results

The total number of responses received was 148 (52% out of 282 questionnaires sent). In the category of state civil servants, the response rate was 65% (67/102), while in the category of county civil servants it was 45% (81/180). The descriptive statistics show that the most frequent answer given by state civil servants was 2 (I think the abolition of state offices will have a small effect

on...) and the lowest 1 (I do not think the abolition of state offices will have any effect on....). On the other hand, the most frequent answers given by county civil servants is 3 (I think the abolition of state offices will have a medium effect on...). There are only five indicators where county servants predict that the abolition of state offices will have only a small, limited effect: one from the input category (a higher level of citizens' participation in the work of county offices) and four out of the eight indicators from the outcomes category (a decrease in the number of appeals and other complaints about the decisions of county bodies; an increase in the rate of investments in the county; a decrease in the emigration rate from the county; an increase in the use of EU funds). Taking into account that state civil servants consider that the decentralization effects on these indicators will be even less shows that both categories of respondents predict that the abolition of county state administration offices will have the lowest effect on the outcomes category. There are only two points where the predictions of both categories concur: the fact that the abolition of state offices will have a small effect on the increase in the use of EU funds, and that the abolition will have a high effect (the highest in absolute terms) on the growth of the influence of the county governor's role (Figure 1). Thus, the data stemming from the descriptive statistics seem to confirm the hypothesis, except for the two aforementioned indicators (I4 and I26).

**Figure 1: Median values of answers**



Source: authors

The research results are further elaborated through statistical tests using SPSS (Table 2). The results show that there is a statistically significant difference between the two groups in all respects, except for I4 (growth in the influence of the county governor's role). The results do not change even when single indicators are integrated into broader categories of the research dimensions (inputs, processes, outputs, and outcomes). Thus, the stated hypothesis that state and county civil servants' predictions about the effects of the abolition of county state administration offices differ was statistically confirmed, except for I4.

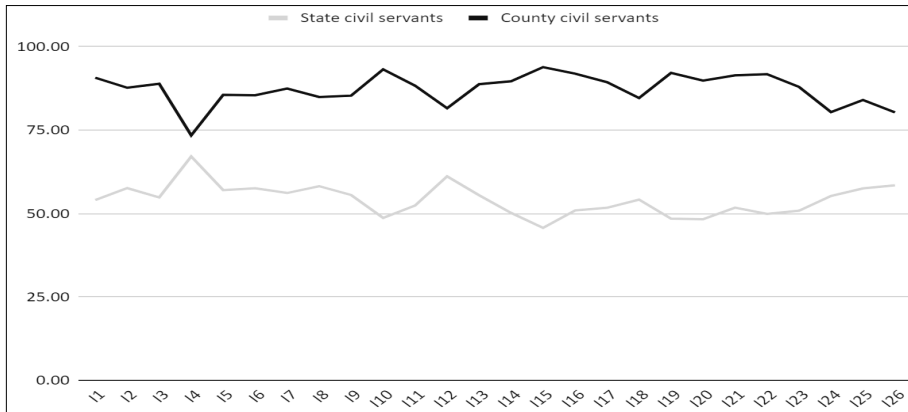
Table 2: Statistical analysis

Dimension		Indicator	Mann-Whitney U	Wilcoxon W	Z	Asymp. Sig. (2-tailed)
Inputs	Democratic control and accountability	I 1	1342.500	3620.500	-5.408	0.000
		I 2	1583.000	3861.000	-4.486	0.000
		I 3	1407.500	3618.500	-5.006	0.000
		I 4	2217.000	4362.000	-1.071	0.284
		I 5	1552.000	3763.000	-4.282	0.000
	Transparency	I 6	1580.500	3858.500	-4.142	0.000
Process	Vertical coordination	I 7	1485.000	3763.000	-4.636	0.000
		I 8	1622.000	3900.000	-3.983	0.000
		I 9	1456.000	3667.000	-4.455	0.000
		I 10	985.000	3263.000	-6.616	0.000
	Horizontal coordination	I 11	1262.500	3407.500	-5.356	0.000
		I 12	1834.000	3914.000	-3.030	0.002
I 13		1439.500	3717.500	-4.910	0.000	
Outputs	Efficiency and quality in service provision	I 14	1133.000	3213.000	-5.897	0.000
		I 15	805.500	3016.500	-7.217	0.000
		I 16	1134.500	3412.500	-6.060	0.000
		I 17	1203.500	3414.500	-5.620	0.000
	Modernization of county public management	I 18	1377.000	3522.000	-4.594	0.000
Outcomes	Citizens' satisfaction	I 19	987.500	3198.500	-6.539	0.000
		I 20	1011.500	3091.500	-6.392	0.000
	Equity of citizens	I 21	1206.000	3417.000	-5.863	0.000
		I 22	1097.500	3242.500	-6.217	0.000
		I 23	1187.500	3203.500	-5.543	0.000
	Regional development	I 24	1487.500	3317.500	-3.838	0.000
		I 25	1594.500	3739.500	-4.347	0.000
		I 26	1668.000	3684.000	-3.310	0.001

Source: authors

The results are even more evident when the comparison between the mean ranks of state and county civil servants' answers is examined (Figure 2). There is a considerable difference between the two groups of ranks. County civil servants' mean ranks almost never score lower than 80, while the mean ranks of state civil servants do not exceed the score of 67. The only situation in which the ranks are approximately the same (67.11 for state civil servants and 73.44 for county civil servants) is the indicator I4.

**Figure 2: Comparison of mean ranks**



Source: authors

## 6 Discussion

The initial hypothesis that state and county civil servants' predictions on the effects of administrative decentralization differ is confirmed. The question raised is which factors affected the differences between the state and county civil servants' predictions. Taking into consideration the low capacities and the unsatisfactory territorial division of counties, previous experiences with decentralization, and the implementing nature of the transferred tasks, the predictions on the effects of administrative decentralization based on objective knowledge would be that the effects of decentralization would be small. However, county civil servants predict greater effects of administrative decentralization than state civil servants, which opens up space for discussing the possible subjective factors that affected the civil servants' predictions.

The first cognitive factor considered was an organization's interest to survive and expand its power. This factor suggested that county civil servants would predict administrative decentralization to have greater effects on the performance of transferred tasks since this organizational change would ensure the survival of the counties and the growth of their power. It also suggested that state civil servants whose organization was being abolished would predict that the effects of administrative decentralization would be small. The empirical results confirmed this assumption. The second cognitive factor considered

was uncertainty as an accompanying feature of every organizational change. This factor suggested that those facing greater uncertainty, in this case state civil servants, would predict lesser effects of administrative decentralization than those whose uncertainty is smaller, in this case county civil servants. The empirical results confirmed this assumption, too.

The effect of decentralization on only one indicator (growth of the county governor's role) is similarly predicted by both county and state civil servants. This prediction might have been shaped by both objective and subjective factors. The shift towards strengthening executive power in counties started with the introduction of the direct election of county governors in 2009 which enhanced their position in relation to the county representative body (Koprić and Škarica, 2017) and later with the Amendments to the Act on Local and Territorial (Regional) Self-Government that made the county governors' position even stronger. Due to the legislative amendments, county governors can be recalled only by referendum. If the county budget (which can be proposed by the county governor only) is not adopted, the county representative body will be dissolved but the governor will remain in position (Koprić, 2017). No governor has ever been recalled and there were no recall referenda for governors' recall either. On the other hand, in 2019 the representative body of one county was dissolved while the governor remained in power.<sup>5</sup> The abolition of county state administration offices strengthens the position of county governors since they direct and supervise county offices that execute the transferred tasks, appoint their heads, and may control the recruitment of new staff. Besides logical reasoning, the county civil servants predicted a greater effect on this indicator also because the growth of the county executive layer would enhance the position of the counties in the Croatian political-administration system. The state civil servants' predictions about this indicator might also be explained by the fact that they do not see it as something positive. The growth of the county governors' role means a decrease in the power of the county representative body, with possible negative effects such as the greater discretionary power of county governors and the politicization of county administration.

The empirical results show that the predictions expressed by state civil servants are more in line with the predictions that would be grounded on objective evidence about the characteristics of the Croatian local-self-government system and the characteristics of tasks transferred to the county government. They are also in line with the predictions on the effects of decentralization stemming from decentralization theory. Since administrative decentralization represents only a modest form of restructuring intergovernmental relations, its effects should be lower than the effects of political decentralization in relation to most performance dimensions (democratic control and accountability, and vertical and horizontal coordination). It should only lead to greater efficiency in the provision of services and growing heterogeneity (Reiter et al., 2010, p. 172). However, the empirical evidence from other countries (Czech local units, smaller German counties) suggests that the effects of ad-

<sup>5</sup> <<https://www.izbori.hr/site/UserDocImages/482>> accessed 30 October 2020.



ministrative decentralization in local units with small capacities, as in the case of Croatian counties, are mixed, some of them being a decrease in efficiency and quality in service provision, higher costs, weakening of vertical coordination, and great challenges for ensuring horizontal coordination (Ebinger and Richter, 2015). However, it cannot be stated whether the predictions of state civil servants were primarily shaped by objective or subjective factors, since both factors suggested smaller decentralization effects.

## **7 Conclusion**

The purpose of the paper is to examine whether there is a difference between the predictions of state and county civil servants on the effects of the abolition of county state administration offices and the transfer of their tasks to counties as second-level self-government units, and what factors shape those predictions. The statistical analysis of the data on the anticipated effects of administrative decentralization indicates that the predictions of the two groups differ in relation to each category (democratic control, accountability and transparency of work of county government; vertical and horizontal coordination; efficiency and quality in service provision and modernization of county public management; citizens' satisfaction, equality of citizens and regional development) and in relation to each of the 26 indicators with only one exception. Both groups of respondents predict the growth of the county governor's role.

Reasoning based on objective factors (features of the Croatian local self-government system and the characteristics of the tasks transferred to county governments) should lead to similar predictions of both groups of respondents. However, their predictions differ. Thus, it may be assumed that the difference in their predictions stem from two subjective factors of cognitive biases. The predictions of county civil servants that administrative decentralization will have greater effects are influenced by the interest of their organization to survive and expand its power. On the other hand, state civil servants' predictions are influenced by three types of uncertainty (strategic, structural, and job-related) which led them to predict lesser effects of administrative decentralization.

The paper offers a twofold theoretical contribution. On the one hand, it provides a theoretical insight into the factors that could shape civil servants' predictions. On the other hand, it adds to the body of literature dealing with administrative decentralization by giving data on the predictions of the actors related to this organizational change before it is implemented. However, there are some limitations to the study. First, the research deals only with top civil servants. Therefore, their predictions cannot be generalized for all levels of civil servants working in these organizations. Second, although the empirical data collected and analyzed offer the possibility to prove statistically that there is a difference in the predictions between the two groups of respondents, they do not give empirical evidence on the factors that have actually shaped these predictions.

Therefore, the paper opens space for further research in at least three ways. First, further empirical research might be conducted to examine whether the factors of cognitive biases discussed in this paper are the only possible explanation for such a discrepancy in expectations or whether other factors may be included and tested empirically. Second, it will be interesting to test which set of predictions (those of state or county civil servants) will be closer to the real effects of this organizational change. In 2019, just before the abolition of county state administration offices, an *ex-ante* evaluation of this organizational change was conducted. This evaluation took into account official documents presenting and introducing the abolition of county state administration offices, the predictions expressed by state and county civil servants, the predictions expressed by county governors, parliamentary discussions, comments expressed during the e-consultation process, media reports on the subject and scientific and professional papers written by experts in the field. The evaluation indicated many flaws in the process and, most importantly, that the main goals of this organizational change, officially formulated as rationalization and decentralization, would not be achieved. Additionally, the *ex-ante* evaluation showed that the effects of the organizational change would be the strengthening of the county governors' role leading to the politicization and petrification of county administration; problems in implementation; inequality in service provision between counties; new financial burdens for counties; and citizens receiving a wider range of services in the same place (Lopižić and Manojlović Toman, 2019). Further ongoing and *ex-post* evaluations are needed to assess the real effects. Finally, further research is necessary to assess which intervening factors shape the final effects of this type of organizational change in Croatia as compared to other countries undergoing similar administrative decentralization.

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# Legal Certainty – Protected Values and Partial Objectives: The Case of the Czech Republic<sup>1</sup>

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## ABSTRACT

Legal certainty is an essential prerequisite for individuals' autonomy, as lack of certainty prevents the planning of future activities and making rational decisions. As other key legal principles, it comprises an axiological quality which influences the interpretation of legal rules and the application of statutory laws. Thus, it should be adhered to by all branches of state power. Its objective is to promote several values that are all important for the protection of human rights: the rule of law, protection of legitimate expectations, general trust in law, prevention of arbitrary decision-making, inadmissibility of retroactivity. However, in some legal systems, the concept of legal certainty is slightly different. These differences also influence the extent and limits of legal certainty as it may not mean total rigidity and prevent necessary changes in statutory laws and decision-making. The reasonable balance is influenced by its axiological content. The article analyses the interpretation practice of the Czech Constitutional Court with the aim to determine the partial values inherent to the principle and categorise them according to their importance. Several partial objectives were determined by qualitative analysis. The quantitative analysis indicates that the key partial objectives include protection of the values comprising a general trust in the law, individuals' legitimate expectations, and a certain degree of predictability of laws, administrative practice and courts' decisions (uniformity, transparency, internal consistency and stability). Having identified these values, further

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research may be conducted as to how and to what extent expectations should be upheld.

*Keywords:* good governance, legal certainty, legitimate expectations, misuse of power, public administration, rule of law

*JEL:* K40, K38

## 1 Introduction

All individuals need to be able to plan their future lives, careers, trade and other dealings. Planning ahead with a reasonable degree of certainty what consequences will be induced by a specific action is an essential prerequisite for being autonomous.<sup>2</sup> This is a generally accepted explanation why expectations created by the legislator, courts and administrative bodies when deciding, providing representations or drafting policies that affect large groups need to be protected (Schønberg, p. 12).

A certain level of constancy of law, court decisions and administrative practice is thus essential and protected by democratic states governed by the rule of law principle; legal certainty being one of the key partial principles of it. However, there needs to be enough room for necessary changes of law and decision-making practice reflecting overriding public interests and societal changes. In recent decades there has been much pressure that the law be more 'flexible' and allow for more extensive discretion due to rapid social, economic and technological change. There is a risk that excessive flexibility might end in undesirable degree of discretion and a corresponding lack of transparency and accountability (Fenwick, Siems and Wrška, p. 18). Thus, the interests of individuals regarding their expectations via the state bodies have to be balanced with the interests of larger groups.

The essential legal principles are characterized by a higher degree of generality, stability, permanence, and the impossibility of denying them in statutory laws. All the legal principles when applied need to be balanced and applied in individual cases on the basis of factual circumstances which are found by the court or the administrative authority in detail and with a certainty beyond any reasonable doubts. Moreover, the court or administrative body should be capable of a teleological interpretation of the legal rule which in case of a legal principle means that they need to understand its nature and the partial val-

2 According to Raz "Autonomy is an ideal of self-creation, or self-authorship; it consists in an agent's successful pursuit of willingly embraced, valuable options, where the agent's activities are not dominated by worries about mere survival. Autonomy in its primary sense is to be understood as the actual living of an autonomous life; autonomy in its secondary sense is to be understood as the capacity to live autonomously. To be autonomous, agents have to meet three conditions: they must possess certain mental capacities, they must have an adequate range of valuable options, and they must enjoy independence from coercion and manipulation. Autonomy should be distinguished from self-realization, as autonomous persons may choose not to realize their capacities. Autonomy itself, in an environment that supports autonomy, is not similarly optional, as living autonomously is the only way of flourishing within an autonomy-supporting environment." (Raz, p. 369)



ues and objectives it intends to promote. The balancing of principles entails choice of such solution that preserves to the utmost extent the protected values contained in the principles and the value which is of a higher importance should finally prevail.

It is also true, that these principles reflect values which are to be protected. As the principles are more general and should serve as means of interpretation, guidance for discretion and last resort when the statutory laws keep silent on a specific matter, we may insist that the requirement to reflect values shared in the society is even more pronounced compared to the “ordinary” statutory rules. Gardner explains that: “That we have, in law, a specific social technique for subjecting human conduct to the governance of rules likewise doesn’t suggest that subjecting human conduct to the governance of rules is anything more than a technique available to serve some further purpose or purposes (Gardner, p. 207). Presenting ‘playing by the rules’ as itself the purpose is mistaking the means for the end, a classic legalist mistake. ... the rule of law cannot be interpreted this way (as a matter of everyone’s being guided by the law) except at the price of no longer qualifying as a valid moral ideal” (Gardner, p. 213).

The article aims to find these purposes and thus explanation why expectations should be protected through analysis of the partial values protected by the principle of legal certainty. The research being restricted to the Czech law, partial values protected by this principle are examined in the relevant case law of the Czech Constitutional Court. Knowing the most important values should help to open a further discussion and a follow-up research that would explore the question to what extent and under what circumstances the expectations should be protected, i.e. where is the balance between the individuals’ interest in constancy of law and the public interest in departures from existing policy that may appear necessary to reflect the social developments. This idea of a follow-up research is supported also in recent literature: “...the role and design of legal certainty is likely to grow in importance in the future. In order to address the variations in the meaning, possibility and desirability of legal certainty, a future research agenda could specifically explore the relationship between legal certainty and other phenomena. To some extent, this issue has always been a concern for the notion of legal certainty, as it is clear that the benefits of legal certainty need to be balanced with the benefits of a law that is sufficiently flexible in order to be respond to changing circumstances. Thus, the relationship between legal certainty and flexibility (or adaptability) of the law has always been an important one” (Fenwick, Siems and Wrška, p. 26).

According to Article 1 par. 1 of the Czech Constitution, the Czech Republic is a democratic state governed by the rule of law, founded on respect for the rights and freedoms of man and of citizens. Rule of law is a broad umbrella principle, which encompasses other partial principles (Hoffman, p. 149). The principle of legal certainty comprising protection of legitimate expectations is seen as one aspect of the Rule of law. The precedence of the citizen (fundamental human rights and freedoms) over the state emanates from the rule

of law principle. Thus, in exercising their powers, public authorities need to recognize these absolute values of the individual. The emphasis on the values of human rights and their protection overcomes the original purely formal understanding of the rule of law based on legalism and positivism and is the cornerstone of the substantive rule of law concept.<sup>3</sup> Thus, the Rule of law theory in its substantive concept proceeds from human rights protection and the autonomy of individuals (Craig, 1997, p. 95). To be autonomous, it is necessary to foresee actions and plan ahead with some degree of certainty. "The principle of legal certainty is very important. It means that legal measures and legal rules must be clear and consistently applied and that the state action must be sufficiently defined in order to remain predictable. According to the principle of trust, legitimate expectations are protected. If the state has created a specific situation and a person has acted on the reasonable assumption that this situation will remain unchanged, then he or she can rely on that assumption" (Addink, 2019, p. 78).

The requirement of adherence to the principle of legal certainty applies to all branches of state power - the legislative, executive and judicial. First, predictability of applicable statutory laws is an important part of the principle of legal certainty. In order for law to fulfil its regulatory function, citizens affected by legal regulation must have the opportunity to become acquainted with legal norms in advance, to understand them and to understand what the consequences of their misconduct could be. Therefore, it must be properly and officially published, comprehensible, and internally indisputable. At the same time, the law must not have a retroactive effect. The principle of legal certainty means that the legal order is essentially permanent. It may be amended only by legal means and procedures. Moreover, the person affected by legal rules should be able to rely on the legal rules. Thus, he or she must be able to get acquainted with legal requirements in advance and understand what the consequences of his or her behaviour will be. It may be summarised that there is "...the public interest in clear, equal, and foreseeable rules of law which enable those who are subject to them to order their behaviour in such a manner as to avoid legal conflict or to make clear predictions of their chances in litigation" (Neuhaus, p. 795). Barber argues that the legislators should not only produce stable and prospective laws, they must also "...consider the ability of the citizens to understand and make use of the rules" (Barber, p. 485). Thus, he argues, there is a social dimension in the rule of law concept demanding easy and cheap access to courts and state funded education. Uneducated people can not exercise their rights as they do not know, what these are. "A

3 Gardner explains further that "The word 'substantive' has to be put in front of 'aims of legal rules' only as a way of alerting us to the fact that the means-end distinction is another one with a shifting baseline. All means are capable of serving as subsidiary ends, as intermediate destinations on the way to our destination. That the law lives up to its internal morality may, of course, be treated as a subsidiary end, and in that sense an ideal for law. But Fuller is warning us (again) not to fall into the legalistic trap, not to mistake the subsidiary end for the end to which it is subsidiary, not to think that we need have no aims for legal systems other than that they conform to the rule of law. Law's inner morality is only the morality of how, not the morality of why. If there were no external morality applicable to law we wouldn't have anything worthwhile to do with law in the first place and there wouldn't be any intelligible role for an internal morality of law" (Gardner, p. 206).

legal system requires some level of material well-being if the purported laws are to prove effective” (Barber, p. 483).

Further, the requirement of legitimate expectations, which affects the decision-making of administrative bodies and courts, whose decisions should be, in principle, foreseeable and at the same time ensure equal access to litigants, must be met. In administrative law the importance of certainty is increased due to discretionary powers vested in public authorities. Individuals cannot easily predict how these discretionary powers will be exercised because of indeterminate language of laws and informal working rules and other constraints (Schønberg, p. 13). Czech law enshrines explicitly the binding nature of the principle of legal certainty in administrative proceedings in Sec. 2 par. 4 of the Act No. 500/2004 Sb., Code of Administrative Procedure, as amended, which stipulates that: “An administrative authority shall care to ensure that the adopted solution be consistent with the public interest and that it respected the circumstances of the particular case and that no reasonable discrepancies arose in respect of decisions on cases of identical or similar merit.” Legitimate expectations are stressed. The Supreme Administrative Court elaborates the principle in detail in its case law stressing the fact that administrative bodies are bound by their own established administrative practice, consistent interpretation of procedural and substantive legal rules, publicly declared policy within the limits of administrative discretion, an internal interpretation or application directive, and the binding nature of a specific and qualified assurance on a right or procedural practice provided by the administrative body to the addressee.<sup>4</sup>

There are many influences that have combined into the requirement of certainty and predictability. They are among others the practical interest in peace and quiet, economic interests (conservatism, protection of vested interests), devotion to custom and also such which are not certainly not praiseworthy as judicial abhorrence of responsibility (the same applies to administrative decision-making) (Wade, p. 195). Further partial values and goals may be identified such as fairness in public administration, reliance and trust in government, equality, and autonomy connected to the ability to plan one’s life (Craig, 2012, pp. 680–681). According to legal theory, all these partial principles may be considered as sub-principles of the principle of legal certainty. However, they may differ in individual legal systems, as the precise content of the principle varies (Craig, 2012, p. 679). This article analyses the practice of the Czech Constitutional Court (hereinafter also only the “CC”) and its relevant case law with the aim to determine the partial objectives of the principle of legal certainty in the Czech legal system and categorise them according to the importance attributed to them by the CC.

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<sup>4</sup> Most recently, the Supreme administrative court links legal certainty and protection of legitimate expectations in administrative decision-making this way e.g. in its judgment No. 9 As 65/2020 of 12 May 2020.

## 2 Methods

As other key principles of law the principle of legal certainty comprises an axiological quality which influences interpretation of legal rules and application of statutory laws. To find this axiological quality, the values inherent to the principle, and the exact purport of thereof, we will follow up on the qualitative analysis of the case law of the CC. The purpose of this analysis is to determine how the CC interprets this principle in its decisions, i.e. what are the main values deemed to be protected by insisting on application of this principle by all branches of the state power. Thus, the main research question is what values are meant to be protected by the principle of legal certainty as one of the key sub-principles of the rule of law according to the interpretation of the CC, and whether any of these values are of a higher importance. The hypothesis grounded on the literature research mentioned above is that there will be several objectives and values including predictability, protection of legitimate expectations, and prevention of arbitrary decision-making. The second hypothesis is that we will find further partial values.

First, qualitative research of relevant decisions related to the principle of legal certainty was carried out in order to identify the key partial principles and protected values. Several different methods were applied as relevant. First, a comprehensive overview of the principle of legal certainty was performed through literature review and using normative-analytical method. With systematic approach, the authors analysed relevant case law of the Czech CC providing interpretation of statutory law rules and legal argumentation using this principle. The sample of the decisions was studied using analogy, comparative method and inductive reasoning. Finally, a synthesis of the findings was carried out, depicting the most common partial values repeatedly occurring in the studied case law.

Further, quantitative analysis followed to ascertain which of the partial values found in the qualitative analysis repeat more often and thus may be identified as the most crucial and more important. In the quantitative analysis the authors examined a selected sample of 20 judgments of the CC, which should clearly outline how the CC views the axiological content of principle of legal certainty and how it treats it in its decision-making practice from 1995 to the present time. The examined sample of decisions was selected applying a combination of three following criteria. First, a larger sample of the case law of the CC was provided through the NALUS<sup>5</sup> database for searching the case law of the CC for a decisive twenty-five-year period. The first criterion for the selection of the case law in the electronic database was the occurrence of the principle of legal certainty (and its sub-principles) in the subject matter of the proceedings. Hereby, about 400 decisions were selected. Further precisising criterion was the significance of these cases, which was ascertained through the level of their further citation in more recent CC case law. The cases that were cited later most frequently were chosen for the quantitative analysis.

<sup>5</sup> NALUS is a database of the Constitutional Court's decisions enabling search by key words available at <https://nalus.usoud.cz>.

We assume that the more often the legal sentence used in a previous case is cited in later cases of the same judicial body which are therefore based on such prejudicature, the more accurate and important the judges find the previous case which they later cite. Therefore, the case law that may be considered as ground-breaking was chosen, as in the area of the CC's findings and interpretation of the principle of legal certainty, this case law can be considered permanent and relatively strict. This sample of 15 judgements determined by the second criterion was accompanied by further 5 more recent decisions dating from 2015 to 2019 produced by the qualitative analysis as crucial and proving that the approach of the CC to the given principle has not changed fundamentally recently. We have decided to add these 5 cases as the most recent decisions could not meet the requirement of numerous further citations because of the lack of further newer decisions. In the conclusion the authors compare the findings from both their qualitative and quantitative analysis with the doctrine determined in the literature review above.

### **3 Results**

The values of predictability of law, constant application practice and thus protection of legitimate expectations of individuals and legal persons as described above should be adhered to by all the three branches of state power. Therefore, the qualitative analysis contains CC's decisions relevant to the legislature, the executive power represented by administrative bodies and last but not least the courts. The key decisions are further divided into three categories, in order not to overlook any partial value that could potentially concern (or be of the utmost importance for) only one of the branches of power.

#### **3.1 Legally Binding Rules**

The Constitutional Court constantly finds that the principles of predictability of law and legitimate expectations are inextricably linked to the principle of legal certainty. In the most general sense the Court summarized the substantial core requirement as follows: "The obligations and promises that the state makes to individuals should be kept (principle of legitimate expectations)" (Judgment of the Constitutional Court file no. Pl. ÚS 12/14 of 16 June 2015). Thus, anyone who follows valid law and relies on it should not be refuted from his expectations. An interpretation of the protection of citizens' trust in the law can be found, for example, in the judgment of the Constitutional Court in file No. I.ÚS 520/06 of 23 January 2008 as follows: "The nature of the material rule of law then also radiates the maximum associated with it, according to which, if someone acts in (legitimate) trust in any Act (or in legal rules in general), he should not be disappointed in this trust."

The issue of riders<sup>6</sup> is one of the areas covered mostly by the case law concerning principle of legal certainty in the field of legislature. Riders might

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<sup>6</sup> A rider is an amendment to the bill, which is currently being discussed in parliament, with little connection to the subject-matter of the discussed bill. Legislators sometimes seize the opportunity to further their political agendas as a rider not always related to the subject mat-

be breaching the principle of legitimate expectations fundamentally when the legislators approve provisions that have no or little connection with the content of the bill. Often, were these proposed amendments discussed separately, they would probably not be accepted. In connection with their controversy, the CC in its decision file no. Pl. ÚS 77/06 of 15 February 2007 declared riders to be in breach with the Constitution. The Constitutional Court argued that: "The requirement of predictability of a law as part of the rule of law ceases to be fulfilled when an amendment to a law is part of another law in a formal sense, the content of which has nothing to do with the amended law. Orientation of the addressee of a legal norm in the legal system becomes completely impossible without the use of information technology devices... At the same time, it is clear that without the possibility of using these systems, it is no longer possible to learn the legal system of the Czech Republic. Thus, the application of the general legal principle, according to which ignorance of the law does not excuse anyone becomes rather problematic. Therefore, the statutory laws become completely unpredictable for their addressees. Although the mentioned principle is a necessary condition for the effectiveness of any system of valid law, it cannot be interpreted only to the detriment of the addressees of the law, but also as a duty of public power to make the law recognizable."

The inadmissibility of the retroactive effect of legal norms is another important value protected by the principle of legal certainty. The CC in its key decision file no. IV. ÚS 215/94 of 8 June 1995 emphasized that: "Part of the legal certainty is also the prohibition of retroactivity of legal norms, their retroactive interpretation... Therefore, if someone acts in trust in a law, he should not be disappointed in that trust." Further, in its decision file no. Pl. ÚS 33/01 of 12 March 2002, the CC explained the reasons of inadmissibility of retroactivity as follows: "The emphasis placed on the prohibition of retroactive effect of legal norms as one of the basic elements of the rule of law stems from the requirement of legal certainty. The prohibition of retroactivity consists in the fact that, according to the current legal norm, it is in principle not possible to assess human behavior, legal facts or legal relationships that took place before the legal norm came into force. The prohibition of retroactive effect of legal rules is based on the principle that everyone must be able to know which conduct is prohibited in order to be held liable for breaches of the prohibition."

Legal theory and practice distinguish between true and false retroactivity. The essence of true retroactive effect is that according to a certain current legal norm, it is possible to assess legal facts or legal relationships that took place before the legal norm came into force, i.e. that the new legal norm may change the legal consequences which, according to the law, occurred before the date of its entry into force. For false retroactivity, legal relationships established under the old law are governed by that law until the new law comes

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ter of the bill. A rider may be attached to a bill in an attempt to sneak through a measure that would not attract majority support proposed by itself. Sometimes, too, a bill's opponents may attempt to defeat it by adding a controversial rider.

into force, but then governed by that new law. “Creation of a legal relationship existing before the entry into force of the new legislation is governed by the original legislation. However, the legal claims arising from such relationship are governed by the original legislation only until it is repealed. Since then they are governed by the new legal rules. In general, in cases of conflict between the old and the new legal norm, false retroactivity will be used” (Decision of the Constitutional Court file no. Pl. ÚS 33/01 of 12 March 2002).

Exceptions from the general rule prohibiting retroactivity, are not rare (Constitutional Court decision file no. Pl. ÚS 21/96 of 4 February 1997). While true retroactivity is generally considered to be unacceptable, false retroactivity is generally tolerated. There are exceptions from both eventualities<sup>7</sup>. However, the prohibition of retroactivity can be waived only in exceptional cases, and only by a positive provision. In its decision file no. III. ÚS 3221/11 of 12 December 2013 the CC found that there is a difference between the exercise of power by the legislator and the judiciary: “The given rule applies in principle to every act of public power, i.e. also to acts of legislative and judicial power. Still, the question arises whether the rules, which apply in relation to the activity of the legislator, can be applied to a judicial finding of law. This question should be answered in the negative for the following reasons. The legislator consists of generally valid, *inter omnes* and forward-looking rules, which are officially published and have a clearly defined validity and effectiveness. The duty of the legislator is to address whether and how to protect the addressee’s confidence in the previous legal situation... Still, a judicial finding of a law cannot (usually) be considered as drafting legislation, but (only) as its interpretation and clarification, with *inter partes* effects, especially then, by its very nature, this seems “retroactive”, as the court assesses (usually) the conduct that has taken place in the past. Justice, as a “finding” institution, therefore interprets the law (within its limits), which applies “from the beginning” and usually finds its application (as a law in the material sense) in other cases, the factual basis of which also lies in the past...” However, if the courts adopt an interpretation which is retroactive in the form of true retroactivity, they violate the principles of legal certainty and the citizen’s trust in the law, which are integral parts of the attributes of the rule of law (Constitutional Court decision file no. I. ÚS 344/04 of 15 December 2004).

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<sup>7</sup> In its recent decision of file no. Pl. ÚS 5/19 of 1 October 2019 the Constitutional Court found false retroactivity in breach of the principle of legitimate expectations in the case of additional taxation of church restitutions. It was agreed in the agreements based on statutory stipulations and signed by the government and individual churches that the financial compensation in the amount stipulated by law and in the contract (valorized) will be paid in thirty annual installments, and that the once-established legal right to the payment of the full financial compensation does not entitle the future legislator to unilaterally reduce it in any way. The Court summarized that: “By the contested legislation, the legislator ... decided on the de facto reduction of financial compensation, the full amount of which gave rise to legal rights and legitimate expectations for churches and religious societies at the time of concluding settlement agreements. The additional reduction in financial compensation for the injustices caused by the criminal communist regime goes against the basic principles of the democratic rule of law.

### 3.2 Administrative Bodies Application Practice

However, the principle of legal certainty in the sense of the necessary predictability of the consequences of a legal regulation and claims to its certainty and comprehensibility cannot be limited to the text of the legal regulation itself.<sup>8</sup> Subsequent interpretation by an administrative body or in court decision-making,<sup>9</sup> leads to a further completion of the legal rule. This further completion of a legal rule requires that the administrative bodies accompany their decisions with due reasoning, with a clear explanation of interpretative methods used.

The predictability of the outcome of administrative procedure co-guarantees legal certainty and ensures general confidence in the law.<sup>10</sup> Foreseeable behaviour of administrative bodies in accordance with effective statutory laws also excludes possible arbitrariness. "The principle of legal certainty must then be combined with the prohibition of arbitrary decisions, so that the discretion of public authorities is limited by procedures to prevent abuse of that discretion..." (Decision of the Constitutional Court file no. Pl. ÚS 12/14 of 16 June 2015). Further, only well-reasoned decisions limit the scope for possible arbitrariness and ensure a similar assessment of similar cases. "This requirement is all the more urgent in a situation where the legislation on the basis of which a decision is made is made up of only very general principles" (Decision of the Constitutional Court file no. II. ÚS 482/18 of 28 Nov. 2018).

Legitimate expectations of an individual must be understood as the expectations of a certain action of public authorities, which will correspond to the clear content of the legal order. Predictability of law is perceived as a precondition for self-determination of each individual who chooses his own destiny. Thus, each individual must be ensured protection of his expectations and protection of confidence in predictability of law (Decision of the Constitutional Court file no. III.ÚS 3221/11 of 12 December, 2013). Predictability is also important for the planning of business activities and influences economic outcome, as the recent pandemic situation has clearly revealed. "Public administration, however, should be the guarantor of even non-economic values, especially essential democratic and human values and also sustainability" (Fuka, 2018).

Moreover, it is not only the expectations *pro futuro* positive action of administrative bodies but also the expectations, that the administrative body will not take any action at all and the individual will be left to enjoy his already gained

8 "The requirement of legal certainty affects both the creation of law (the question of stability of law and legality of its creation) and the application of law" (Constitutional Court decision file no. I. ÚS 420/09 of 3 June 2009).

9 "Stability of the legal order and legal certainty are influenced not only by the legislative activity of the state (creation of law), but also by the activities of state bodies applying law, because only the application and interpretation of legal norms creates public awareness of what is and what is not law" (Decision of the Constitutional Court file no. II. ÚS 1851/19 of 16 August 2019).

10 "The principle of predictability of law, as an important attribute of the rule of law, is essentially related to the principle of legal certainty and is a necessary prerequisite for the general trust of citizens in law..." (Decision of the Constitutional Court of the Czech Republic file no. IV. ÚS 610/06 of 22 June, 2009).



rights. Thus, further aspect of legal certainty is the protection of rights gained in good faith. In the decision of the CC file no. III.ÚS 705/06 of 14 February 2008, explains that: “The protection of conduct committed in confidence in the law presupposes that the legal or natural person acts in confidence not only in the text of the relevant legislation, but in particular also in the continuous interpretation of such a regulation by public authorities, including the practice of administrative authorities and the interpretation of law by administrative courts. Such already completely constant administrative practice... and any subsequent decisions of administrative courts (...) and the interpretation contained therein form, in a material sense, part of the relevant interpreted legal norm, from which the protection of the addressees of legal norms in law derives.”

In many cases, inactivity can have positive effects for the addressees of public administration, both in terms of a lack of punishment of the perpetrator of a minor offence, as well as the acquisition of the belief that the public administration will tolerate or put up with a certain situation” (Skulová, p. 48).

Any individual, guided by trust in the law, should always have at least a general idea of whether his or her behaviour is a legally permissible or prohibited act. Nevertheless, reassessment of the interpretation by administrative authorities in the unchanged state of the interpreted legal regulations is not absolutely forbidden. Still, it may cause a serious interference with legal certainty. Intensity of this intervention must always be assessed in the light of the specific situation. “However, a change in long-term administrative practice or case law, but in the unchanged state of the law, can only occur for serious reasons aimed at achieving a certain legally protected value; in no case, however, may this be done arbitrarily” (Decision of the Constitutional Court file no. IV. ÚS 610/06 of 22 June 2009).

### **3.3 Courts’ Decisions and *Stare Decisis* Doctrine**

The constant application of laws does not concern only public administration. The courts are bound by the same requirements regardless of whether the court decision-making has or does not have a precedent character. “The principles of legal certainty and predictability of a court decision entitle a party to the proceedings to assume that the court knows the law and that it will interpret unambiguous provisions of generally binding regulations in accordance with their unambiguity” (Decision of the Constitutional Court file no. II. ÚS 3764/12 of 13 May 2014). All courts must interpret and apply a binding provision of the law so that the legal opinion expressed by the higher court is respected. Thus, the court must do so in a way that is in harmony with the binding legal opinion of the superior court but also foreseeable for the participants in the proceedings in the light of its own legal conclusions already outspoken in the same case (Decision of the Constitutional Court file no. II. ÚS 296/01 of 26 November 2002). However, the principle of predictability of law and its interpretation does not apply only to the lower courts, on the contrary

it applies to the entire judicial system (Decision of the Constitutional Court's file no. II. ÚS 4029/19 of 18 March 2020).

The CC expressed the reasons for *stare decisis* doctrine succinctly in its decision file no. II. ÚS 1851/19 of 16 August 2019, "... different decision-making practice of courts on identical matters is fundamentally undesirable [...], because the substantive rule of law is built, among other things, on citizens' trust in the law and the rule of law." Therefore, theoretically if a person claimed his rights in court in a case similar to one ruled in favour of another person, he/she should not be treated differently. If not, it would certainly indicate a volatile interpretation of legal norms and thus could also jeopardize the perception of the principle of legal certainty and predictability of law (Decision of the Constitutional Court file no. No. I ÚS 566/07 of 5 August 2009).

Generally, in relation to the binding nature of judicial case law, an interpretation once already made, should constitute a starting point for deciding on the following cases of the same kind, from the point of view of the principles of legal certainty, predictability of law, protection of legitimate expectations in law (legitimate expectations) and the principle of formal justice. Changes in the case law of the courts are therefore acceptable only as a consequence of natural and gradual development in society, to which the judiciary must respond. "However, a change in judicial decision-making practice, especially in the case of a supreme court called upon to unify the case law of lower courts, must be approached with caution and in the assessment of individual cases so as not to violate the above principle of predictability of judicial decision-making and denied the requirement for a fair decision in the sense of respect for the fundamental rights of the participants in the proceedings" (Decision of the Constitutional Court file no. II. ÚS 76/17 of 3 April 2018). It is further elaborated in the decision file no. II. ÚS 1851/19 of 16 August 2019 that "The principle of legal certainty and also the principle of equality before the law require that the case law of courts change under certain conditions (change of values protected by the law, change of the societal cultural picture of the law, changes in the structure of the legal order or changes in those components of the legal order which are in the hierarchy of legal norms superior to the interpreted norm, etc.), by a certain predetermined procedure." A change in the interpretation thus might be justified only by sufficient relevant reasons substantiated by rational and more convincing arguments subsequently found, in summary better corresponding to the legal order.

#### 4 Discussion

It follows from the above qualitative analysis, that the principle of legal certainty including its sub-principles is considered not only by doctrine but also by the CC to be one of the most important partial principles of the rule of law. It is essential to observe this principle not only when drafting bills, but also during the application procedure including the interpretation by administrative bodies and courts. As the result of the above-described qualitative analysis, we were able to distinguish the following repeating partial values (or

perhaps partial objectives) pursued by the principle of legal certainty according to the CC:

- Formal justice of the legal order and fair procedure carried out by administrative bodies according to the effective laws,
- General trust in the law and the legitimate expectations of individuals,
- Certain degree of predictability of laws, administrative practice and courts' decisions (incl. uniformity, transparency, internal consistency and stability),
- Exclusion of misuse of state power and illegal conduct of public authorities
- Inadmissibility of retroactivity and retroactive interpretation of legal norms (including exceptions)
- Proper formal value of laws
- Prevention of and subsequent protection against arbitrary decision-making
- Certain framework of conditions for changes in case law.

In order to determine which of the partial objectives the CC considers to be the most important, frequency of their appearance in the already used sample of 20 decisions was analysed. The decisions are numbered according to the date of their issuance.

Table 1: Frequency of argumentation using the partial values of the principle of legal certainty analysis

Partial values protected by legal certainty/ Case No.	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	Total
Formal justice of the legal order and fair procedure carried out by administrative bodies according to the effective laws				X			X	X			X		X			X	X				8
General trust in the law and individuals' legitimate expectations	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X			X	X	19
Certain degree of predictability of laws, administrative practice and courts' decisions (uniformity, transparency, internal consistency and stability)			X	X	X	X	X		X	X	X	X	X	X	X	X			X	X	17
Exclusion of misuse of state power and illegal conduct of public authorities							X	X	X								X				5
Inadmissibility of retroactivity and retroactive interpretation of legal norms (incl. exceptions)	X	X	X		X					X	X	X	X	X					X		9
Proper formal value of laws									X			X	X	X	X		X				4
Prevention of and subsequent protection against arbitrary decision-making															X		X				2
Certain framework of conditions for changes in case law										X	X					X					3

Source: (own research of the decisions quoted below)

The following sample of the Constitutional Court's case law was used in the analysis:

- 1 Decision of the Constitutional Court of the Czech Republic file no. IV. ÚS 215/94 of June 8th, 1995.
- 2 Decision of the Constitutional Court of the Czech Republic file no. Pl. ÚS 21/96 of February 4th, 1997.
- 3 Decision of the Constitutional Court of the Czech Republic file no. Pl. ÚS 33/01 of March 12th, 2002.
- 4 Decision of the Constitutional Court of the Czech Republic file no. II. ÚS 296/01 of November 26th, 2002.
- 5 Decision of the Constitutional Court of the Czech Republic file no. I. ÚS 344/04 of December 15th, 2004.
- 6 Decision of the Constitutional Court of the Czech Republic file no. Pl. ÚS 77/06 of February 15th, 2007.
- 7 Decision of the Constitutional Court of the Czech Republic file no. I. ÚS 520/06 of January 23rd, 2008.
- 8 Decision of the Constitutional Court of the Czech Republic file no. III. ÚS 705/06 of February 14th, 2008.
- 9 Decision of the Constitutional Court of the Czech Republic file no. I. ÚS 420/09 of June 3rd, 2009.
- 10 Decision of the Constitutional Court of the Czech Republic file no. IV. ÚS 610/06 of June 22nd, 2009.
- 11 Decision of the Constitutional Court of the Czech Republic file no. I. ÚS 566/07 of August 5th, 2009.
- 12 Decision of the Constitutional Court of the Czech Republic file no. III. ÚS 3221/11 of December 12th, 2013.
- 13 Decision of the Constitutional Court of the Czech Republic file no. II. ÚS 3764/12 of May 13th, 2014.
- 14 Decision of the Constitutional Court of the Czech Republic file no. Pl. ÚS 1/14 of March 31st, 2015.
- 15 Decision of the Constitutional Court of the Czech Republic file no. Pl. ÚS 12/14 of June 16th, 2015.
- 16 Decision of the Constitutional Court of the Czech Republic file no. II. ÚS 76/17 of April 3rd, 2018.
- 17 Decision of the Constitutional Court of the Czech Republic file no. II. ÚS 482/18 of November 28th, 2018.
- 18 Decision of the Constitutional Court of the Czech Republic file no. II. ÚS 1851/19 of August 16th, 2019.
- 19 Decision of the Constitutional Court of the Czech Republic file no. Pl. ÚS 5/19 of October 1st, 2019.
- 20 Decision of the Constitutional Court of the Czech Republic file no. II. ÚS 4029/19 of March 18th, 2020.

The table above shows that in the examined sample of case law the CC argued by the requirement of general trust in the law and legitimate expectations as the most important partial goal of the principle of legal certainty in 19 cases. Thus, this partial value is seen to be of utmost importance. This finding supports the fact that the doctrine often uses legitimate expectations and legal certainty in the same meaning. Further, in 17 cases, the CC emphasizes the principle of predictability of law, administrative and judicial decision-making practice which contains the requirement for their uniformity, transparency, internal indisputability and stability. The inadmissibility of retroactivity and retroactive interpretation of legal norms (including exceptions to the contained rules) was stated by the Constitutional Court as the partial objective of the principle of legal certainty in 9 cases. In 8 cases, the CC assigned to the principle of legal certainty the need for formal justice of the legal order and fair procedure of administrative bodies according to valid legislation.

The following partial objectives pursued in the principle of legal certainty were stressed by the CC the least - to exclude possible misuse of state power and unlawful conduct of public authorities (in 5 cases), the proper formal value of a law (in 4 cases), ensuring a certain framework for changes in case law (in 3 cases) and the aim of prevention and subsequent protection against arbitration (in 2 cases). We believe that in case of the misuse of power it is because of the close relationship of the principle of legality and principle of legal certainty in this particular value. The principle of legality is stressed by the CC as the key aspect of rule of law, and misuse of power is closely intertwined with it. Thus, mentioning it also together with legal certainty is not necessary, however doing so, the CC only underlines its importance. The last three partial objectives, on the other hand, seem to be supplementary to the main protected values described above as they concern only specific cases. We may summarise, that both hypotheses set in part 2 of the article proved to be correct.

## **5 Conclusion**

The adherence of the state power to the principle of legal certainty is a characteristic sign of the rule of law. Its fundamental attribute should be such an arrangement of public affairs in which everyone can have confidence in the law and is able to predict the consequences of his or her behaviour. The partial principles and protected values are several and they may vary depending on the legal system. Determining them may serve as a starting point for further research of legal certainty limits as the law and decision/making practise need to reflect societal changes and may not be rigid under all circumstances. Legal principles are characterized by a higher degree of generality, stability, permanence, and the impossibility of denying them in statutory laws. Thus, the legislator needs to adhere to the essential legal principles so that the legal order stays consistent in its axiological and teleological content. The courts and administrative bodies have to apply legal principles when deciding individual cases with a knowledge of their nature and the partial values and objectives they promote. The balancing of principles entails choice of such solution that

preserves to the utmost extent the protected values contained in the principles and the value which is of a higher importance should finally prevail.

Qualitative analysis of the principle of legal certainty was performed, to understand the essence of this principle and the sub-principles belonging to it. A selected sample of the case law of the CC for the previous twenty-five-year period was used. This analysis clearly outlined how the CC treats this principle in its case law and what partial objectives it pursues with the principle of legal certainty. Subsequently, a quantitative analysis of the frequency of use of partial objectives in a narrower sample of twenty cases was performed. This analysis has shown that the CC considers the most important partial objectives of the principle of legal certainty to be the requirement of general public confidence in the law and the requirement of legitimate expectations which affects the activities not only of the legislator but also of administrative bodies and courts, whose decisions should be, in principle, foreseeable and at the same time ensure equal access to all participants to the proceedings. However, there are further values such as formal justice of the legal order and fair procedure carried out by administrative bodies, prevention of and subsequent protection against arbitrary decision-making, and which all are closely intertwined and show the importance of the principle in administrative decision-making. These values correspond with those found by the literature review, however they reflect specific Czech legal environment. Determining these values may prompt further research of the balance between the principles of legal certainty and legality, as necessary changes in administrative policies must not be unduly fettered.

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## **Special section**

### **“Public sector during and after the Covid-19 pandemic – Challenges in Central Europe and other countries, adopting European principles”**

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# Collaborative Governance Challenges of the COVID-19 Pandemics: Czech Republic and Slovakia

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## ABSTRACT

The goal of this article is to evaluate what the Czech and Slovak governments have done to protect their countries and try to assess why they have achieved different results for the first and second waves of the Covid-19 pandemic. The basis for such evaluation is the concept of collaborative governance, while qualitative research methods are used to achieve this goal. Based on comprehensive case studies and following analysis, the article suggests that in countries with limited quality of collaborative governance and no experience in similar pandemics, short-term “ultra-mobilisation” and positive results are indeed possible, but failures are non-avoidable in the long run. During the second wave of the pandemic, the weaknesses in governance resulted in massive governance failures. As a result, the governments’ responses delivered very limited results in terms of prevalence of Covid-19.

*Keywords: collaborative governance, Covid-19, Czech Republic (Czechia), Slovakia*

*JEL: H12*

## 1 Introduction

By mid-January 2021, several hundred thousand articles have been published in relation to COVID-19. These articles naturally have different focus and many try to explain the varying success rates of anti-pandemic policies implemented by national governments (Bouckaert et al., 2020; Capano et al., 2020;;Joyce et al. 2020). Several studies, e.g. Ansell et al., 2020, propose that one of the core factors determining the state success or failure in fighting the spread of the pandemic might be high quality collaborative governance with competent politicians, reliable and professional bureaucracy and cooperation and high trust from society.

Although there are numerous aspects of the COVID-19 crisis which make it a thorny policy problem, a key aspect of this crisis is its novel character (Capano et al., 2020). Therefore, it is important to look closely at this aspect and to find out what the successful governments have done to protect their countries and why they achieved positive (or negative) results, with special regard to collaborative governance and its elements.

According to Capano et al. (2020), the national governments can be classified in relation to the first wave of COVID-19 pandemic as follows:

- 1) governments which were prepared for pandemics and had recent similar past experiences: information and capacity pushed them towards relatively early, slow but steady and strong responses;
- 2) governments which were prepared for pandemics (especially because of their high-quality health systems), but with no or only out-dated relevant past experiences with such pandemics: they tended to feature later, slower and weaker responses than their more experienced counterparts;
- 3) governments that were unprepared in the sense of having scant-dedicated resources directed towards emergencies but who had recent past experience dealing with similar kinds of diseases and crises: they reacted early and quickly and in a very strong fashion to quell a newly emerging threat before it could get established;
- 4) governments that were both unprepared and had no recent relevant past experience: these governments were complacent initially and then shocked as the true nature of the pandemic and their lack of preparedness were revealed; they were late and slow in responding and then had a strong (panic) response.

This classification is indirectly supported by authors suggesting that path dependency, in the sense of previous experience with similar crises (like SARS), helped in dealing with the COVID-19 pandemic (Liu and Saltman, 2020).

If such classification is valid, the question is generated – why the Czech Republic (Czechia) and Slovakia (as well as some other Central and Eastern Europe countries) managed to limit the spread of the COVID-19 pandemic so well in spring and why they failed in the later phases of the pandemic? Both

countries were unprepared and inexperienced. Moreover, according to existing international indicators, these countries do not have robust governance and administrative capacities necessary to be able to respond to turbulent problems (e.g., Thijs et al., 2017).

Was the success in spring just luck (like in sports, when outsiders might sometimes win), or a combination of several specific factors (not yet proposed in a comprehensive way by any author) or anything else? And was the failure in autumn just confirmation of the fact that with their background countries like Czechia and Slovakia may achieve short-term successes, but cannot deliver sustainable high-quality results?

The goal of this article is to evaluate pandemic developments in Czechia and Slovakia in terms of the activities of their governments. To discover reasons for significantly different results in the initial phase and later phases of the pandemic and if elements of collaborative governance are being observed. Qualitative research methods are used to achieve this goal. The main research question to be posed is “Why did the Czech and Slovak governments achieve different results for the first and second phases of the pandemic?”.

The structure of this article is as follows – after the literature review the authors deliver two case studies, highlighting what the Czech and Slovak governments have done to protect their countries and which health results have been achieved. On the basis of these case studies, selected critical elements of collaborative governance possibly determining results in the first and second phase of COVID-19 pandemics are analysed. The final part of the text draws on the findings and formulates conclusions.

## **2 Collaborative governance and the COVID-19 pandemic: Literature review**

Ansell et al. (2020) interlinked the COVID-19 crisis with turbulent problems that are characterised by surprising, inconsistent, unpredictable, and uncertain events. In the cases of great uncertainty and unexpected challenges, only robust systems of governance may remain operational according to many authors (e.g., Howlett et al., 2018).

Taking into account a requirement to use the strengths of robust systems of governance against the pandemic crisis, Ansell et al. (2020) looked deeper at robust governance strategies (including scalability, prototyping, modularisation, bounded autonomy, bricolage, and strategic polyvalence) and proposed several implications for public administration, including usefulness of collaborative governance. Such suggestions can be supported, *inter alia*, by Ramus et al. (2017) who pointed out that multi-actor collaboration is a crucial precondition for robust governance strategies or by Bryson et al. (2006) who considered a cross-sectoral collaboration a remedy for complex public problems. From this point of view, the most affected stakeholders in particular cannot be excluded from collaboration (Parker et al., 2020). Since the present pan-

demographic crisis is of a global nature and is somewhat difficult and problematic to identify the most affected stakeholders, such circumstances can, according to Ansell and Torfing (2015) lead to tensions inherent in collaboration across scales or at multiple scales. From this perspective, a traditional understanding of collaboration rooted especially in mutual respect, trust and shared capacities needs to be upgraded to a dynamically scaling collaboration that can adapt to turbulent problems and volatile demands.

As for collaborative governance, its fundamental features are described by the following definition: "A governing arrangement where one or more public agencies directly engage non-state stakeholders in a collective decision-making process that is formal, consensus-oriented, and deliberative and that aims to make or implement public policy or manage public programs or assets" (Ansell and Gash, 2008, p. 544).

The starting conditions are decisive for the quality of collaboration and can be either encouraging or discouraging for various stakeholders. In addition, a series of other factors influences the quality of collaboration, namely face-to-face dialogue, trust building, development of commitment, and shared understanding (Ansell and Gash, 2008). However, according to Emerson et al. (2012), besides the mentioned conditions, it is important to keep in mind the essential drivers (namely leadership, consequential incentives, interdependence, and uncertainty) without which the impetus for collaboration cannot successfully unfold. The pandemic directly "provides" three drivers of collaborative governance, namely consequential incentives (because it was a kind of external threat), uncertainty (due to the turbulent and novel nature of the problems which followed the beginning of the pandemic), and interdependence (the pandemic was too complex, and no individual government could solve it on its own). The fourth driver, i.e., leadership, is a crucial element of coping with any kind of large-scale crisis. Due to the rapid spread of COVID-19, the countries had to employ various measures, including significant shifts of system settings such as crisis management. While crisis management in Czechia, as well as Slovakia, traditionally requires hierarchical leadership and top-down decision-making, the concept of collaborative governance is based rather on facilitative leadership and inclusive consensus-oriented decision-making. This difference offers an interesting research impetus. Especially if one takes into account different results of responses of these countries during the first wave and the following wave(s) of the COVID-19 pandemic.

Within this context, Huang (2020) demonstrated that a collaborative governance model played an important role in Taiwan. First of all, it contained trustful cooperation between the central and local governments, but also a clear coordination with other actors (e.g., NGOs), and mobilisation of some corporate resources. At the end of the day, a combination of well-implemented measures to block, track, and isolate possible sources of infection, along with high public compliance, helped Taiwan have an outstanding "report card" in the global wave of COVID-19. Choi (2020) also argues that high quality collaborative governance can serve as one solution to the COVID-19 pandemic.



South Korean experience indicates factors of effective collaboration in response to the pandemic: an effective leadership; identification of the most important partners in the system as well as outside the system; a clear definition of roles and tasks to collaborate partners; a use of multi-lateral democratic processes instead of one-way command and control; facilitation of environment that allows participating actors to develop and implement their own policies; development of suitable channels for efficient feedback; provision of transparent information and swift reactions to requirements to build and enhance mutual trust. Similarly, Christensen and Lægreid (2020) identified a collaborative decision-making style with involvement and participation from stakeholders as crucial determinants of the Norwegian approach.

On contrary, some other studies are arguing that a centralised top-down approach limiting certain citizens' rights was a key success factor in some other Asian countries (e.g., Ang, 2020). From this point of view, it is well worth mentioning that centralised top-down approach, limiting some fundamental rights and freedoms of citizens may not contradict with the principle of collaborative governance automatically, but only by the design of its implementation. This partially corresponds with a crisis management setting under the circumstances of a state of emergency in the observed countries, where the central governments are expected to play the crucial role, and where any deep-rooted tradition of efficient collaborative governance is missing.

### **3 Methods**

The authors used qualitative research methods to prepare this text. The main method is the multiple case study, covering two selected countries – Czechia and Slovakia. The authors decide to evaluate countries with a common history and with similar results from the point of COVID-19 spread. Both countries belong to the group of countries that were both unprepared and had no recent relevant past experience (Capano et al., 2020). The choice of similar countries could be the object of discussions; however, it can be well-argued. If similar countries with similar approaches and problems achieve similar results, possible trends/factors may be synthesised. Moreover, there is also a simple pragmatic reason behind our choice – authors cover their own countries, using their deep direct knowledge about a situation.

The text of included country case studies is developed by authors based on their own secondary analysis of existing public data and via the use of the expert opinion method. The data were collected by monitoring official national COVID-19 related sites (CZE: [koronavirus.mzcr.cz](https://www.koronavirus.mzcr.cz) and SVK: [www.korona.sk](https://www.korona.sk)) and by monitoring a wide range of pro- and anti-government popular newspapers.

In both countries, we selected four experts and asked them to respond to a semi-open questionnaire, listing alternative policy responses and providing a lot of space for their own opinions. They were to evaluate/discuss the proposed measures, responses and problems, and were invited to add their own proposals or important remarks. In the later phase we re-contacted them for

specific responses to particular open questions. In Czechia the profile of experts was as follows – two practitioners: the former vice-minister of health and the former hospital director/former advisor to the Minister of Health and two academicians – health policy experts. In Slovakia we received responses from one practitioner, the former head of the Parliamentary Committee for Health and from three academicians, one public policy expert, one health policy expert and one public finance expert. The choice of experts was intentional (we wanted to include both practical and theoretical elements) and based on our existing contacts to ensure the response (thanks to this all experts responded).

The paper also utilises the method of qualitative comparative policy analysis (Rihoux et al, 2011). This method develops a conception of causality that leaves room for complexity.

As the main health outcome indicator, the number of COVID-19 newly infected cases is used as the simple and available proxy of results of anti-pandemic policies. Statistics delivered by Czechia and Slovakia about the number of newly infected cases are internationally accepted and can be used for careful comparisons, especially when evaluating the first phase of the pandemic when both countries delivered similar relative size of testing before November 2020 (after blanket testing in Slovakia many units testing with antigen tests remained open for free and for everybody interested, adding thousands of extra cases into the statistics).

To respond to the overall research question of this article, two concrete research questions are formulated, as follows:

RQ1: Is there any possible collaborative governance related explanation for very good (Czechia) or excellent (Slovakia) pandemic control results in spring?

RQ2: Is it possible to propose collaborative governance related explanations determining really problematic health outcomes during the second wave?

To be able to respond to the second research question within the limits of the size of this article we have had to select a few critical collaborative governance challenges for our evaluation. The basis for this were the responses from experts, which identified the following core areas to be included - low capacity to deliver evidence-based policy making (especially due to the inability to engage stakeholders and to listen to them), miscommunication, political fights instead of working together against COVID-19, leadership competences, administrative capacity and competences.

#### **4 Czech experience with COVID-19**

Czechia is a Central European country with a territory of 78,866 km<sup>2</sup> and 10.5 million inhabitants. The Czech healthcare system is based on competitive compulsory public health insurance, which assures universal access to a broad benefit package. According to WHO (Alexa et al., 2015), some impor-

tant Czech health indicators are above EU averages or even among the best in the world (such as infant mortality). On the other hand, there is a possible substantial potential in Czechia for efficiency gains (to cope with constant financial problems) and improved health outcomes. From the point of inputs, the Czech health care system is one of the most developed in the region, it spends app. 7.5% from GDP, employs 4.1 physicians and 8 nurses per thousand inhabitants and its bed capacity is 6.6 beds per thousand inhabitants (WHO data).

#### **4.1 First wave of the pandemic**

In Czechia, the first three COVID-19 cases were recorded on 1st March. The relatively steep increase in new cases peaked at the end of March and then started to gradually decrease. The number of hospitalised COVID-19 patients only exceeded 400 in the first half of April (with a peak of 437 patients on 9th April). The number of patients in a serious condition only exceeded the level of 100 twice.

The Czech government's response was designed in close collaboration with epidemiological experts and applied fairly measures similar to other countries. It focused on social distancing measures, protection of the most vulnerable population groups, diminishing the risk of importing the virus from abroad, and testing. A massive emphasis on an obligation to wear face masks (and compliance with this duty) became a significant feature of the Czech response.

From the evening of 10th March, the Czech Health Ministry banned all cultural and sporting events of more than 100 people. The following day, pupils and students were banned from attending all schools. From 12th March, a 30-day state of emergency was declared, extended various times and ended on 17th May 2020.

The most critical restrictions on citizens' rights were implemented very fast (see for example Spacek, 2020), such as the reintroduction of border surveillance; restricted entry to the country; mandatory quarantine for returnees from abroad; restrictions on the free movement of people; rules for tracing infected people (only with their permission); bans on movement without covered mouths and noses; and restricted visits to hospitals, prisons and social care establishments. Various restrictions on services (public and private), restriction/suspension of administrative activities; restrictions on transport services; and bans on some cultural, sport and other activities were also applied. Sports facilities, libraries, galleries, shops, markets, services and retail sales (with exceptions) were closed. The most infected areas of the country were temporarily isolated – 21 municipalities in the Olomouc region, with approximately 24,000 people, were closed for two weeks from 16th March.

Commencing 17th March, acute inpatient healthcare providers were forced to reduce planned medical services to those "essential" for the health of their patients. Two days later (19th March), the ministry ordered healthcare providers to reserve a certain number of beds (preferably beds equipped with

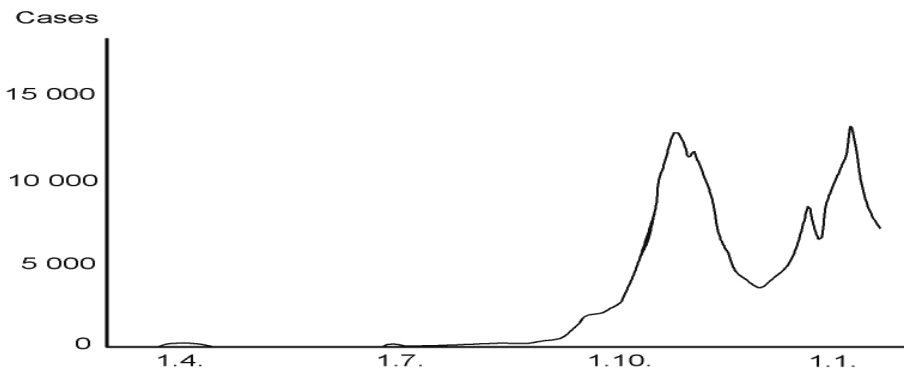
artificial pulmonary ventilation or oxygen therapy) for COVID-19 patients. Admission of new patients for follow-up inpatient rehabilitation care was prohibited on 23th March. The ministry's measures effectively helped to prevent the overloading of inpatient care.

Czechia started easing COVID-19-related restrictions from mid-April – according to a publicly announced scheme. The country returned to an almost standard way of life in late May.

## 4.2 Second wave of the pandemic

Compared to the first wave, the health outcomes of the second wave are far more critical (Figure 1). Up to 21st January 2021, there have already been a total of 924,847 registered COVID-19 cases in Czechia (862 cases per one hundred thousand populations – ranked number four worldwide, with only very small countries in front of it).

Figure 1: Indicative curve illustrating the development of the number of newly infected cases in Czechia



Source: authors

The numbers of newly infected cases started increasing again in July 2020. In August, the government rejected any major restrictive measures, referring to the alleged local character of epidemy. Similarly, citizens did not respond by increasing social distancing, so the infection rate trend started rocketing (for example on August 21 the number of newly infected cases had already reached 504 and several local pandemic focal points were fully visible, especially in Northern Moravia). Both the Czech government and the Prime Minister, Mr. Babiš, continued to deny the return of COVID-19 during this period. For example, he told deputies “Don’t deal with COVID-19 all the time, try to solve the gardening law for example”.

September was characterised by a fast increase in the number of newly infected cases and the COVID-19 tracking system began to collapse. Only when the numbers of infected achieved record numbers in September did the Prime Minister publicly announce the return to strict anti-pandemic measures

and apologised for the delayed reaction. Despite being a more critical situation, the set of applied anti-pandemic measures was much softer compared to spring and the compliance was not effectively reintroduced.

As late as 5th October the emergency situation regime was reintroduced, schools were closed on 14th October and a “soft” lock-down, including closing most shops, was introduced on 28th October (going to work or to the countryside and many other activities were permitted).

The compliance has suffered from confused and incomprehensible communication as well as lack of good examples provided by government officials. The opposition to adopted measures is also visible. Several groups of mainly small entrepreneurs, who are frustrated because of the lack of effective compensation organised protest actions. Hundreds of protesters demonstrated in Prague for an initiative “Let’s open Czechia”, in January 2021. Recently, a protest against wearing face masks became the impulse for the first scuffle in the House of Deputies in modern history.

COVID-19 has also spread rapidly among healthcare professionals. At the end of October, the number of COVID-19 positive physicians exceeded 2,500, and more than 6,000 nurses were infected. In reaction to the lack of specialised staff in the health care sector, the government introduced mandatory work duty on 12th October for selected categories of full-time students to compensate for the staff shortages in public health offices, hospitals, emergency care, and residential social services.

## **5 Slovak experience with COVID-19**

Slovakia is a small country in Central Europe with a territory of 49,035 km<sup>2</sup> and 5.458 million inhabitants. Similar to Czechia, its healthcare system is based on competitive compulsory public health insurance, which assures universal access to a broad benefit package. According to WHO (Smatana et al, 2016) the Slovak health system performs relatively well, but some Slovak health indicators, such as life expectancy, healthy length of life and avoidable deaths, are troubling. There is persistent room for improvement in the delivery of care, of the inequity in the distribution of health providers and of the efficiency of resource allocation and use. From the point of inputs, the Slovak health care system lags behind Czechia, but is still one of the most developed in the region, it spends app. 6.7% from GDP, employs 3.4 physicians and 6.1 nurses per thousand inhabitants and its bed capacity is 5.7 beds per thousand inhabitants (WHO data).

### **5.1 First wave of the pandemic**

The first COVID-19 case in Slovakia was detected on 6th March and the peak of infection was reached in late March. Compared to other countries, the COVID-19 outbreak was very limited in spring. Most media stated at the time that Slovakia is the most successful country in Europe in fighting the COV-

ID-19 pandemic – with a very small number of infected, hospitalised and only 28 COVID-19 related deaths in Slovakia by the end of May.

When the COVID-19 risks became evident, the Slovak government delivered swift and strict responses. On 14th February 2020, a system was already organised on the Slovak borders to identify people who were ill. On 27th February, the first concrete anti-pandemic measures were announced – health status border controls at all Slovak airports and at selected border crossings, especially at the border with Austria.

On 6th March, (the same day that the first COVID-19 case was detected in Slovakia) the government announced restrictions on visits to hospitals, social care establishments and prisons, recommendations that everybody arriving in Slovakia should stay in voluntary quarantine, that cities and non-profit organisations should not organise any mass activities, and that churches should not organise religious activities.

The regional self-governments voluntarily decided to close secondary schools and universities, stopped all contact activities and switched to on-line education before the formal state decision to close all schools and preschool facilities announced on 12th March.

A restricted emergency situation was formally announced on 11th March 2020; this was very early compared to most other European countries. The scale of the emergency was restricted to the healthcare sector and social care establishments for the elderly, for the rest of the country “an extraordinary regime” status was announced.

After 12th March, anyone arriving in Slovakia from abroad was required to stay in home quarantine for 14 days, almost all retail shops and services were closed. Sport facilities were also closed, the organisation of sports, social, and cultural events was prohibited, all public worship was prohibited; all border crossings were closed and international public transport was restricted.

From 25 March, all citizens were required to wear protective face masks in all public spaces and advised to stay at home as much as possible and to limit any kind of mobility. The most sensitive measure was the decision concerning compulsory state-organised quarantine for everybody returning from abroad after 6th April 2020. A law making it possible to track the location of all mobile phones was passed. A curfew was put in place during the Easter holidays, with limited exemptions such as shopping, travelling to work, health purposes, and individual recreation in the surrounding forests and countryside.

Because the spread of COVID-19 was confirmed in some Roma settlements, the Crisis Staff isolated five Roma settlements in three municipalities (Krompachy, Bystrany and Zehra) on 8th April 2020. Some authors claim that the use of the army to manage this lock-down was problematic, but the core fact is that Roma welcomed and not rejected such help.

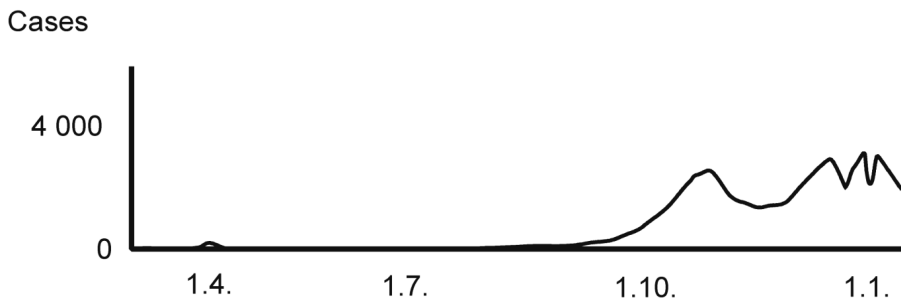
It is necessary to admit that Slovak citizens behaved very responsibly. Except for a few specific cases, the public reaction to the very strict measures was positive. The slogan 'Stay at Home' was promoted and accepted; face masks used regularly.

The pandemic also impacted on the health care sector - planned operations and other non-urgent treatment in the health care sector were postponed. Selected hospitals were expected to construct drive-through points to test people in their cars for COVID-19. Specialised hospitals to treat COVID-19 were established in all regions.

## **5.2 Second wave of the pandemic**

The positive picture related to the first wave of the pandemic is today "replaced" by critical figures during the second wave of the pandemic in the country (Figure 2). Up to 25th January 2021, there have already been a total of 406,258 registered COVID-19 cases in Slovakia (739 cases per one hundred thousand population).

Figure 2: Indicative curve illustrating the development of the number of newly infected cases in Slovakia



Source: authors

After the relaxation of the existing measures in late spring (May, June) the pandemic situation in Slovakia started to worsen in late July, when the number of infected started to once again increase. The number of newly infected cases reached critical levels in autumn, with the first peak on 29th October – more than 3,600 cases in one day (detected by PCR and antigen tests). The three weekend rounds of blanket testing at the end of October and in early November detected app. 60,000 infected persons and moved the "infection curve" a bit down, but only for a very short period. After the Christmas holidays the number of newly infected cases again rocketed – on 30th December the number of newly infected cases reached 6,315.

Similar to Czechia, such a massive spread of COVID-19 infections cannot be independent from the fact that the growing numbers of infected during late July and early August were not reflected in time by the Government – despite the existing rules of the national pandemic plan approved in spring. Even in

early September, the Prime Minister rejected proposals from epidemiologists for immediate re-introduction of strict anti-pandemic measures. However, he changed the rhetoric on 25th September – telling people that strict measures are necessary, because “people ... you let me down”.

Anti-pandemic measures similar to those in spring were re-introduced but in a much softer way compared to spring. The most visible anti-pandemic measure was closing schools – but as late as on 26th October. The strategy of the Prime Minister was not to use lock-down to reflect increased rates of newly infected, but decided in late October on a unique experiment – blanket testing by antigen tests of almost the entire population. Testing during the first stage was realised in three phases (up to now, more phases are possible) – the four most infected districts on 23-25 October, the whole country on 31st October to 1st November, and 45 districts on 6-7 November which had had a higher incidence rate from the second phase. In the largest scale second phase 3,625,332 people were tested, with 38,359 positive results. This mass testing was envisaged by the Prime Minister as the “nuclear weapon” against COVID-19, however most experts do not agree with such optimism – see our later analysis.

Just before Christmas the government introduced some so-called “lock-down” measures, but these were really soft (shops were not closed, family contacts only formally limited, etc.). At the end of December, when the numbers of infected (and deaths) after social contacting during Christmas had rocketed and the capacities of hospitals started to be fully utilised, the Minister of Health, pushed by medical experts, originated the passing of much stricter lock-down rules from 1st January.

During the second week of January the Prime Minister again announced that blanket testing is necessary to cope with the pandemic – after this announcement a comprehensive discussion started also within the coalition, which lasted for one week. In the end, on 17th January, the plan of country wide semi-compulsory (those without a negative test were prevented to leave their homes, except for urgent needs, similar to autumn) “screening” was approved by the Government, with commencement on 18th January (!).

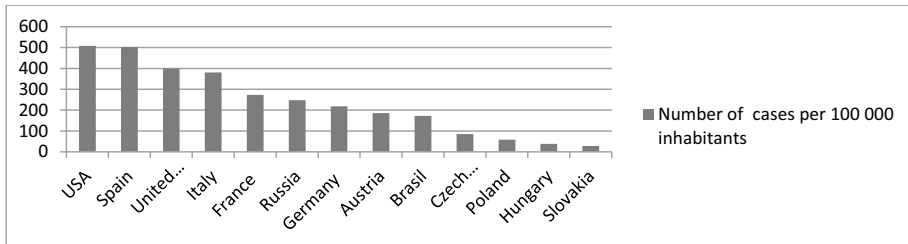
## **6 Discussion: How to explain the results for the first wave of pandemic?**

Czechia and Slovakia were very successful in controlling the COVID-19 spread in spring (Figure 3). Some Western media (like The Guardian on 5th May 2020) came to the assumption that the very limited spread of COVID-19 in post-communist countries was related to the limited performance of national health care systems and related low trust in the chance of receiving effective treatment. The authors do not agree with this idea – for example, according to the recent study realised by the Slovak Academy of Sciences of Slovak, 75% of the population trusted in their health care system in April 2020 (SAV, 2020). The situation in Czechia is similar. According to CVVM survey (2020),



more than two-fifths (44%) of the population were satisfied with the health care system, slightly more than a fifth (22%) were dissatisfied and one third (33%) were “neither satisfied nor dissatisfied” in 2019.

Figure 3: Relative COVID-19 outbreak on 26. 5. 2020 (selected countries – number of newly infected cases per 100,000 inhabitants)



Source: authors, based on the data published by Johns Hopkins Coronavirus Resource Center

It seems that the high level of compliance could be related to other factors, though not as yet comprehensively mapped. The authors feel that factors like common solidarity, fear, path-dependence and political background should be taken into account. During the first phase, both the Czech and Slovak nations (with minimum exceptions) managed “to work together” – the Slovak national password for that period was “We can do it together”. An exclusive public opinion poll in Slovakia in March showed that almost 80% of all respondents supported the central government’s anti-pandemic measures, and surprisingly, approximately 13% of the respondents would have welcomed even an even more restrictive state response to the pandemic.

The path-dependence factor could be connected with 40 years’ experience of living in a centralised non-democratic regime where citizens were expected to “serve the state” and not the opposite “the state is here to serve citizens and businesses”. Even after 30 years following the change of regime, governments “ordered” and people followed.

Lastly, two elements are connected especially with Slovakia. The first is fear (although this factor is relevant for Czechia, too). Not only was everybody afraid of what kind of disaster was coming, but in Slovakia, the Institute for Health Policy (policy unit at the Ministry of Health) published its prognoses of the spread of this pandemic in Slovakia. According to the first of them, the total number of infected with “laisse-faire” approach was expected to reach almost 50 % of the population - such a critical message probably influenced the behaviour of citizens. One of the interviewed Slovak experts emphasised this factor specifically:

*“At the beginning, the important factor was fear, caused by international developments and preliminary prognoses published by the Ministry of Health. The government communication in the media and by official pages ‘promoted such fear’”.*

The second is smooth political transformation and the existence of political co-operation related to the fight against the COVID-19 spread. The departing Prime Minister, Mr Pellegrini, did not decide to wait until the end of office in a passive or moderate way, but managed during the last days of office of “his” government to realise a set of really comprehensive measures to prevent the spread of COVID-19 in Slovakia. The newly elected Prime Minister was invited to be part of the team and this allowed for continuity. Politics was very much set aside; the coalition and opposition parties prioritised the need to fight COVID-19 instead of the need for permanent political fights.

Without doubt, not everything was perfect regarding the public policies related to COVID-19 during the first phase of this pandemic. Public policy actors criticised the government because of fragmented, often confused, and inconsistent communication, lack of systematic approach to COVID-19 response, and rather delayed implementation of standard legal procedures foreseen by the law to deal with crises. It seems the governments also slightly underestimated the impact of the pandemic from the outset. As a result, the countries (especially Czechia) struggled heavily with a lack of protective equipment in the first weeks. Similarly, testing was not organised smoothly, the government failed to prepare adequate testing capacities. In Czechia, one month after the first case occurred, waiting times for test results often exceeded a week. In both countries the economic response was slow and limited – especially in Slovakia (for more see Nemec and Spacek, 2020).

## **7 Discussion: Possible collaborative governance related explanations of problematic health outcomes during second wave**

As indicated in the methodology part, the authors – based on expert opinions – decided to deal with the following factors in this part of the text: low capacity to deliver evidence-based policy making (especially due to the inability to engage stakeholders and to listen to them), miscommunication, political fights instead of working together against COVID-19, leadership competences, administrative capacity.

### **7.1 Evidence-based policy making and involving stakeholders**

During the second phase it became fully evident that the top leaders were not able or maybe even unwilling to engage all the relevant stakeholders (especially experts) and to listen to them. Expert opinions and advice were rejected mostly because of populist reasons. In Czechia, a reputable epidemiologist, Mr. Maďar, had already stepped back from the expert advisory body in August 2020 because of the Ministry of Health’s chaotic conduct and communication failures. In Slovakia, several experts (e.g., Mr. Krčméry) left “the team” of the Prime Minister and switched to the expert team established by the President.

Protective measures or even strategies were often declared without any consultations with stakeholders. For example, the Czech Medical Chamber several

times expressed the concern that the Ministry did not consult its vaccination strategy with experts. In Slovakia, the Medical Chamber openly protested against the selected measures (especially against blanket testing) – in retaliation, the Prime Minister publicly named the Chamber as “misbelievers” (28th October).

Critical stakeholders in both countries, especially local and regional self-governments, civil society, and professional organisations, were not only insufficiently consulted, but also not accepted as real partners and a top-down approach in decision-making dominated. For example, the warning tool called “COVID-19 Traffic Lights” was developed by the Slovak capital, Bratislava, and then it was taken by the Ministry of Health, but only as a one-way process. Without any consultation, the central government pressed sub-national governments to implement chaotic and non-strategic measures regardless of their protests or warnings. Furthermore, if we put these events together with the increase of additional expenditures as well as shortfalls in their own revenues (e.g., Čajková et al., 2021; Černěňko et al., 2021), it helps us to understand the frustration and helplessness of their representatives. Unsurprisingly, distrust in sub-national governments towards the central governments was continually increasing in 2020.

The Slovak case of blanket testing may serve as a really good mirror of the situation. Both waves of testing were initiated directly by the Prime Minister, who continually argued that such testing serves as a “nuclear weapon” against COVID-19 spread. The participation of citizens in testing was secured by the rule that without a negative test, people must stay at home and cannot go to their work or to the countryside.

Already in relation to the first three weeks of testing in autumn, most experts were strongly against it, arguing especially of the high social and economic costs, limited capacities of medical personnel necessary to deliver testing, risk of spreading the virus when waiting for treatment and its results and also by the very limited reliability of results of antigen testing in cold weather. To “win”, apart from unfairly blaming his opponents, the Prime Minister also publicly announced: “either testing, or my resignation”.

The experience from the first round of blanket testing definitely proves that the expectations of the Prime Minister about “his nuclear weapon” did not materialise. Yes, the direct benefit of blanket testing is indisputable – during its three phases, the testing identified almost 60,000 infected, who were required to stay in quarantine and by this the spread of the virus was most certainly slowed down.

However, several cons should also be mentioned. Formally, the testing was voluntary, however, because of the related sanctions frustration, fear, and strong opposition was created. The logistics required many health-care workers, assistants and the army – yet 12 hours before the start of the main wave, only 60% of posts had been filled by all the staff required. Another issue was the hundreds of people queuing outside for hours, especially in the larger cit-

ies on the first day of the weekend of country-wide testing (30 October – 1 November). The direct costs of testing are estimated at more than 100 mil. EUR.

Most critical is the fact that the blanket testing used is a “single” anti-pandemic tool. Because the reliability of antigen tests is rather limited (existing experiments indicate these tests have a 50-70% success rate to identify positive cases in the population without symptoms), up to 50,000 infected received a “green card” – the option to behave as healthy people and not to comply with social distancing measures after mass testing. In such conditions the fact that the blanket testing impact on the incidence curve was only short-lived cannot be any surprise.

## 7.2 Mis-communication

The quality of communication from government to citizen and all relevant stakeholders suffered from many deficiencies. The experts involved in this study commented on this especially with two critical statements:

*“Too much was not effective”*

*“Their information was frequently chaotic”*

In spring, press conferences were organised even several times a day, announcing new measures, their modifications, interferences, etc. During the second phase the frequency of communication outputs decreased, but the quality of communication did not improve significantly (despite already existing experience) with the pandemic. Some opposition media in Czechia like to call the Minister Havlicek “Prime Chatterbox”.

The “quality” of communication of the Slovak Prime Minister in late autumn and winter crossed any acceptable borders. In many cases, with his highly problematic statements, he dishonoured experts, politicians or other actors with different opinions to his. His statements on 13th January during an official press conference related to the second phase of blanket testing serve as an effective example of the style of his communication:

*“If any expert now says that we need vaccination and not blanket testing, such a person is a fool and not an expert.”*

*“If our medical experts are such good experts, why have they not already produced a Slovak vaccine?”*

In autumn, the Prime Minister explicitly blamed almost everybody (e.g., political opposition, media, experts, ordinary people, doctors in hospitals as well as GPs, and even some members of the ruling coalition) but not himself. It is no surprise that trust in him and his government significantly dropped if one compares its level at the time of the general election in 2020 with the end of the same year.

### **7.3 COVID-19 as the subject (and “victim”) of political fights**

Compared to the first phase of the pandemic, when most political actors tried to work together and compliance and solidarity were high, the situation significantly changed from the summer.

Compared to the specific political situation in spring (especially in Slovakia – see above) in both countries during the second phase of the pandemic, (almost) any COVID-19 policy proposal is used as the option for political battles – opposite to the need to find commonly accepted and effective solutions to limit the spread of the virus. (Almost) any proposal from the government coalition is automatically subject to criticism by the opposition, even in cases where such legislation is necessary.

It is not only the opposition “automatically” fighting any proposal by the government coalition. In Slovakia, the situation within the coalition is also especially critical. The most visible fight is between the Prime Minister (party OLANO) and the Minister of Economy, Mr. Sulík (party SaS). The “apex” of this fight was the press conference of the Prime Minister on 11th January when Mr. Matovič directly accused Mr. Sulík of causing 4,300 preventable deaths because he had ignored the order to purchase antigen tests. The fact that the coalition needed one week of internal fights to propose the final design of the second round of blanket testing is also fully illustrative and its results critical (the second round of blanket testing was announced to start on 18th January, but the government decree only came into force on 19th January, leaving no time to prepare for its implementation).

Politics without doubt also impacted the capacities of governments to implement necessary anti-pandemic measures during the second wave of pandemic. The solidarity and “subordination to top-down orders” characterising the spring wave disappeared and many measures were not only criticised by the opposition, but also disliked by citizens and businesses. In both countries, several mass protests against COVID-19 related policies have been organised, with the peak related to 17th November (Velvet Revolution Day).

### **7.4 Leaderships**

The Prime Minister’s leadership competences in both countries are a matter of widespread concern and discussion. The Slovak situation is already sufficiently documented above (“just me” performance).

Regarding Czechia, the Prime Minister (probably trying to follow advice from his marketing team) seems to pay too much attention to operative tasks (“I am counting vaccines”, “I’ll deliver face masks by myself” and similar expressions document this). More appalling, Mr. Babiš many times failed to bear responsibility for mistakes or wrong decisions.

As the result of missing leadership, the governments have chronically failed to prepare and implement strategic or complex and coordinated policies. In both countries, formal rules of how to react to the level of pandemic spread

were not prepared in time in spring, but most importantly, existing strategies have not been respected by practice in summer which has most certainly been one of the factors determining the excessive number of newly infected cases in autumn. In addition, vaccination strategies arrived late and have been changed several times in both countries.

Because of the lack of real strategic leadership, the crisis management is characterised by prioritising operational management over strategic, resulting in confusion, oppositeness, and ultimately the immaturity of government actions.

A specific problem of both countries is the negative examples of misbehaviour by core leaders. In Czechia, the Minister of Health Prymula was caught by the media in a pub (formally closed) without a protective mask (the positive is that he was dismissed after this). The Slovak Vice-Prime Minister Holly was caught by the media travelling regularly to and from the UK for family reasons – without testing and quarantine (he was not dismissed and part of the government became ill after one of his returns). The Slovak Head of Parliament was involved in a car accident during lock-down; a former Miss Slovakia was in his official car (he did not resign).

## **7.5 Administrative capacity**

According to the international rankings (see for example Thijs et al., 2017) the administrative capacities of both Czechia and Slovakia are among the lowest in the EU. It was possible to “ultra-mobilise” them in spring, but in a long-term perspective their weaknesses had to become visible. A few examples can be provided.

Lagging digitalisation of administration in both countries has limited the chance to effectively fight COVID-19. Effective tracking of infected, tracking of movement of suspected, protection of borders, help for impacted businesses and many other needed processes did not work, this is also due to limited IT support. During the first round of blanket testing in Slovakia all evidence (registration, results) was by hand, without any IT support. Such failings significantly extended waiting times and increased the risk of infection spread between people waiting. What really cannot be excused is the fact that this problem was repeated (to a large extent) also during the second round of blanket testing in January – only a limited number of testing points allowed to pre-order and to receive results on-line.

Limited administrative capacity can be documented by the low-quality design of issued regulations which needed several amendments. This resulted in explanations needed for their implementation and further explanations of the comprehensive sets of unclear exceptions to the regulations. The enforcement of such legislation was very difficult with significant negative impact on its execution and compliance.

Limited administrative capacities (not lack of available resources) could also be behind the fact that the economic support to business and people in need was limited in both countries (and with many mistakes and problems). The Czech government had managed to pump app. 12% of the GDP (Germany 16%) in 2020 and the Slovak government only app. 6% of GDP. Low quality of e-government and complicated rules of supporting schemes created opportunity for fraud and false claims for support (like the case of a hotel in the city of Prievidza receiving more than 100,000 EUR of ineligible compensation).

## **8 Conclusion**

This article attempts to summarise what the Czech and Slovak governments have done in response to the COVID-19 pandemic and why these governments achieved different results for the first and second phase of the pandemic. Based on comprehensive case studies and following analysis, we suggest that in countries with limited quality of collaborative governance and without experience with similar pandemic, some short-term “ultra-mobilisation” and positive results are possible, but that failures are non-avoidable from the long-term perspective. During the second wave of the pandemic, serving as a catalyst, governance weaknesses, together with other factors, led to massive governance failures. As a result, the governments’ responses delivered very limited results in terms of the prevalence of COVID-19.

Complex and inclusive collaborative governance is especially based on mutual respect, understanding, trust and shared capacities. In addition, a large-scale crisis requires a dynamically scaling collaboration that can adapt to changing problems (Ansell and Torfing, 2015). Our analytical look at events that happened during the first and the second wave shows that such a base was not present during the second wave of the pandemic. The turning point when the shortcomings of collaborative governance started to impact the spread of pandemic in a significant way in both countries was the end of the first wave and a “seamless summer of 2020”.

As for Slovakia, various stakeholders became much more active when they found the central government had not prepared for the second wave in a proper way – and their activities made the problems very visible. Mutual respect, as well as understanding, immediately disappeared not only between the central government and other stakeholders, but also between the partners within the ruling coalition. The government, and especially the Slovak Prime Minister did not want to listen any advisors, including experts in epidemiology or economists who had repeatedly wanted to warn him to take scientifically unsubstantiated measures. Furthermore, it was impossible to see clear lines of some visions: the state of health of the population as well as the state of some sectors of the national economy became dramatically worse. Instead of building on existing elements of collaborative governance the central governments stuck on one-way command and control; feedback was understood as an attack on the government’s leading role; transparency of policy making became rare. In Czechia, COVID-19 emphasises some public admin-

istration long-lasting blind spots regarding its competences and capacities. The system was not effective in dealing with complex policies that required coordinated and strategically well-designed solutions even before the pandemic. Combined with the government's bad communication and leadership failures, it has serious consequences for public confidence, compliance level, and subsequently for the spread of the disease. Governance style oriented solely on short-sighted political marketing works well in good times. In bad times, sooner or later, it inevitably fails. From the theoretical point of view, these events showed an imbalance in the use of power (e.g., Purdy, 2012). Thanks to available resources and rules of crisis management, central governments, and the Prime Ministers in particular, dominated. However, instead of facilitation of collaborative initiatives and joint actions of various stakeholders that could lead to synergy, inclusiveness, mutual trust and understanding, they preferred politics and their own narrow interests. The price for the mentioned events is many probably preventable deaths, not only because of the COVID-19 infection itself, but also because of the pandemic consequences, especially in the form of limited access to necessary treatments.

The analysed events in both countries offer us three very important policy implications. First of all, in emergency situations when the governments are challenged by turbulent problems and volatile demands, emotional and politically-driven decisions cannot prevail over strict evidence-based policy making. Secondly, collaborative governance seems like a key strategy in coping with the mentioned turbulent problems which go beyond the capacities of individual governments because "done well, collaboration creates synergies between governments and private participants, allowing them together to produce more than the sum that their separate efforts would yield" (Donahue and Zeckhauser 2011: 5). However, each shortcoming or underrated context can deteriorate the positive effects of collaboration and, at the end of the day, it is nothing more than a Potemkin village. And last but not least, although the pandemic crisis activated all the drivers for the application of collaborative governance pointed out by Emerson et al. (2012), i.e., leadership, consequential incentives, interdependence, and uncertainty, the Czech and Slovak examples show that leadership is a key, and at the same time, the most sensitive driver, and without adequate leadership, other drivers cannot automatically generate effective collaboration.

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# The Psychosocial Impact of the Romanian Government Measures on the Population During the COVID-19 Pandemic

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## ABSTRACT

The Covid-19 pandemic generated a global crisis involving most countries in the world. State governments worldwide were forced to take appropriate measures impacting different fields. The Romanian government and other local public authorities developed special measures to curb the spread of the SARS-COV-2 virus in Romania in general and in Bucharest, the country's capital. The purpose of our research was to identify the social and psychological impact of the governmental measures on the citizens of Bucharest. The research was conducted between 28 November and 25 December 2020, but refers to the measures taken by the government and local authorities from the onset of the Covid-19 pandemic to date. The sample, representative for Bucharest, included 421 citizens living in Bucharest, aged between 19 and 40 years. The data were collected using an online questionnaire. Other methods used to analyse the results and verify the hypothesis included the multiple regression model and some applications in Excel. The results confirmed that governmental measures had a strong social and psychological impact on citizens, changing their social behaviour and causing psychological disorders, such as depression and anxiety. Our research results can help the Romanian authorities avoid problems among the population and adapt their measures to better meet the population's psychosocial needs in time of the Covid-19 pandemic crisis, which is far from over.

*Keywords: Covid-19, governmental policy, social impact, pandemic, psychological impact*

*JEL: I12, I18*

## 1 Introduction

Pandemics occur from time to time in society, causing the death of millions of people (Akas and Karataş, 2020, p. 3) and they can cause frustration, anxiety, depression or fear (Ballou et al., 2020, p. 2). Most pandemics so far have a major social, economic and psychological impact on humanity and are characterized by a widespread geographical extension (Morens et al., 2009, p. 1020; Besenyő and Kármán, 2020, p. 631; Chehabeddine and Tvaronavičienė, 2020, p. 432; Davulis et al., 2021, p.310). The same factors were studied by Mura and Horváth (2015, p. 867). Now, the COVID-19 pandemic has had an unprecedented impact on the daily life of the population all around the world. The measures adopted by the governments of the affected states have led to significant changes in the population's behavior, having a major impact on both the mental and physical health of the citizens. First discovered in Wuhan, China, the SARS-CoV-2 virus spread at a very high rate on a worldwide scale, leading this way to the COVID-19 Pandemic (Zandi et al., 2020, pp. 1-2). Some symptoms of COVID-19 are fever, dry cough, loss of taste or smell (World Health Organization, 2020). According to the World Health Organization (WHO), until the 31st of January 2021, there were 101,917,147 confirmed cases and 2,205,515 confirmed deaths of SARS-CoV-2 worldwide (World Health Organization, 2021).

Facing this global crisis, the public authorities from every state had to issue new sets of measures in order to limit the spread of the SARS-CoV-2 virus. Among the adopted measures there are: wearing of a protective mask, isolation, quarantine and social distancing. In China, for example, strict measures have had an impact on reducing the transmission of the SARS-CoV-2 virus (Liu et al., 2020, p. 77). 'The normal' life which the population was used to have, suffered a drastic change, people's lifestyle and behavior have been strongly affected.

The adopted measures also had an impact in Romania over the mental and physical health of the population. Thereby, the scope of this research was to identify the social and the psychological impact of the measures adopted by the Romanian Government and the local authorities on Bucharest's citizens. Our research question is: Which were the social and psychological effects of the governmental measures on the population aged between 19 and 40 in Bucharest in the first nine months of the pandemic?

It is necessary to specify that some governmental measures from different states, including Romania, were influenced by the recommendations communicated by the European institutions and by the World Health Organization which were actively involved in managing this crisis ever since its outbreak. Also, the European Union has been actively involved in this situation, encouraging states to do more tests (Androniceanu, 2020, p. 144). The measures formulated by the national and local state authorities should be analyzed by them and by the researchers, too, because they produce long-term consequences over the mental, social and physical health of the population. The aftermath of the current sanitary crisis could affect the following crises that may emerge, given the fact that because of the responses and the obtained

effects it can be determined what was helpful and what not. This aspect illustrates the importance of studying the impact of WHO's recommendations and local governments' politics and endorsed measures because it can help towards the improvement of the organization and the functionality of the administrative systems all around the world.

## **2 Literature review**

Being an ongoing issue, the COVID-19 pandemic and the impact of the adopted measures on the people represent significant subjects which were addressed by researchers, government official and population globally (Silva Junior et al., 2020, p. 2; Carrasco Sierra et al., 2020, p. 1). The effects can already be seen and they will continue to be more and more obvious, in time, on a world scale. The negative effects are not limited to the psychological ones, the other effects such as social, economic, political effects being already seen in many states (Arpaci et al., 2020, p. 1; Dobrowolski, 2020, p. 800; Moyo, 2020, p. 329). Different international researchers pointed out that social isolation, anxiety or stress contribute to the appearance or even aggravation of some disorders and changes in people's behavior (Rathod et al., 2020, p. 6). They become more depressed and they can commit suicide. USA, Great Britain, Italy or Germany are some of the states that reported suicides caused by the fear of the SARS-CoV-2 virus (Sher, 2020, pp. 707–712). Also, Akat and Karataş (2020, p. 4) mentioned that, even if all people feel the psychological effects of the COVID-19 pandemic, the strongest psychological effects are felt by people who have been infected with the SARS-CoV-2 virus. Hu et al. (2020, pp. 1–18) demonstrated that schizophrenia (3,541 people), depressive episodes (3,230 people) and other anxiety disorders (1,284 people) are the first three psychological effects on the people who participated in a study conducted in China during 2020. People's lives have been affected by this crisis caused by the COVID-19 pandemic and fear, anxiety or stress are some of its fallouts. To overcome this situation, the efforts of the public authorities and those of the people should be better coordinated. The public authorities have to adopt measures and people have to respect them. The approach by which the government decides on the measures and the way the population applies these measures has proved to be inappropriate in many European countries and beyond. Excellent communication and effective coordination of the implementation process have been needed. If there is no effective coordination, the measures are taken in vain (Singh et al., 2020, pp. 168–172). In addition, the closing of schools and universities has a long-term impact on kids and students because these actions reduced their ability to learn and the capacity to develop minimal skills and competences (Amiri et al., 2020; Sawangchai et al., 2020, pp. 503–505). At the same time, this measure reduced the quality of the educational process because most of the states have implemented an online education system, a measure that was not efficient in many of them.

According to our research, there should be a public consultation on the measures taken by governments during the pandemic (Nosková and Peráček, 2019,

p. 48). Governments should clearly communicate the measures and explain their content in order to be successful in this context. Governments and doctors need to explain clearly and coherently why certain government measures restricting their freedoms should be accepted and respected. Some measures adopted in different states were related to the treatment schemes. Some measures taken in some states were for certain drugs, which were changed along the way because they were not enough or not effective in fighting the SARS-CoV 2. Bo et al. (2020, pp. 1–2) demonstrated that the people who were infected with the SARS-CoV-2 virus showed symptoms of post-traumatic stress even before they were discharged from the hospital. So, monitoring the psychological consequences should become a global habit (Huang and Zhao, 2020, p. 5). This situation generates negative effects on other people. For the long-term, it is necessary to monitor and check the psychological evolution of the people who overcame COVID-19 (Zandi et al., 2020, p. 2). It is necessary to follow three steps in order to minimize the psychological effects of the COVID-19 pandemic. The first step refers to the fact that mental health professionals should not be assigned to work in other medical areas. The second step refers to some measures, such as targeted psychological interventions for communities affected by COVID-19 or improved access to psychological interventions (especially online). The third step refers to paying special attention to people who are on the frontline against the SARS-CoV-2 virus (Cullen et al., 2020, pp. 311–312). In addition, in this period, people are using the social media platforms more than ever. Arpacı et al. (2020, pp. 193–204) performed research between 22<sup>nd</sup> – 30<sup>th</sup> of March 2020 and analyzed over 43 million posts on Twitter. Among the most used words on Twitter are ‘death’, ‘spread’, ‘lockdown’, and this shows that the people are afraid of both the spread of the virus and the idea of a lockdown, issues that limit the population’s mobility and freedom.

The human race is social by nature and social interaction represents a part of human civilization (Belas et al., 2020, p. 133; Vlacseková and Mura, 2017, p. 126; Korauš et al., 2020, p. 39). In order not to be infected or not to transmit the virus to the community, the physical distancing is a measure that determines people to work from home and avoid other people or social contacts. These changes shifted the typical ‘normality’ to which people were accustomed and their social relationships suffered, affecting their psychological and psychosocial states (Naser et al., 2020, p. 1). The absence of these social interactions can provoke and amplify anxiety, loneliness, depression and these effects influence not only the individual, but also the society as a whole (Singh et al., 2020, pp. 168–172). Physical distancing is a new concept that determined people to develop new habits and to realize that their survival needs are very limited and a new approach to their interactions with their family or friends is needed (Verma and Prakash, 2020, pp. 7352–7363).

To understand the positive or negative social impact of the pandemic, we should first identify it. During the pandemic time, people can spend a lot of time with their families and this is, obviously, an advantage created by this pandemic. However, in some states, including Romania, the number of divorces has increased, the number of marriages has decreased and cases of

conflict between family members have also increased. Before the COVID-19 pandemic, people were so busy with their jobs so that they did not have time to satisfy their own hobbies. As a result of the measures adopted in the context of COVID-19, a lot of economical areas have suffered, many of them being closed and these put them at a disadvantage because people have to live with the idea that they do not have a job and they do not earn money to live their everyday life (Amiri et al., 2020). However, people have a lot of free time now and they can use it to satisfy their hobbies or to do different activities for which they could not allocate enough time before. In addition, closing some areas help the environment to recover, given the fact that the pollution has decreased significantly. Families and couples spend more time together, but for some people this action can be a disadvantage because in some cases can appear domestic violence and in other cases, it can be amplified. A part of the people infected with the SARS-CoV-2 virus need hospitalization, so many hospitals from different cities and regions changed their activity and became main hospitals or support hospitals for COVID-19. Given the fact that currently the priority of the hospitals is treating people with COVID-19, people who have an emergency and they need hospitalization or people who have some health problems which can only be solved in the hospital, they may not receive the necessary health service, they can be neglected, and this is certainly a disadvantage created by this pandemic (Haleem et al., 2020, p. 1; Vidyakant and Appasani, 2020).

### **3 Research methodology**

The research process went through several stages. In the first stage, we studied the literature about COVID-19. In the second stage, we established the purpose, the specific objectives, the hypothesis and the variables of the research. The purpose of the research was to identify the impact of the measures adopted by the Romanian Government and local authorities on citizens aged between 19 and 40 years, resident in Bucharest.

The main specific objectives of our research were the following: (1) to identify the most relevant measures issued by the authorities, which had an impact over the targeted citizens; (2) to identify the main social and psychological effects determined by the adopted measures; (3) to identify the main activities which helped the population to adapt to the enforced measures; (4) to identify the behavior changes as a result of the endorsed measures; (5) to identify the measures according to the citizen's opinions that could have reduced negative social and psychological impact on the population.

The research had four hypotheses: (1): If the targeted citizens had been consulted regarding the measures adopted to limit the spread of SARS-CoV-2 virus, then they would have complied more with the administrative measures; (2) The citizens' belief that closing the restaurants, terraces and cafes during the alert state had a strong psychological and social impact on them, which was stronger compared to those who felt affected by the measure that involved maintaining physical distance; (3) If the targeted citizens were alone

during the emergency stage, then they spent more time on the social media platforms compared to the married citizens who have spent more time with their family; (4) If targeted citizens are very worried regarding the impact of the governmental measures, then as a result of the adopted measures they felt happy very rarely. The variables of the research were the age, gender, education, income and the relationship status.

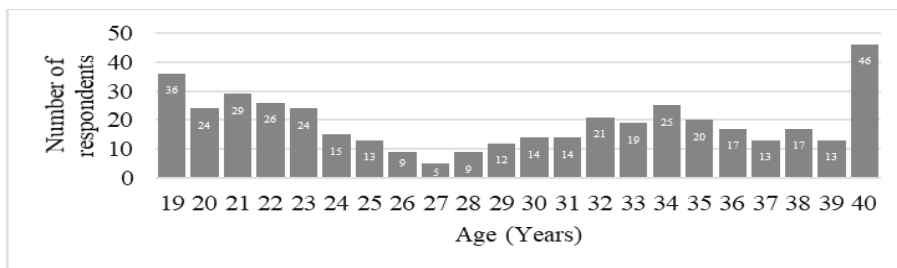
In the third stage, we prepared the questionnaire for the survey and identified the online platforms for launching it. The questionnaire was created in Google Forms and consisted of 19 questions, including 18 questions with closed answer and one question with open answer. Five questions included the variables, which contributed to the differentiation of the answers, and 14 questions were in direct connection with the purpose, the specific objectives and the hypothesis of the research. There were two main types of periods in which the Romanian government decided the measures against SARS – COV 2 virus: (1) emergency period – lockdown and (2) alert period – since May 2020.

In the fourth stage, we determined the sample size of the research. Our objective was to have a representative sample for Bucharest. According to the National Institute of Statistics, on 1<sup>st</sup> of July 2019, there were 655,619 people aged between 19 and 40 years old living in Bucharest. The participants were recruited mainly by age for the research. This is a segment of the population with a higher degree of psychological vulnerability, in the context created by the COVID-19 pandemic. The questionnaire was distributed online, on Facebook groups with people living in all the 6 districts of Bucharest and each person in the target age category had the opportunity to take part in the study. The sample size was established taking into account the total population and the level of accuracy using the formula 1 proposed by Androniceanu (2017, p. 71):

$$n = \frac{N}{1+N(\theta)^2} = \frac{655.619}{1+655.619(0,05)^2} = 399,75 \Rightarrow \text{at least 400 respondents (1)}$$

Therefore, there were necessary at least 400 respondents for the research to be representative, and the survey was completed by 421 respondents. The sample structure by age is presented in Figure 1.

Figure 1: The sample structure by age



Source: authors



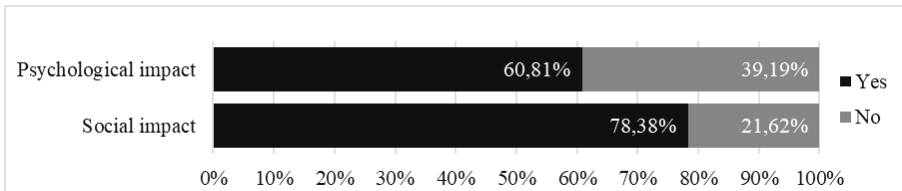
Figure 1 shows that the study involved people from each targeted age, but the majority of respondents (10,92%) are 40 years old.

In the fifth stage, we centralized and analyzed the data based on specific correlations and a model of multiple regression. The multiple regression model shows the level of trust in the measures issued by the governmental authorities and the level of trust in the information transmitted by them in the context of COVID-19 pandemic. The model reflects the influence over the extent to which the targeted citizens complied with the imposed measures.

#### 4 Main results, analysis and discussion

This research confirms that the measures taken by the Romanian Government and the local administrative authorities of Bucharest had a significant social and psychological impact on the population included in our research. These effects are presented in Figure 2.

Figure 2: Psychological and social impact generated by the governmental measures

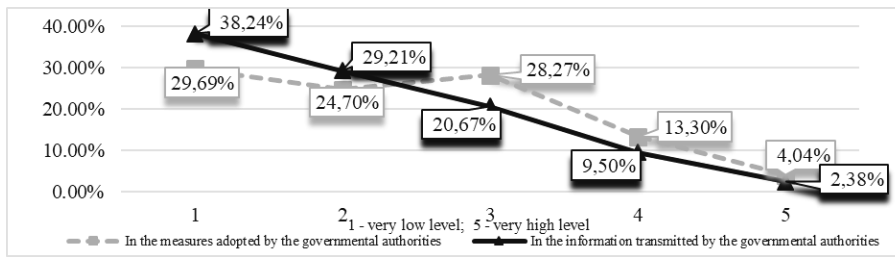


Source:

Figure 2 illustrates that the measures endorsed by the governmental authorities were affecting psychologically and socially the majority of the respondents. The social impact was the strongest, 78,38% of respondents being affected from this point of view. The people could not interact as much as before with other people and the measures adopted such as maintaining the physical distancing, restricting people's mobility and closing the restaurants, the cafes or the cinemas are just some of the factors which contributed to a high social impact. The psychological impact cannot be ignored either, because 60,81% of respondents were affected from this point of view. The measures adopted by the authorities determined people to feel more anxious, bored, depressed. Furthermore, people declared to be happy, relaxed or calm rarely or very rarely during the COVID-19 pandemic.

We also followed the targeted citizens' level of confidence in the information transmitted and in the measures adopted by the public authorities in the context of COVID-19 pandemic. This aspect is presented in Figure 3.

Figure 3: The level of confidence of the targeted citizens



Source: authors

Figure 3 shows obviously negative effects. Most of the respondents had a very low level of confidence and just few people had a very high level of trust both in information transmitted and in measures adopted by public authorities. Regarding the level of trust in information transmitted, just 2,38% of respondents had a very high level while 38,24% proved a very low level of it. The level of trust in the information transmitted was identified as a negative effect because 67,45% of respondents declared a level of trust placed under the medium level (low and very low level) while just 11,88% declared a positive level of trust (high and very high level). This distrust was determined by many factors including the authority's communication strategy (for example: contradictory information) or insufficiently explained information (medical or related restrictions). Also, the level of trust of the targeted citizens in the measures adopted by the governmental authorities was identified as a negative effect because 54,39% of respondents were having a level of trust placed under the minimum level (low and very low level) while just 17,34% were having a positive level of trust (high and very high level). However, there was a positive aspect because the proportion of those who had an average level of confidence in the measures adopted by Government was higher. Though, just 4,04% of respondents had a high level of confidence in the measures adopted by the authorities, however their percentage is bigger than the high level of confidence in the information transmitted by the authorities where only 2,38% of respondents had a very high level of trust. Even if the level of confidence is predominantly negative, 51,10% of respondents followed in a very large extent the measures decided by the Romanian Government.

The measures adopted by the Romanian Government had a significant psychological and social impact. According to our research results, some of the citizens were affected by the measures of the alert period and the others felt problems as an effect of the measures adopted by the government during the emergency period, when the restrictions of lockdown were stronger. In Romania, Government, Ministry of Internal Affairs or other administrative institutions, such as National Committee for Emergency Situations took the measures to limit the spread of the SARS-CoV-2 virus, by adopting decisions, emergency ordinances or military ordinances. So, the measures that can be seen in Table 1 during the alert period are specified in Decision no. 394/18 May 2020 of the Romanian Government, Decision no. 24/14 May 2020, De-

cision no. 30/16 June 2020, Decision no. 45/14 September 2020 of the National Committee for Emergency Situations. The measures that can be seen in Table 1 during the emergency period are specified in the Military Ordinance no/18 March 2020, Military ordinance no. 2/ 21 March 2020, Military ordinance no. 3/24 March 2020 of the Ministry of Internal Affairs and Decision no. 9 of 10.03.2020 of the Technical-Scientific Support Group on the management of highly contagious diseases in Romania tacitly approved by the National Committee for Special Emergency Situations by Decision no on 11.03.2020. As can be seen in the table 1, there were citizens who were affected by the measures taken by the government in both periods.

**Table 1: Governmental measures and their impact on the targeted citizens**

Governmental measures adopted in both periods (emergency state and alert state) during March – December 2020	Period							
	Emergency state		Alert state		Both types of states		It is not the case	
	No. of respondents	%	No. of respondents	%	No. of respondents	%	No. of respondents	%
Maintaining physical distancing.	57	13,53	45	10,68	123	29,21	196	46,55
Imposing of the quarantine.	107	25,41	46	10,92	128	30,40	140	33,25
Imposing of the isolation.	76	18,05	38	9,02	112	26,60	195	46,31
Restricting people's movement outside of their houses.	122	28,97	48	11,40	162	38,47	89	21,14
Closing restaurants, terraces, cafes.	49	11,63	57	13,53	173	41,09	142	33,72
Closing cultural, scientific, artistic, religious, sportive and entertainment activities.	60	14,25	53	12,58	180	42,75	128	30,40
Holding university classes exclusively online.	36	8,55	37	8,78	171	40,61	177	42,04
Working from home.	32	7,60	37	8,78	84	19,95	268	63,65

Source: authors

Table 1 contains the majority measures which affected the people both psychologically and socially. According to our research results there is a small number of people who did not feel the impact of these measures. However, more than half of respondents were affected by six of the eight measures including both those who felt the effects only in one of the periods (emergency or alert period) and those who felt the effect during both periods. The citizens felt the impact more in the emergency period than in the alert, but

the majority of the respondents were affected during both periods. The research results show the fact that closing cultural, scientific, artistic, religious, sportive and entertainment activities was the measure that had the strongest impact on the respondents, being felt by 42,75% of them. During the emergency period, restricting people’s movement outside of their houses was the measure that had the strongest impact on the respondents, being felt by 28,97% of respondents.

The frequency of the positive psychological impact that the respondents have felt since the beginning of the pandemic was another aspect followed throughout the research. This frequency was included in the research to identify positive effects, but the results proved contrary. The information collected is presented in table 2.

**Table 2: The frequency of the positive psychological states because of the adopted governmental measures**

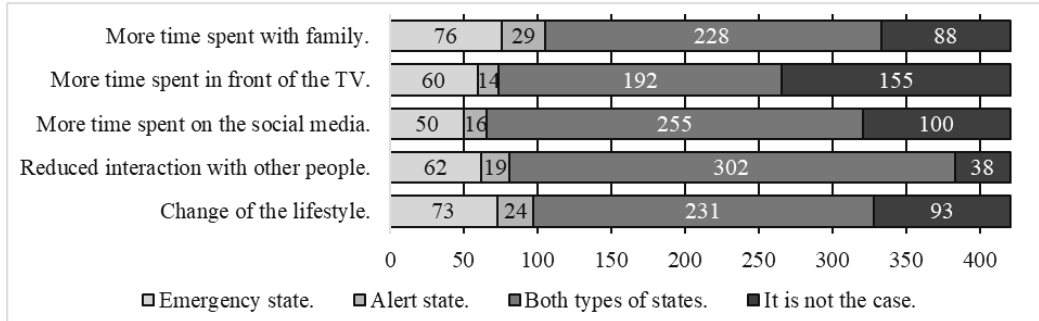
Positive psychological impact	Frequency				
	Never	Very rarely	Rarely	Often	Very often
Relaxation	15,91%	30,64%	30,64%	18,53%	4,28%
Happiness	13,06%	28,03%	32,07%	22,57%	4,28%
Calmness	12,11%	28,27%	29,69%	26,13%	3,80%
Lively	14,49%	29,45%	35,87%	15,68%	4,51%

Source: authors

As we can see in table 2, 61,28% of respondents have felt relaxed rarely and very rarely and just 22,81% of the targeted citizens have often and very often felt relaxed. The majority of the respondents (60,01%) have rarely and very rarely felt happy as a result of the governmental measures adopted to limit the spread of the new coronavirus, while just 26,85% of them have often and very often felt happy. Regarding the calmness, the results showed a negative aspect that the majority of the respondents have rarely and very rarely felt calm (57,96%). The state of being lively highlighted that 65,32% of respondents were rarely and very rarely being lively from the beginning of the pandemic. Table 2 shows that some of the targeted citizens were never happy, relaxed, lively or calm since the beginning of the COVID-19 pandemic. These results demonstrate the importance and the major impact of the measures adopted by the Government. We can conclude that, in the future, the authorities should take the right actions and set up appropriate strategies, plans or public policies to follow up these vulnerabilities. Otherwise, neglecting these results obtained in this research could have the effect of alarmingly increase the number of cases of depression, anxiety, stress or enlarge the suicide rates in Romania.

The main social effects are presented in Figure 4.

**Figure 4: Main social effects generated by the governmental measures (number of respondents)**



Source: authors

As we can see in Figure 4, respondents were affected by the majority of the social effects, and even if they are less, there were people who did not feel these effects. However, all the social effects were felt by over 50% of respondents, including both those who felt the effects only in one of the states (emergency state or alert state) and those who felt the effect during both type of states (emergency state and alert state). Among those who felt the social effects, most of them were affected during both state, not just during one of them. So, in both types of states, 54,87% of respondents changed their lifestyle; 71,73% interacted less with other people; 60,57% spent more time on social media; 45,60% spent more time in front of the TV and 54,16% spent more time with their families. Overall, since the beginning of the pandemic, 90,97% of respondents interacted less with other people; 79,10% spent more time with their families; 77,91% of respondents changed their lifestyle; 76,25% spent more time on social media and 63,18% of them spent more time in front of the TV. The most felt social effect was the lower interaction with other people. This change was caused by the measures of restricting people’s movement outside of their houses or those related to maintaining physical distancing between people to limit the spreading of the new coronavirus.

Another aspect targeted by our research was to identify the behavioral changes of the respondents. The changes can be seen in Table 3.

**Table 3: Targeted citizen’s behavioral changes generated by the governmental measures**

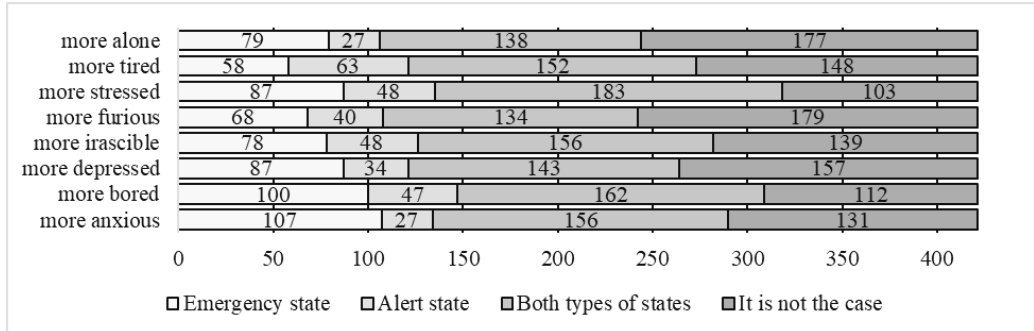
<b>Behavioral changes</b>	<b>Number of respondents</b>	<b>Percentage</b>
Buying more things online.	262	62,23%
Increased attention to personal care and hygiene.	250	59,38%
More cautious in interactions with other people.	235	55,82%
Eating more.	187	44,42%
Sleeping more.	164	38,95%
Working more.	150	35,63%
Reading more.	101	23,99%
Smoking more.	93	22,09%
Drinking more.	56	13,30%
Doing more workouts.	52	12,35%
No behavioral changes.	24	5,70%
Others.	8	1,90%

Source: authors

According to Table 3, from over 50% of respondents there were identified just three behavioral changes. Public authorities restricted the mobility of the people and imposed a certain schedule or specific reasons to be able to leave their houses. Besides these, the fear of getting the virus or the fear of spreading the virus determined people to stay longer in their homes. Therefore, in order to respect the measures and to be relaxed, 62,33% of respondents started buying products online and 55,82% of them started to be more careful in their interactions with other people. Also, 59,38% of respondents started to be more careful to their personal care and hygiene which is a positive change. Through the behavioral changes mentioned by the respondents, we find “getting annoyed more easily”, “going to therapy”, “insomnia”, “waking up early”, “judging harder and removing close people” or “eating very rarely”.

The psychological effects generated by the measures issued by the governmental authorities were another aspect followed through the research. The psychological effects and their impact are presented in Figure 5.

Figure 5: Main psychological effects generated by the governmental measures (number of respondents)

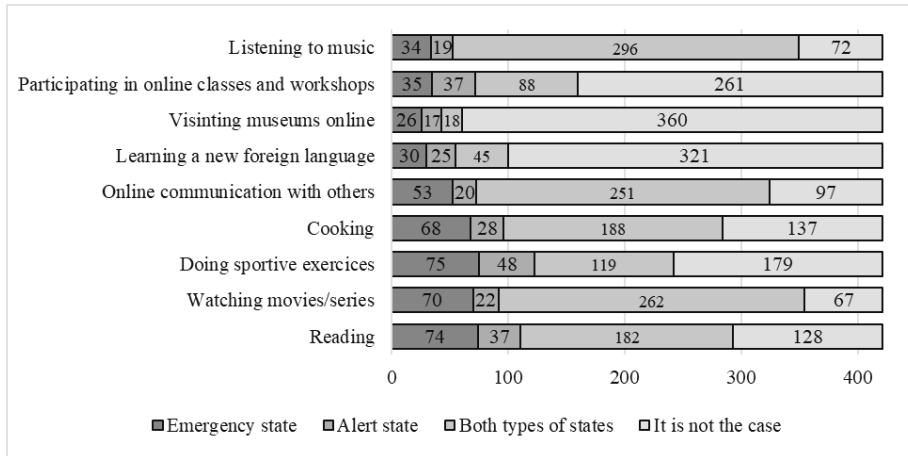


Source: authors

Figure 5 illustrates that all the psychological effects followed through the research have been felt by over 50% of respondents. This issue demonstrates that the measures adopted by the Government had a huge psychological impact over the targeted citizens. Since the COVID-19 pandemic has started, 73,40% were felt more bored; 66,99% more irascible and 64,85% were felt more tired. Also, the level of depression, anxiety, loneliness or stress has increased, considering the fact that from the beginning of the pandemic, 75,53% of respondent have felt more stressed; 68,88% more anxious; 62,71% more depressed and 57,96% have felt more alone. If we are talking about the impact on types of states, we can see that there were people affected by the measures only in the emergency state or people affected only in the alert state. The psychological effects were felt by the citizens more in the emergency state than in the alert state, but the majority of the respondents have felt these psychological effects during the emergency state and alert state. So, in both types of states, 37,05% of targeted citizens have felt more anxious; 38,49% more bored; 33,97% more depressed; 37,05% more irascible; 31,83% more furious; 43,46% of them have felt more stressed; 36,10% more tired and 32,79% of respondents have felt more alone.

In order not to feel the impact so strongly, the citizens performed some activities to help themselves in this way. These activities are presented in the Figure 6.

**Figure 6: Activities performed by the targeted citizens not to feel the impact so strongly (number of respondents)**



Source: authors

Figure 6 illustrates that in order not to feel the impact of the measures so strongly, the citizens have undergone 6 out of 9 activities in this regard. Since the beginning of the pandemic, the top three activities that helped them to pass more easily over it were watching movies/series (84,09% of respondents), listening to music (82,90% of respondents) and communicating with the loved ones through the social media platforms (76,96% of respondents). During the emergency state, most of the citizens were doing workouts at home (17,81%), 17,56% were reading and 16,62% of them were watching movies/series. The least developed activity in emergency state was visiting museums online, just 6,17% of respondents doing this activity. As we can see in Figure 6, in the alert state not many respondents were developing activities to decrease the impact of the measures. However, in the alert state, most of the respondents were doing home workouts, representing a percentage of 22,40%. As in the emergency state, the fewest respondents (just 4,03%) were visiting museums online in the alert state too. These activities helped the citizens more in the emergency state than in the alert state, though the majority of the respondents have been doing these activities during both types of states. For example, the top three activities practiced by the citizens to pass more easily over the impact of the measures imposed by the authorities have been listening to music (70,30%), watching movies/series (62,23%) and 59,61% of respondents have been communicating through the social media platforms with their loved ones.

Also, we wanted to identify if the level of trust in the measures adopted by governmental authorities and the level of trust in the information transmitted by them in the context of COVID-19 pandemic had an influence over the extent to which the targeted citizens complied with the imposed measures.



To identify this aspect, we generated a multiple regression model, which can be found in table 4.

Table 4: Multiple regression model

SUMMARY OUTPUT

Regression Statistics	
Multiple R	0,324449231
R Square	0,105267304
Adjusted R Square	0,100986286
Standard Error	0,844373967
Observations	421

ANOVA					
	df	SS	MS	F	Significance F
Regression	2	35,06276	17,53138	24,58932	8,01496E-11
Residual	418	298,0204	0,712967		
Total	420	333,0831			

	Coefficients	Standard Error	t Stat	P-value	Lower 95%	Upper 95%	Lower 95.0%	Upper 95.0%
Intercept	3,69302989	0,096644	38,21271	1,8E-138	3,503061031	3,882999	3,503061	3,882999
The level of trust in the measures adopted	0,193955985	0,055274	3,509012	0,000499	0,085306991	0,302605	0,085307	0,302605
The level of trust in the information transmitted	0,072292013	0,058924	1,226868	0,220563	-0,043532361	0,188116	-0,04353	0,188116

Source: authors

As we can see in table 4, the standard error of this regression is 0,844373967. Observations represent the number of the respondents with valid answers (421). R Square (0,105267304) represents the coefficient of determination, so, 10,52% of dependent variable (the degree to which the citizens complied with the measures imposed by the authorities) is explained by the independent variables (the level of trust in the measures adopted and the level of trust in the information transmitted by the governmental authorities), the difference being explained by other factors. Adjusted R Square (0,100986286) represents the corrected value of R Square and it is used to combat (at least partially) the repercussion caused by the increase of R2 at the same time as the independent variable. Significance F is an indicator which, depending on the 0,05 threshold, demonstrates whether the regression is relevant or not for the purpose of which it was formed. In our case, the Significance F's value is 8,01496E-11 (0,00000000000801496 < 0,05), so, the regression is statistically relevant. The independent variable relating to the level of trust in the measures adopted shows that the dependent variable is changing with 0,193955985 when the independent variable changes with one unit. In addition, the dependent variable is changing with 0,072292013 when the independent variable relating to the level of trust in the information transmitted changes. P-value for intercept is 1,8E-138 < 0,05, so, the indicator is statistically relevant. P-value for the level of trust in the adopted measures is 0,000499 < 0,05, so, the indicator is statistically relevant, and the P-value for the level of trust in the information transmitted is 0,220563 > 0,05, so, the in-

indicator is not statistically relevant. So, the regression equation is: the degree to which the citizens complied with the measures imposed by the authorities =  $3,69302989 + 0,193955985 * \text{the level of trust in the measures adopted} + 0,072292013 * \text{the level of trust in the transmitted information}$ .

Through the research, we wanted to identify the impact of the measures over the targeted citizens, but we also wanted to identify some measures that, from the citizens' perception, would have had a lower impact over them. So, in the survey we introduced one question with open answer, so that citizens can express their point of view. It was a difficult process because respondents could answer and express in their own way. Even so, all of the 421 answers were grouped and analyzed by us in categories such as "communication of public authorities and media", "keeping the HoReCa industry open", "kindergartens, schools and faculties open", "sustaining the medical system", "adoption of another management model of the situation". The most relevant measures identified in the answers of the respondent are specified in table 5.

**Table 5: The most relevant measures that, from the citizens' perception, would have a lower impact over them**

Number of the measure	Measures which, according to the targeted citizens, would of had a reduced social and psychological impact over them
1.	A communication strategy more transparent, clearer and understandable to the general public, including the information regarding the restrictions and the medical ones.
2.	More consistent statements from the authorities. The information provided should have been more optimistic, presenting more often the positive aspects of this pandemic, for example, the medical students who volunteered and helped the Public Health Directions or the presentation of the number of cured cases, not only of the large number of infections or deaths.
3.	Media should not have been so aggressive in transmitting the information.
4.	Like government and local authorities, media should have presented more objectively the situation, without alarming and panicking the population.
5.	Keeping the HoReCa industry opened, with strict rules.
6.	More efficient, faster and more logical organization of the educational system. Kindergartens, schools and universities being opened and classes being held offline, with strict rules or in a hybrid system (online, offline).
7.	Stricter measures: rigorous controls to ensure that the entire population respects the measures for limiting the spread of the virus, higher fines for non-compliance or even a global lockdown for 2 weeks.
8.	Adopting the Swedish model of crisis management.
9.	More efficient, faster and more logical organization of the medical system. Measures that facilitate the access of sick citizens who are not infected with the SARS-CoV-2 virus to the medical system. Facilitating mental health services in the online environment and the existence of settled psychological counseling activities.
10.	Consulting citizens on the measures to be implemented.

Source: authors

Table 5 presents the most relevant measures recommended by the citizens. The main measure was improving the communication strategy. The majority of the respondents were specifying that they would have implemented a better communication strategy. They would have adopted a more transparent, clearer, correct, efficient and more explicit strategy. They would have transmitted positive information (number of cured people, for example), not just the negative ones (number of deaths, for example). In addition, the respondents were specifying that the media played an important role because a lot of aggressive news was transmitted through it, and the drama in every news journal has led the population to fear and depression. Even if at the beginning of pandemic, the number of confirmed cases was low, the people were very scared because of the news and information transmitted by the authorities and media, and at 10,000 confirmed cases per day, people started not to care anymore because they got used to the panic.

This research had four hypotheses, two of them were validated and two invalidated. First hypothesis was invalidated because just 46,56% of the respondents would have respected more the measures adopted to limit the spread of SARS-CoV-2 virus if they had been consulted about the way the virus regarded them. With reference to the second hypothesis, 32,77% of respondent felt more bored as a result of closing restaurants, terraces and cafes compared to those 22,32% respondents who felt more bored as a result of the physical distancing, so, the second hypothesis was validated. Of the single respondents, 75,75% of them spent more time on the social media platforms compared to the married respondents, 77,85% of them spent more time with their families. As a result, although the percentages are very close, the third hypothesis was invalidated. In addition, 15% of respondents mentioned that they are very worried regarding the impact of the governmental measures. Of the 15%, no respondent felt happy very often; 7,93% of respondents felt happy often; 20,63% of respondents felt happy rarely; 38,09% of respondents felt happy very rarely, and 33,33% of them never felt happy because of the measures adopted by the public authorities. As a result, the fourth hypothesis was validated.

The main limitation of the research was the non-inclusion of the population under 19 years and over 40 years old in the research base and in the sample size. In addition, another limitation of the research was the reduced number of the governmental measures and the reduced number of the psychological and social effects. Considering also the fact that the survey was applied online, we did not have direct contact with the respondents, so we could not detail various information that would have been valuable for our research (for example, the measures proposed by the citizens).

We intend to continue this study by expanding the research base and the sample size in order to have a national representativeness for Romania. To achieve this goal, we will diversify our research tools in order to highlight much better the influence of the measures adopted in the context of COVID-19 pandemic on the Romanian population. We want the results of this study to be useful, so we intend to identify the Romanian public authorities' perception regard-

ing the results of the study. In this way, we think that public authorities will become aware of the actions' impact during the pandemic and they could improve the strategies and the public policies for a better functioning and organization of the administrative and health system of Romania.

## 5 Conclusions

This research was concluded to identify the impact of the governmental measures adopted in the context of COVID-19 pandemic on citizens aged between 19 and 40 years living in Bucharest, the capital of Romania. The results showed both positive and negative conclusions, and some of them were completely unexpected. Although the adopted measures had both psychological and social impact on targeted citizens, it was interesting to find out that the social impact (78,38%) was much stronger than the psychological one (60,81%). The public authorities suspended certain areas of activity, so people could no longer go out with friends and loved ones to socialize and have fun as they were used to do. The physical distancing separated the people, affecting the human and social relations between them. In the same time, it was interesting to find out that more than half of the respondents felt all the social and psychological effect followed through the research. This shows us that the imposed measures had a strong impact on the populations, and their effects will be clearly felt in the long-term. The return to "old normality" will be a long and hard process, and it will be influenced by the social and psychological effect generated by the adopted measures.

Another conclusion resulting from the research refers to the fact that although not all measures had a major psychological and social impact on the respondents from Bucharest, however, six of eight measures affected more than half of them. All these measures generated changes in respondents' behavior. From the beginning of the pandemic until now, people are buying more things online; they are paying much more attention to their personal care and hygiene and they are much more cautious about the people around them. The citizens mentioned different measures that, in their perception, would have had a lower impact over them, compared to those imposed by the public authorities. Although, some of them were identified in various forms by many respondents. The communication between governmental authorities and citizens was a problem in respondents' opinion; so, most of them would have preferred the existence of a more efficient communication strategy. They would have preferred the information to be disseminated in a more positive and less alarming way. The media played an important role as well. Through the media, excessive and aggressive news was disseminated with information that alarmed the population. In addition, the citizens were considering that it should have been allowed the HoReCa industry (Hotels, Restaurants, Cafes) functioned but with strict rules and in this way people could still go out to socialize. At the same time, kindergartens, schools or universities should have remained on offline teaching system, with strict rules. The online teaching system made the educational process in Romania diffi-

cult, given that many families cannot offer the appropriate devices and the right infrastructure to their children needed to attend online classes. These are just some of the problems citizens would have improved so that the impact of the measures would not have become so strong. Another conclusion refers to the fact that the level of trust in the information transmitted by the authorities is not a variable which can influence the extent to which citizens comply with the measures imposed by the governmental authorities. This result is mainly determinate by the fact that the citizens perceived as defective the entire communication and coordination process of the central and local authorities during the pandemic period analyzed.

The research revealed also some positive effects of the measures, like the fact that the respondents spent more time with their families. However, the negative effects are worse. They have affected largely both the mental health of the population and the social environment, and the effects will be felt in the long-term. After the end of the pandemic, a new crisis will certainly appear in Romania, so the central government and local authorities should start early to identify some actions to reduce the psychological and social effects of the COVID-19 pandemic on the Bucharest population' health.

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## ANNEXES

Questionnaire - Study on the impact of governmental measures in the context of the COVID-19 pandemic on the citizens of Bucharest

Question 1: How old are you?

Choose. ▼

Question 2: What is your gender?

- Female.
- Male.

Question 3: What is the last form of study completed?

- Primary studies.
- Gymnasium studies.
- High-school degree.
- Bachelor's degree.
- Master's degree.
- Doctoral studies.
- Post-graduate studies.

Question 4: What is your monthly income?

- Under 1,000 RON.
- Between 1,001 and 2,000 RON.
- Between 2,001 and 3,000 RON.
- Between 3,001 and 4,000 RON.
- Between 4,001 and 5,000 RON.
- Over 5,001 RON.

Question 5: What is the current state of your relationship?

- Single.
- In a relationship.
- Engaged.
- Married.
- Divorced.
- Widower/widow.

Question 6: Do you consider that the measures adopted by the governmental authorities have contributed to limiting the spread of the SARS-CoV-2 virus in Bucharest?

- Yes.
- No.

Question 7: On a scale of 1 to 5, what is your confidence level: (1 – very low; 5 – very high)

	1	2	3	4	5
In the measures adopted by the governmental authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
In the information transmitted by the governmental authorities	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 8: Do you consider that the governmental measures adopted have had a negative psychological and social impact on you?

	Yes.	No.
Psychological impact.	<input type="radio"/>	<input type="radio"/>
Social impact.	<input type="radio"/>	<input type="radio"/>

Question 9: How worried are you about the impact that the governmental measures have on you?

- Very worried.
- Worried.
- Somewhat worried.
- Not so worried.
- Not at all worried.

Question 10: Which of the following governmental measures do you consider to have had a psychological and social impact on you? (more options allowed)

	Emergency state	Alert state	It is not the case
Maintaining physical distancing.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Imposing of the quarantine.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Imposing of the isolation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Restricting people's movement outside of their houses.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Closing restaurants, terraces, cafes.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Closing cultural, scientific, artistic, religious, sportive and entertainment activities.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Holding university classes exclusively online.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Working from home.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 11: From a psychological point of view, as a result of the governmental measures adopted, you felt: (more options allowed)

	Emergency state	Alert state	It is not the case
More anxious.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More bored.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More depressed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More irascible.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More furious.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More stressed.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More tired.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More alone.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 12: As a result of the governmental measures, how often have you felt:

- | Never. | Very rarely. | Rarely. | Often. | Very often.

Relaxed.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Happy.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Calm.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Lively.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Question 13: From a social point of view, what were the effects of the governmental measures imposed by the authorities on you? (more options allowed)

	Emergency state	Alert state	It is not the case
Change of the lifestyle.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Reduced interaction with other people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More time spent on the social media.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More time spent in the front of the TV.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
More time spent with the family.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 14: Which of the following activities helped you get over the restrictions imposed by the authorities? (more options allowed)

	Emergency state	Alert state	It is not the case
Reading.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Watching movies/series.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Doing sportive exercises.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Cooking.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Online communication with others.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Learning a new foreign language.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Visiting museums online.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Participating in online classes and workshops.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Listening to music.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Question 15: What have been the behavioral changes as a result of the governmental measures imposed by the authorities? (more options allowed)

- Buying more things online.
- Increased attention to personal care and hygiene.
- More cautious in interactions with other people.
- Eating more.
- Sleeping more.
- Working more.
- Reading more.
- Smoking more.
- Drinking more.
- Doing more workouts.
- No behavioral changes.
- Others.

Question 16: In your opinion, what measures do you think could have been taken by the governmental authorities in order to have a lower psychological and social impact?

Your answer.

Question 17: On a scale of 1 to 5, to what extent have you complied with the measures imposed by the governmental authorities?

to a very small extent    1    2    3    4    5    to a very large extent  
           

Question 18: Do you think that you would have complied more with the measures imposed if the governmental authorities had consulted you on them?

- Yes.
- No.

Question 19: Do you think that the quality of your life has worsened as a result of the governmental measures?

- Yes.
- No.

# Public Administration's Adaptation to COVID-19 Pandemic – Czech, Hungarian, Polish and Slovak Experience

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## ABSTRACT

The pandemic of the infectious disease Covid-19 affected everyday life including public administration. In order to proceed with its duties, public administration had to adapt to these new and unprecedented conditions. The main goal of the article is to assess how public administration bodies adapted to the Covid-19 pandemic, especially in terms of the principle of the speed of procedure in the sense of the right to a fair trial within a reasonable time. In order to achieve this goal, the article focuses on public administration's adaptation to the pandemic from the perspective of the Visegrad Group countries (V4). It analyses the digitalisation of public administration in relation to delivery, speed of procedure, usage of new technologies, as well as several other areas of public life affected by the pandemic. Specific examples from all V4 countries are analysed and compared in order to identify which approaches were taken by public

administration, how they changed the way public administration carried out administrative procedures, and which values were decisive for these changes. Based on these examples, the article concludes that the approach taken by respective legislatures and public administrations in the V4 region complies with the law, but also presents several exceptions.

*Keywords:* COVID-19, electronic communication, digitalisation of public administration, new technologies, principle of speed of the proceedings, public administration in V4 countries

*JEL:* K40

## 1 Introduction

The coronavirus SARS-CoV-2 has caused a pandemic of infectious disease COVID-19.<sup>1</sup> This pandemic has had an enormous impact on the everyday life of every person. It has already caused many damages from which the global economy will recover for many years to come.<sup>2</sup>

It would be a big underestimation to think that COVID-19 has not affected law and legal orders of countries on each continent. Legal order has had to adapt to the pandemic in order to achieve its operational and effective status. Many countries were not prepared for a pandemic that would either last for so long, nor would have such dire consequences. As a result, many legislators have faced a rather great challenge. Before COVID-19 pandemic, rules that governed everyday life of natural persons and legal persons usually stemmed from face-to-face interactions. However, mandatory lockdowns laid barriers in this respect and made it impossible to meet in person.

Respective legislators had to comply with this new situation. Since the legal order did not (and could not) anticipate such long lockdowns, the legal order had to adapt to this situation which then has led to a justified overproduction of legal regulations related to the pandemic.

For example, in 2020 the Slovak national legislator (National Council) passed 124 new statutes or statutes' amendments. 48 (38,7 %) statutes (or amendments) of these 124 directly<sup>3</sup> tackled various aspects of COVID-19 pandemic in their respective provisions and 20 (16,1 %) of them were even directly named after COVID-19 pandemic.<sup>4</sup> In 2021 (until 25 February), the legislator passed another 19 statutes, 5 of them (26,3 %) related directly to COVID-19.<sup>5</sup>

1 See e.g. World Health Organisation. (2021). Coronavirus. At <[https://www.who.int/health-topics/coronavirus#tab=tab\\_1](https://www.who.int/health-topics/coronavirus#tab=tab_1)>, accessed 7 January 2021.

2 See e.g. Chudik, A. et al. (2020). Economic consequences of Covid-19: A counterfactual multi-country analysis. At <<https://voxeu.org/article/economic-consequences-covid-19-multi-country-analysis>>, accessed 7 January 2021.

3 I.e. each of these statutes (or amendments) regulated new or amended provisions directly associated with COVID-19 pandemic.

4 E.g. Act No. 67/2020 Coll. on certain emergency measures in finance relations related with the spread of the dangerous contagious human disease COVID-19.

5 The statistics are derived from the official Slovak collection of laws available at <<https://www.slov-lex.sk/domov>>, accessed 25 February 2021. For more information about Slov-lex in Eng-

The Polish legislator passed one general statute connected with the impact of the pandemic on the whole society and various spheres of state functioning,<sup>6</sup> however this statute was amended many times.<sup>7</sup> Beside this one general act, several more detailed statutes concerning assistance for entrepreneurs<sup>8</sup> or electronic deliveries<sup>9</sup> were passed. In Czech Republic in 2020 the Parliament passed 141 new statutes or statutes' amendments. 35 (25%) statutes (or amendments) dealt with various aspects of COVID-19. In reality "only" 24 of them were new legislative acts, the rest (11) were amendments regarding this new COVID-19 legislation. By the end of February 2021, a new pandemic law of general nature passed in Czech Republic. Majority of mentioned legislation regulates different compensations, namely for businessmen. It is worth mentioning that it was mainly the public administration (the government and especially the Ministry of Health) who issued large amounts of different decrees and normative acts containing different restrictions, duties, etc. in the struggle with the COVID-19 pandemic.<sup>10</sup> In Hungary, it was the government who decided on the emergency situation but as this could not last long, Parliament helped mainly by incorporating all the rules the government introduced into statutory law or prolonging the effect of government decrees (Hoffman and Balázs, 2021), the latest such act was Act No I. of 2021. Only approx. 4% of statutes were connected directly to the emergency situation or the pandemic. The extraordinary measures of the chief medical officer only played an intermediary role between the expiry of the first emergency status and the changing of the rules of the Act on Disaster Management on the emergency state by the Parliament (Hoffman and Balázs, 2021).

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lish see <<https://www.slov-lex.sk/web/en>>.

6 The statute from 2 March 2020 about special solutions related to the prevention, counteraction and combating COVID-19, other infectious diseases and emergencies caused by them (Journal of Laws 2021, item 1842 as am., hereinafter only as "statute from 2 March 2020").

7 The last amendment is from 21 January 2021 (Journal of Laws 2021, item 159). As a result, some articles of the statute from 2 March 2020 have received complicated numeration, e.g. article 15zzzzzn1, which is not in conformity with the principle of clarity of legal texts.

8 One of these acts passed on 16 April 2020 (Journal of Laws 2020, item 695 as am.). On its basis, entrepreneurs could have applied for assistance during the first wave of pandemic.

9 The statute from 18 November 2020 on electronic deliveries (Journal of Laws 2020, item 2320) will come into force on 1 July 2021. It will amend the basic law about pandemic in Poland from 2 March 2020 in the area of delivery.

10 The statistics are derived from the official Czech collection of laws available at <<https://aplikace.mvcr.cz/sbirka-zakonu/SearchResult.aspx?q=2020&typeLaw=zakon&what=Rok>>, accessed 23 February 2021.

Table 1: Acts of Parliament, government and ministries regarding COVID-19

	Acts of Parliament connected directly to the pandemic	Acts of Parliament from mid-March 2020 (until March 2021)	Government Decrees (and normative decisions) connected directly to the pandemic	Ministerial decrees (and normative decisions) connected directly to the pandemic
<b>Czech Republic</b>	37	141 (113)	21 (+183)	5 (+227 extraordinary measures of Ministry of Health)
<b>Hungary</b>	6	179 (166)	108 (+ 64)	9 (+2)
<b>Poland</b>	21	144 (117)	96	82 (+15)
<b>Slovakia</b>	53	147 (142)	44	12

Source: authors

Although statutes represent the most important legal framework that any person has to follow, executive power and, more precisely, public administration is responsible for its exercise in accordance with the law (c/f Škultéty et al., 2005, p. 12; Košičiarová, 2015, p. 61; Barabás et al., 2018) and, if needed be, for its enforcement. Public administration has also faced several challenges during the COVID-19 pandemic even though public administration leads most of its procedures in written form (c/f Vrabko et al., 2019, p. 54).

Based on several examples of how public administrative bodies coped with this situation, the purpose of this article is to formulate proposals on how public administrative bodies could and should change the way they carried out administrative procedure. The aim of this change was to adapt to unprecedented conditions raised by the pandemic along with maintaining the speed of procedure in terms of right to a fair trial within a reasonable time. Achieving this goal will help build more trust to public authorities. We will present several examples of practice in which Czech, Hungarian, Polish and Slovak public administrative bodies fully upheld rights associated with fair trial requirements and therefore they suitably faced COVID-19 pandemic. However, we will also present examples where public administration did not achieve this standard. These suggestions will mostly discuss efficient and quicker execution of administrative procedures in respective country, i.e. Czech Republic, Hungary, Poland and Slovakia (hereinafter only as "V4 countries"). This approach has yet not been tackled in literature. From the legal point of view that concerns public administration, authors focused on states of emergency (Binder et al., 2020; Scalia, 2020), bans of in-person attendance at board



meetings (Allen, 2020), immigration (Wadhia, 2020), or judicial review in the administrative court (Tomlinson et al., 2020).

In the first part of the article we will shortly present methodology that will allow us to propose correct conclusions for the article and its aim. The second part of the article will analyse examples of good practice as well as malpractice of public administration regarding administrative procedures during COVID-19 pandemic. In the final part of the article we will discuss our conclusions.

## **2 Methods**

From the methodological perspective, we applied several methods of scientific research used in legal texts, therefore our approach will evaluate only legal point of view concerning public administration. The right mixture of these methods would lead to achieve the goal of this article. The main goal of the article is to assess how public administration bodies adapted to the COVID-19 pandemic, if and how their approach changed from the perspective of carrying out administrative proceedings and which values were decisive for these changes.

This research consisted of analysis of laws in force in V4 countries and of analysis of professional literature. The research also consisted of gathering an empiric knowledge. The research conducted use of different research methods, especially the dogmatic and comparative method. The dogmatic or black-letter<sup>11</sup> method focuses on determining what the law is on a particular point. It involves locating and interpreting relevant primary and secondary sources of law and synthesising those sources to form a rule or rules of law (Taylor, 2014). The dogmatic method facilitated an analysis and interpretation of the current law and its amendments and the formulation of conclusions related to the phenomenon that we researched.

The method of analysis was used to analyse approaches of V4 legislators taken as a reaction to the pandemic, i.e. we had to utilize data already available and analysed it to make a critical evaluation of the information gathered (Al Amern et al. 2020, p. 51). From the general perspective of legal theory, we also analysed functions and methods of public administration. The intention of a theory is to summarize existing knowledge to provide an explanation on the observed events by exposing the relations embodied in the conceptual framework (Pradeep, 2019, p. 100). Based on the analysis of V4's legislators approach, the article focused on interrelationships between approaches that V4 countries have taken to battle the COVID-19 pandemic. In order to do so, the article compared legal regulations of all respective V4 countries. With the application of comparative method, various legal systems have been analysed together to identify the similarities and differences in terms of their effectiveness in providing legal protection, the quickness of the proceedings and their simplifications due to special legal and factual conditions which have arisen in the pandemic. The comparative method has helped to create diverse

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<sup>11</sup> The term 'black letter' refers to research about the law included in legislation and case law. The term originated from the name of the Gothic type which continued to be used for law texts (Hutchinson and Duncan, 2012, p. 94).

solutions for shared problems that are regulated differently by different national legal systems.

The paper does not contain a primary research and given the fact that at the moment no papers addressing the topic of this paper are available, we used secondary data instead from publicly available sources (such as newspapers articles), but also from informal discussions with employees of public administrative bodies concerning the topic of delivery. On this basis, we arrived at conclusions regarding the operations of the public administration of V4 countries. In this way, we got a common background on V4 countries approaches to battling the pandemic. It gave us a suitable knowledge board to answer the main research question. This last point of view was tackled based on method of induction. Induction is often described as drawing inferences from specific observable phenomena to general rules, or “knowledge expanding.” Here, evidence is collected about observable events and a premise is constructed based on the collected data (Worster, 2014, p. 448). The use of method of induction is justified as it allowed us to state general conclusions based on the evaluation of basic scientific data that arose from our analysis and comparison. Therefore, the method of induction was used mainly in discussion and the concluding part of the article.

### **3 Public administrative bodies and their stance against the COVID-19 pandemic**

Rule of law principle applies to public administration regardless of ongoing pandemic and adopted emergency measures. Rule of law principle requires that all decisions and activities of public administration bodies have to arise from legal regulation, their content have to comply with legal regulation and could be effectively enforced (decision of the Supreme Court of Slovak Republic file No. 3 Sžo 202/2015 from 3 August 2016. Similarly, see the decision of the Supreme Administrative Court of the Republic of Poland file No. II OSK 3253/18 from 20 March 2019). While issuing decisions and performing other tasks, public administrative bodies have to proceed in a way that complies with law so that the content of their decision complies with legal regulation. Legal regulation on competences and tasks of public administration bodies have to be stipulated clearly and specifically (decision of the Regional Court in Trnava file No. 14 S 73/2013 from 12 June 2014). Case law fully supports the idea of rule of law principle as a leading principle that binds public administration. The rule of law principle manifests itself in all activities of public administration, in all its tasks, functions, methods or forms as they all derive from legal regulation (c/f Merkl, 1931, p. 173).

Tasks of public administration during any pandemic are to maintain public order, public health and proper functioning of the state.

In all V4 countries, legal scholars stress two important functions of public administration: the regulatory function and the safeguarding function (Machajová et al., 2009, pp. 125-126; Niewiadomski, 2010, pp. 21-22; Sládeček, 2019,

p. 30; Rixer, 2014, p. 83). The regulatory function aims at the arrangement of public administration bodies and natural and legal persons as well as other public administration organs and relationships between them. The safeguarding function aims at securing a smooth exercise of public administration and also arrange for the provision of means of remedy against the exercise of power. This function is not only supplementary but also proactive. Both of these functions overlap and complement each other (Průcha, 2007, pp. 255-256). This is clearly visible during the pandemic as public administration has exercised both functions.

The functions of public administration manifest themselves in principles of how public administration performs itself in each country. Apart from rule of law principle, the principle of subsidiarity of exercise of public authority is extremely important. The essence of this principle is that a public authority should intervene into the legal status of natural and legal persons only to the smallest possible extent. Public authority may be used only if the public body cannot achieve the desired state by any other means (Cepek et al., 2018, pp. 70–71; Barabás et al., 2018; Skulová et al., 2020, pp. 69–70).<sup>12</sup>

One of the consequences of applying this principle affects the choice and usage of methods of the exercise of public administration's activities. Legal theory widely states that persuasive methods should be used primarily while coercive methods only secondly (Škultéty et al., 1997, pp. 70–71; Skoczylas and Piątek, 2020, pp. 471–472). While it takes shorter time to use methods of coercion, the effects of persuasion methods last longer. This is ascribed to the fact that once a person<sup>13</sup> is persuaded to act in a certain way (i.e. to make, abstain, or endure), this person will voluntarily fulfil his/hers obligations (Vrabko et al., 2018, p. 135). An adoption of persuasive methods leads to strengthening trust towards public administration which will have crucial importance also in post-pandemia proceedings (Ansell, Sørensen and Torfing, 2020, p. 11).

It is equally important to say that the state should choose methods that are effective in achieving a desired goal, appropriate to the circumstances and at the same time interfere only to the extent necessary with fundamental rights and freedoms (Havelková, 2020). An emergency situation may affect the balance of rights and obligations making reasonable and proportionate solutions that under ordinary conditions would be greatly unreasonable and disproportionate (Scalia 2020, p. 106). In such conditions public administration is not free from building trust and understanding for its decisions. An adoption of intransparent, unprofessional and provisory solutions can lead to opposite effects (Di Mascio, Natalini and Cacciatore 2020, p. 625).

If legal theory states that public administration is in fact a service to the public carried out in favour of public interest (cf. Hendrych et al., 2009, p. 5; Kopecný, 2019, p. 6; Fazekas, 2020, p. 25), then we distinguish two intertwined

<sup>12</sup> For further analysis of binding principles of public administration see e.g. Košičiarová, 2015, pp. 71–83.

<sup>13</sup> By person(s) we mean any natural person or legal person as addressee of public administration.

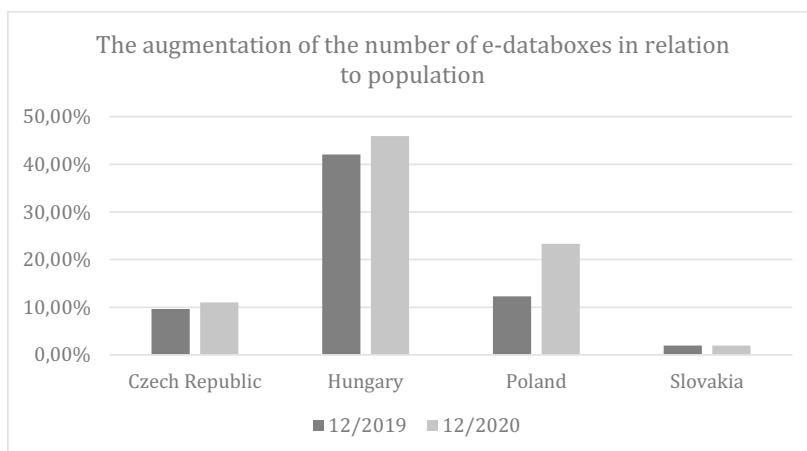
approaches of handling COVID-19 pandemic within the V4 region. One being more formal according to which activities of public administration had to firstly be stipulated by law and another less formal where activity of public administration arose from the use of persuasive methods aimed at safeguarding legal status of persons that would not interfere with their protected rights.

In order to support this claim, we will discuss several examples in the following text. Firstly, we will address the common approach of public administration of all V4 countries. Then we will focus on different approaches that V4 countries and the public administration used to tackle the COVID-19 pandemic.

### 3.1 Digitalisation of public administration in relation with delivery

Public administration in all V4 countries currently undergo a series of steps related to its digitalisation. However, various levels of digitalisation have been reached in the respective countries. Digitalisation of public administration is important from the point of view that it helps to abide the “new normal” life of working from home and being on lockdown. Especially electronic delivery helped public administration adhere to the principle of speed of the proceedings and the right to a fair trial within a reasonable time.

Chart 1: The augmentation of the number of e-databoxes in relation to population<sup>14</sup>



Source: own interpretation based on data from Czech Republic at <<https://www.datoveschranky.info/statistiky>>, accessed 1 March 2021; Hungary at: <<https://regi.ugyintezes.magyarorszag.hu/dokumentumok/mohustat.xls>>, accessed 26 February 2021; Poland at: At <<https://www.telepolis.pl/wiadomosci/prawo-finanse-statystyki/profil-zaufany-ma-juz-7-milionow-polakow>>, accessed 23 February 2021; Slovakia at: <<https://www.nases.gov.sk/wp-content/uploads/2020/12/vyrocna-sprava-NASES-2019.pdf>>, accessed 12 January 2021.

<sup>14</sup> Data for 2020 in Slovakia are not available at the moment; while in other V4 countries the data on used and unused electronic boxes are up to date, the data from Slovak Republic are

In Czech Republic, from the point of view of the use of forms of electronic communication by the administrative bodies, it must be noted that administrative bodies were relatively well prepared for the new situation. Since 1 July 2009, the electronic delivery is obligatorily carried out to data boxes.<sup>15</sup>

All public authorities, including administrative bodies, are obliged to use their data boxes. If any addressee has a data box set up, it is the duty of the administrative body to deliver it exclusively in this way, otherwise the delivery is unlawful. The data box must be set up by almost all legal entities, as well as specific professions, such as advocates or tax advisors. In addition, non-business individuals can also voluntarily request the establishment of a data box. Given that the Czech public administration had already long-term experience with this delivery system, this new requirement was not a significant obstacle.<sup>16</sup> In some specific cases (especially tax administration) it is even prescribed for those who set up a data box to use it exclusively in communication with administrative bodies.

In Hungary, the situation was somewhat alike, as digitalisation of communication of public administrative bodies with each other as well as with the persons affected by their activity was a chief aim of Hungarian public policy for the last decade (Baranyi et al., 2018). So, when the pandemic hit in, the most important areas were already using electronic communication – including the delivery of administrative decisions – as the obligatory mode of communication. After long preparation, the Act on Electronic Administration and Services was promulgated at the end of 2015 which started the process of transforming communication in administration significantly. There was a lot of government investment and development in these communication systems backed by regulations creating in more and more areas either obligations to use electronic administration or persuading stakeholders to change to e-administration. These developments form a matrix of “regulated electronic administration services”, all elements which can be put together to “service kits” to provide electronic administration (Baranyi et al., 2018). One of these elements is the “surface for personalised case handling” (SZÜF) where more than 680 types of administrative cases can be handled by all natural and legal persons who have a “client gate” – another element of this matrix. In 2019, the Hungarian legislator obliged all legal persons as well as legal representatives to use the electronic communication system through a “company gate” both in administrative and in court procedures. At the end of spring 2019 there were already 550 000 such company gates and 13 200 legal persons of state and local government had an “office gate” on the other side. These gates are the three main points of entering electronic communication with

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From 2019 as there is no newer data available at the moment. This could be seen as another sign of undeveloped e-government in Slovakia.

15 Act No. 300/2008 Coll. on Electronic Acts and Authorized Conversion of Documents.

16 Until 21 February 2021 more than 1.2 million data boxes had been set up, within which over 840 million data messages had been sent. The success rate was 99.57%.

public authorities.<sup>17</sup> Already in 2019, on average 17 million documents were handled in this way.<sup>18</sup>

For natural persons, there was a very important incentive to use this system as since 2017 the tax authority is preparing the draft of the tax declaration for personal income revenue, which is delivered to the repository of the taxpayer who can either accept this draft or amend it in a simple way online and send it back as well as pay additional tax due directly in this system. The persuasive method used here resulted in a significant augmentation in the last years to 4.2 million client gates in February 2020.<sup>19</sup> In other sectors, obligatory digitalisation is also present heavily, for example in building and construction law where all applications and notifications – together with all plans – have to be submitted since several years typically through an internet platform.

Under the pandemic, this trend continued: actually there are more than 4.5 million client gates and 618 945 company gates.<sup>20</sup> What is even more important, the number of electronic case handling shows an enormous raise from averagely 336 000 cases per month to 1.2 million cases handled showing the persuasive role of the pandemic also in lack of a general obligation to deliver electronically in the General Administrative Procedure Act. It shows on the one hand that private persons use this form more and more. On the other hand, it may be in a smaller part due to a trend of augmentation of official organs joining the electronic communication system who are not obliged to do so. The number of office gates continuously augments, from 13 915 in January 2020 to 14 531 in January 2021. This affects mostly vocational chambers and other organisations who exercise state functions but are not obliged to electronic communication with members and other parties as not being administrative organs. The greatest rise in the numbers of entries (visits) to the electronic system from a monthly average of 900 000 to 5 million as well as in the number of entries to the electronic email-box for the downloading of official documents delivered this way to 34 million<sup>21</sup> may be due to the single electronic health service system digitalisation of prescriptions and medical documentation.

In Poland, the pandemic has affected the procedure of deliveries, too. On the basis of the statute from 2 March 2020 it is possible to grant parties of the proceedings the access to administrative files electronically. It is even not necessary to have an Electronic E-Mail Box protected by individual login and created on a platform of public administration. Such possibility of a contact with public administration was created in Poland already in 2005<sup>22</sup> and is becoming more and more popular. In February 2020 there were more than 5

17 There is also a distinct "process-gate" for the communication with courts, which is important for our topic in relation to administrative court procedures.

18 With peaks in "taxation months" of 22 or even 25 million documents.

19 This number at present is almost equal with the number of working people (4 496 100 in November 2020 according to the National Office for Statistics).

20 Statistics retrieved from <<https://regi.ugyintezes.magyarorszag.hu/dokumentumok/mohus-tat.xls>>, accessed 26 February 2021.

21 Statistics retrieved from <<https://regi.ugyintezes.magyarorszag.hu/dokumentumok/mohus-tat.xls>>, accessed 26 February 2021.

22 The legal basis was the statute from 17 February 2005 on Digitalisation of Public Administration Obligations (Journal of Law 2020, item 346 as am.).

million people (13,1 % of the whole population) in Poland who activated this profile.<sup>23</sup> In June 2020, it was already more than 7 million citizens (18,4 %).<sup>24</sup> During the pandemic, a party of the proceedings can request the public authority to send files on a private E-Mail Box. Based on article 15zzzzzn Nb 2 of the statute from 2 March 2020, a public authority is not obliged to fulfil the party's request but concerning the rule of law a rejection should be justified (Szewczyk, 2020, p. 26).

It is understandable that for those who stay in quarantine deliveries should be gathered in post offices and should not be send back to the sender. The pandemic enriched various parts of official deliveries in hybrid delivery. If the addressee will give the approval to the Polish Post, then it is possible to deliver the addressee a scan of the original document sent by public administration authority which is opened in a post office. The scan has the same official authorisation as the original. This service is free for citizens however it is not popular as many people are afraid of violation of secrecy of correspondence.<sup>25</sup> Gradually, in Poland this kind of hybrid delivery will be improved since 1 July 2021 when the Act on Electronic Deliveries will come into force. It will be obligatory for public entities, including legal attorneys. Currently, the details on the hybrid delivery raise more questions than answers. At the Hungarian Post and Slovak Post, there are no such developments.<sup>26</sup>

In Slovakia, a general rule on electronic delivery is that persons can communicate with public administration bodies by using electronic boxes only. The use of electronic boxes is preferred because it guarantees identity and unity of a person who communicates with a public administration body. Only the owner of the electronic box may log-in into the electronic box by using his/hers e-ID. This means a certainty that only this person submitted a motion, notification, statement, etc. and not someone else.

However, according to National Agency for Network and Electronic Services' Annual Report 2019<sup>27</sup> out of 5 047 690 electronic boxes of natural persons only 105 919 are activated and therefore suitable for electronic communication. It means that only 2,1 % of eligible natural persons are able to communicate electronically with public administrative bodies. Administrative Procedure Act (Act No. 71/1967 Coll.) stipulates a general rule pursuant to which if a person makes a submission in electronic form but not via electronic box (e.g. via e-mail), that person must confirm submitting the submission in paper form, orally into the

23 Official database of the Ministry of Digital Affairs. At <<https://www.gov.pl/web/cyfryzacja/ponad-5-milionow-polakow-ma-juz-profil-zaufany>>, accessed 23 February 2021.

24 Official database of the Ministry of Digital Affairs. At <<https://www.telepolis.pl/wiadomosci/prawo-finanse-statystyki/profil-zaufany-ma-juz-7-milionow-polakow>>, accessed 23 February 2021.

25 Electronic deliveries are necessary but it can violate privacy and secret of correspondence <<https://www.prawo.pl/prawo/doreczenia-elektroniczne-potrzebne-ale-moga-naruszac-prywatnosc,499522.html>>, accessed 23 February 2021.

26 However, in Hungary there is in the e-administration also a central receipt system since 2015 with 580 public organisations adhering to it already in 2019. Paper-based items sent to this system ("E-Papír") are transformed and then delivered electronically.

27 Národná agentúra pre sieťové a elektronické služby. (2020). Výročná správa 2019. At <<https://www.nases.gov.sk/wp-content/uploads/2020/12/vyrocnna-sprava-NASES-2019.pdf>>, accessed 12 January 2021. Annual Report 2020 has not been published yet.

minutes or via electronic box.<sup>28</sup> It is clear that oral version of confirmation is not possible at the moment of pandemic.

Coincidentally, in Slovakia the first wave of COVID-19 pandemic overlaid with deadlines to submit tax declaration.<sup>29</sup> Act No. 563/2009 Coll. on Tax Proceedings stipulates that missing a deadline to submit a tax declaration is an administrative offense [art.154(1)(a) of this act] for which a tax body may impose a fine between 30 EUR to 16 000 EUR [art. 155(1)(a) of this act].<sup>30</sup>

In general, employers submit the tax declaration of income tax for all their employees. However, if an employee has an income from more than one employer, the obligation to submit the tax declaration falls to the employee.

In order to ease the pressure of the pandemic, the legislator passed a new law – Act No. 67/2020 Coll. on Certain Emergency Measures in Finance Relations Related with the Spread of the Dangerous Contagious Human Disease COVID-19 (hereinafter as “Act No. 67/2020 Coll.”). Act No. 67/2020 Coll. is interesting from two points of view.

First, Act No. 67/2020 Coll. postponed deadlines to submit tax declarations. This act stipulated that measurements according to this act are in force from 12 March 2020 when the government introduced the state of emergency up until the end of the month when the government will call off the state of emergency. For the sake of completeness, based on amendment of Act No. 67/2020 Coll. the measurement of postponing the submission of tax declaration ended on 31 September 2020.

Second, Act No. 67/2020 Coll. also enacted a temporary solution regarding electronic communication in its art. 3. Pursuant to art. 3(1) if a submission is made by electronic means but not in a manner pursuant to a special regulation, it is not necessary to deliver the submission in paper form. Such submission shall be deemed as received. This rule means that if a person chooses to submit a motion, notification, statement, etc., the person may use even his personal email to send the document. However, Act No. 67/2020 Coll. does not allow to send the mail to any email address of, for example, any tax body employee. The e-mail has to be addressed to the official e-mail address of the tax body itself.

This solution enables to communicate with the tax body in a smoother way and unburdens from the obligation to use the electronic box. We have to stress that this way of communication is allowed only in tax proceedings and therefore is not available in any other type of administrative proceedings such as proceedings on administrative offence, or building permission, etc.

In order to make clear on how the tax body shall respond to any electronically sent submissions, Act No. 67/2020 Coll. stipulates that the tax body is obliged

<sup>28</sup> Art. 19(1) of Act No. 71/1967 Coll. Administrative Procedure Act as amended.

<sup>29</sup> In terms of tax declaration for income tax of natural persons - 30 March and in terms of tax for real estate tax within February till May depending on delivery of decision on real estate tax in which a specific amount of tax is calculated.

<sup>30</sup> In terms of real estate tax, the maximum fine is up to the amount of tax itself, however not less than 5 EUR and not more than 3,000 EUR.



to use the same way of communication as the person chose in the first place [art. 3(2) of this act]. If a person chooses a Gmail account, then the tax body replies to this Gmail account. This applies to situations when, e.g., the motion is incomplete because of missing annexes, etc. and the tax body must inform the person of this.

Act No. 67/2020 Coll. also stipulates an exception when a tax body is obliged to communicate in paper form. This applies to decisions issued by a tax body. Decisions have to be delivered in paper form into addressee's own hands [art. 3(3) in conjunction with art. 5(1)].

This example is suitable for the first mentioned approach when public administration bodies firstly had to have an appropriate legal regulation to act in a certain way. Without legal regulation stipulated within Act No. 67/2020 Coll. the public administration could never use emails to communicate with persons.

### **3.2 Principle of speed of the proceedings (deadlines and related issues)**

Previous part of the article pointed out that electronic delivery helped public administration uphold the principle of speed of the proceedings. On the other hand, where electronic delivery was not applicable, serious breaches of this principle could occur. Therefore, legislators and public administration had to address questions related to deadlines to issue a decision.

In Czech Republic, unlike courts and court proceedings,<sup>31</sup> for the area of public administration and administrative procedure, no legal regulation has been adopted, which would e.g. allow for the extension of deadlines that were missed by natural or legal persons due to the COVID-19 pandemic. The reason is, among other things, the fact that such a general possibility is already regulated in article 41 of the Administrative Procedure Code (Act No. 500/2004 Coll.) It was possible to use it even during a pandemic. Not a single amendment to the Administrative Procedure Code was adopted which would tackle the COVID-19 pandemic, e.g. regarding the possibility of conducting oral proceedings in electronic form or to have access to the files online. Indeed, the consequences of the COVID-19 pandemic were that the mandatory or ordered oral hearings had to be postponed (mostly due to excuse from disease or ordered isolation) and the deadlines for issuing decisions had to be extended. Some officials were transferred to perform other agendas related to the payment of a number of compensations, etc. Unfortunately, the Czech public administration has long and negatively manifested itself in the absence of various data, which is why it is not possible to substantiate these general conclusions in any way. Overall, the weak digitalisation of public administration has manifested itself. Coincidentally, even before the outbreak of the COVID-19 pandemic, a basic legal framework was created for the later digitalisation of the Czech public administration.<sup>32</sup>

<sup>31</sup> Act No. 191/2020 Coll.

<sup>32</sup> Act No. 12/2020 Coll. on the Right to Digital Services.

In Hungary, the situation was very similar. Whereas there was detailed regulation for court procedures, mainly aimed at reducing personal contacts, for administrative authoritative procedures there were no general rules adopted despite the augmentation of administrative cases in some fields (Hoffman and Balázs, 2021). There were rather strategies for avoiding administrative cases. On the one hand, in registry cases (certificates, carnets, attestations like ID cards, driving licences or vehicle papers for roadworthiness, etc.) the expiry date of documents was extended for after the end of the emergency situation. On the other hand, this avoidance meant the continuation of the tendency that started with the debureaucratization programmes of the government in 2015. In this process, using the means of the transposition of the EU Service Directive (Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on Services in the Internal Market), namely the changing of authorisation schemes. Instead of submitting an application for a permit, in numerous administrative cases, it is enough to notify the authority about the starting of an activity, and the authority has a wide margin of appreciation to decide upon this notification, whether it wants to start an authorisation procedure or accepts the notification and with its – lawful – silence practically grants the permit. The problem with this scheme is, that as there is no procedure in most cases, the interests and rights of counter-interested parties cannot be observed nor can the participation of the interested public be granted (Hoffman and Balázs, 2021) as well as problems regarding the lawfulness of a notified activity can arise later in other administrative (court) procedures. This causes heavy deficits not only in regard of the safeguards of administrative procedures, but also in judicial protection as without a decision or an unlawful silence judicial review cannot be initiated, counter-interested parties and NGOs can only sue those who act upon these notifications before civil courts which is long and expensive as well as rarely resulting in real redress. The surveillance authorities do not show much activity in initializing ex officio procedures when the activity is exercised in a wrongful way. Besides these changes, the so-called conditional decision, the main means against the unlawful silence of administration – although it was one of the first institutions introduced with the debureaucratization programme (F. Rozsnyai and Hoffman, 2020) – was also abolished.

Within the first wave of pandemic, the Polish legislator decided to suspend material and procedural terms in administrative law relevant to prescription, administrative silence and time limits for administrative proceedings. Many legal actions, like the complaint against inactivity of public administration, were not possible to file. Additionally, this regulation which was introduced in the statute from 2 March 2020, was later amended by statute from 31 March 2020<sup>33</sup> that came into force on the date of the introduction of a state of epidemic threat which was already announced on 14 March 2020. Up until today, the jurisprudence of the administrative courts is not uniformed when it comes to the issue of the retroactivity of these norms. From one side, the suspension of terms was introduced in favour of interests of individuals who had more

<sup>33</sup> The statute from 31 March 2020 on the amendment of the statute from 2 March 2020 and other statutes (Journal of Laws 2020, item 568).

difficult access to public institutions since the first half of March 2020.<sup>34</sup> From another point of view, the retroactivity breaches principle of legal certainty.<sup>35</sup>

In autumn 2020, the suspension of terms was not repeated by the Polish legislator. Only for individual purposes, if a public authority becomes unable for timely settling disputes, it could inform all citizens about time prolongation which can last no more than 30 days. This rule seems to be more logical, because time inactivity is not binding for all public bodies, but only for the respective authority that due to pandemic reasons needs more time for case settlement. The principle of speed of the proceedings is protected in a more suitable way.

The pandemic is not treated in the jurisprudence as an automated reason for a reinstatement of a time limit in administrative proceedings.<sup>36</sup> Especially if the pandemic lasts months, it is difficult to prove to public authorities and administrative courts that it was not possible to organize various obligations in order to keep procedural terms. Nevertheless, if a party of the proceedings omitted a term from which depends this party's right, a public authority should inform this party about the possibility to file a motion for a reinstatement of time.

In Slovakia, as mentioned, during COVID-19 pandemic it has not been easy for persons to stay in contact with employees of public administrative bodies. Due to undeveloped e-government, the citizens could have faced an issue of public administration silence. Resulting from mandatory lockdowns, employees of public administrative bodies had to stay at home. In better circumstances they were able to work remotely (from home) via VPN links/connections. In worse case circumstances, they could not work remotely as many public administrative bodies still do not keep administrative files in electronic forms which are remotely accessible. This practice has led to delays in administrative procedures and therefore interfered with the right to a fair trial within a reasonable time [see especially art. 6 of European Convention on Human Rights, but also art. 48(2) of Constitution of Slovak Republic].

Unlike in the court proceedings, administrative proceedings were not amended in favour of either public administrative bodies or participants of the proceedings in terms of prolongation of deadlines. The only exception was (the already mentioned) legal regulation in tax law.

In other areas of administrative procedures, no amendments were enacted despite the fact that legislative solution would be beneficial. To be specific, in the last couple of weeks, through informal discussions led with public servants, one specific issue came to light in relation to difficulties with delivering abroad. As a result of this, bringing administrative proceedings to an end is often impossible as the decision might not come to legal force without a

<sup>34</sup> See the orders of the Supreme Administrative Court from 13 October 2020, signature II OZ 762/20, from 14 October 2020, signature II GSK 905/20, from 11 December 2020, signature II GZ 368/20. At <[orzeczenia.nsa.gov.pl](http://orzeczenia.nsa.gov.pl)>, accessed 23 February 2021.

<sup>35</sup> See the orders of the Supreme Administrative Court from 1 December 2020, signature I OZ 961/20, from 3 December 2020, signature II FZ 510/20, from 27 January 2021, signature I FZ 282/20. At <[orzeczenia.nsa.gov.pl](http://orzeczenia.nsa.gov.pl)>, accessed 23 February 2021.

<sup>36</sup> See the order of the Supreme Administrative Court from 5 February 2021, signature II FZ 2/21. At <[orzeczenia.nsa.gov.pl](http://orzeczenia.nsa.gov.pl)>, accessed 23 February 2021.

confirmation on successful delivery from a postal service company. Lockdown caused one certain issue since one of its consequences was that deliveries abroad “stayed” on borders between states. In practice, given many regulations safeguarding the public health, subsequent redistribution of deliveries did not take place for several weeks. Simply put, “there was no one to pick them up and deliver”. Although public administrative bodies issued decisions on time, the administrative proceedings could not obtain its effects as the decisions were not delivered. This issue befell especially into various building proceedings (mostly building permission proceedings).

Nowadays, legal regulation offers solution only to the cases where either the parties to the proceedings are unknown to the administrative body or administrative body does not know the address of the participant. If such situation occurs, the administrative body is not obliged to deliver into the addressee’s own hands, but, instead, might use delivery via public notice. However, this is not the case as the administrative body knew who the parties were and also knew their delivery address. As a result, in this case, public administration did not come up with any solution that would overcome the issue.

### **3.3 Public administration and new technologies during pandemic**

As follows from the above, public administration has been (and is forced) to face challenges in the form of the use of new technologies to provide its services.

In Czech Republic, this was also significant in connection with the meetings of the bodies of local self-government units. These were first limited, respectively transferred to the online environment<sup>37</sup> and subsequently allowed to take place, but under strict hygienic conditions.<sup>38</sup> In Slovak Republic, the same issue occurred. The solution came in the form of amending the Act on Municipalities (Act No. 369/1990 Coll.). Based on the amendment of the Act on Municipalities (Act No. 73/2020 Coll.) the legislator stipulated that during the state of emergency declared in connection with the COVID-19 pandemic, the municipal council meetings may occur by means of a videoconference or by any other means of communication technology. The municipality must record the meeting either as an audio/video format or only as an audio format. If the municipality has its official website, then within 48 hours after the end of the meeting it must publish the recorded meeting on the website. This record is available to anyone immediately after the end of the meeting. Municipality must also publish a written record of the meeting on its official notice board. In Hungary, there was no such development, which is due to the rather unfortunate rule of the National Disaster Act, that in emergency situations the mayor can decide in the place of the local council, which was handled in different ways. Some mayors introduced preliminary consultations with the members of the councils and decided according to the outcome of these, whereas

<sup>37</sup> Government decree of 23 March 2020 No. 274 issued as No. 122/2020 Coll.

<sup>38</sup> Government decree of 6 April 2020 No. 388, issued as No. 151/2020 Coll. ensuring distances of 2 m and the use of respiratory protective equipment.

other mayors did not and even misused their powers to make decisions they could not get through the councils before (Hoffman and Balázs, 2021).<sup>39</sup>

Czech Republic encountered problems with access to the files. The absence of electronic files was often dealt with by officials by scanning and sending them by e-mail in order to have access to the files. On the other hand, we can see a positive example in the area of electronic prescriptions. During COVID-19 pandemic people who have been ill could benefit from the new system of electronic prescription (in effect since 1 December 2019). People could get their medication according to a message in a mobile phone/e-mail/data box without visiting a doctor, but after previous (telephonic or e-mail) contact with him/her. This was used very often and such a possibility was really welcomed.

Electronic prescriptions are available in Slovakia and also in Hungary. In Hungary, it was a fortunate coincidence that the “single health service system” started to work just at the beginning of the pandemic. It handles patient documentation and prescriptions, so telemedicine, i.e. the remote provision of some health services could start, as people could get their medication directly in the pharmacy without going to the doctor and having them prescribed through personal contact. For chronic patients this is a great relief not having to go to the doctor regularly only for the prescription – as well as for all patients being able to avoid collecting their documents personally when being sent to further medical examination or getting the results of e.g. laboratory examinations.

On this wide basis, in Hungary the pandemic rather meant an incentive for the use of electronic communication in fields where it is not obligatory. This is maybe the most evident in the communication of local self-governments, which started to use electronic communication in a more systematic way. Their communication with the legal supervising authority was also channelled to electronic communication. The decrees of quite many local governments have been included into the national legal database.

In Poland, there is a possibility to organize electronic public hearings within administrative proceedings. It depends on technical possibilities of parties and the public authority; however, the public authority should accept the motion from a party. According to the jurisprudence of administrative courts, if there is a possibility for public authority to organize an electronic public hearing, a public authority's short response in which it does not approve the motion of an individual is not sufficient.<sup>40</sup> There should be more severe grounds for rejection, composed e.g. with difficulties in discovery proceedings. In reality, many administrative authorities resign from this possibility from the grounds of the authorship law. Only an insufficient amount of public bodies, like universities, have assigned agreements with owners of electronic platforms to use it legally.

<sup>39</sup> We have to add that the supreme courts of Hungary were previously also opposed to the use of videoconference tools. Decision No. 369/E/2009. of the Constitutional Court of Hungary (ABH 2009, 2722), as well as Decision No. Köf. 5003/2012/9. of the Municipal Council of the Kúria (the Supreme Court), at <<https://kuria-birosag.hu/hu/onkugy/kof500320129-szamu-hatarozat>>, accessed 26 February 2021.

<sup>40</sup> A judgment of the Voivodeship Administrative Court in Łódź from 30 December 2020, signature III SAB/Łd 23/20. At <[orzeczenia.nsa.gov.pl](http://orzeczenia.nsa.gov.pl)>, accessed 23 February 2021.

### 3.4 Other areas of public life affected by the COVID-19 pandemic

COVID-19 pandemic negatively affected the Czech Republic administration. However, it is interesting to notice that from the legal point of view, the most significant legal intervention regarding the everyday functioning of public administration and the system of administrative bodies was the extraordinary measure of the Ministry of Health issued on the basis of Act No. 258/2000 Coll. on the Protection of Public Health<sup>41</sup> that came into effect on 24 March 2020. It resulted in a certain limitation of the performance of public administration based on the fact that a state of emergency was declared with effect from 12 March 2020.<sup>42</sup> Administrative bodies have generally been required to replace personal contact with persons. Instead of personal contact, written, electronic or telephone contact was required where possible. Administrative bodies adapted to this change. Furthermore, it was required that administrative bodies receive documents exclusively through filling offices, with preference given to electronic forms of communication. The most significant impact was the range of office hours (earmarked days of the week when officials are available to communicate face to face with the public). The office hours have been limited to a maximum of three hours on Mondays and Wednesdays.<sup>43</sup> Since 20 April 2020, for this purpose, another Extraordinary measure of the Ministry of Health<sup>44</sup> has introduced a new rule in order to increase hygienic measures at administrative bodies, ensuring distances of 2 meters and the use of respiratory protective equipment.

Subsequently, this regulation was copied into individual government decrees declaring crisis measures for the duration of the state of emergency issued pursuant to the Crisis Act No. 240/2000 Coll. For the time being, the last Government Decree No. 62/2021 Coll., on the Adoption of a Crisis Measure, still maintains these restrictions, however it no longer stipulates restrictions on the office hours. Thus, each respective administrative body within its own discretion may set the office hours.

In Slovak Republic, we can also see a very interesting informal approach taken by several public administrative bodies. This approach specifically took place in the area of real estate tax. In this area, public administration has extensively used persuasive methods. This approach is justifiable by its proactive approach that fulfils status of public administration as a service to the public. It could have been used only because it does not harm any rights or interests of persons, but, on the contrary, it complements them suitably.

41 Extraordinary measure of the Ministry of Health of 23 March 2020, file number MZDR 12745/20203/MIN/KAN. The fact that this extraordinary measure (like many others) was announced on a day-to-day basis and published exclusively only on the official notice board of the Ministry of Health can be assessed very negatively.

42 The state of emergency was declared by Government Decree No. 194 issued as No. 69/2020 Coll. The government repeatedly extended this state of emergency for the rest of 2020 and the beginning of 2021 (until 12 April 2021).

43 This was subject to change during 2020, see e.g. Government decree issued as No. 478/2020 Coll. of 20 November 2020 that limited the scope of office hours to 2 days a week within the range of 5 hours.

44 Extraordinary measure of the Ministry of Health of 9 April 2020, file number MZDR 15757/2020-3/MIN/KAN.

We already stated that during the first wave of COVID-19 pandemic not only tax declaration for income of natural persons had to be submitted, but also tax declaration for real estate tax. In this area, municipalities serve as tax bodies as the real estate tax is a source of municipalities own income (Balko and Králik et al. 2010, p. 358). The real estate tax is not a state tax, but a municipality tax (Sidak and Duračinská et al., 2012, p. 216).

Decisions on the real estate tax include the exact amount of tax that a person is obliged to pay. This decision has to be delivered in the paper form and into the addressee's own hands. However, this was an issue for many municipalities in Slovakia as postal delivery persons either got sick of COVID-19 or boycotted(!) delivering into addressees own hands as a means of protecting themselves from getting sick.

Many municipalities (e.g. Bratislava and Čadca) decided to deliver the decisions on the real estate tax only into the mailboxes of a person and not into their own hands. That way, the postal delivery persons stayed safe, but also decisions were delivered. The disadvantage of this approach is that municipalities had no information on when the decision was delivered and therefore could not enforce the tax itself in case a taxpayer would not pay the tax. In order to prevent this disadvantage, municipalities started an awareness campaign carried out via municipality radio services (smaller municipalities), municipality newspapers or even social media campaigns (Facebook and Instagram) (bigger municipalities).

The campaign focused on three issues. In the first one, the municipality explained why it chose this means of delivering, being it an extraordinary measure that is only a one-time solution to the pandemic. It reflected on safeguarding public health of all persons residing in the municipality and concluded that it is safer to deliver only into the mailbox and not physically. In order to encourage persons to pay the tax, the municipality also explained that taxes are their own income and disclosed which projects were carried out from last year's taxes and therefore the public benefitted from them.

In the second part, municipalities stated the exact amount of tax that a person should pay. Municipalities stated that upon the delivery of the decision, a person must pay the tax within a deadline of certain specific days (the exact number of days varied between municipalities). Since the taxpayers could have, e.g., lost their jobs during COVID-19 pandemic and could have had troubles paying the whole amount of tax, municipalities proposed a solution to this issue too. Although tax regulation does not recognise repayment schedules, municipalities stated that based on mutual agreement they will accept repayment schedules with respective taxpayers.

In the last part, municipalities informed the persons that if they do not pay the real estate tax within the set deadline, the municipality will deliver the decision on the tax again. The second delivery will be carried out into own hands in order to safeguard conditions to eventually enforce the decision. This last part was mainly informative and informed on possible negative outcomes on the taxpayer in case of refusal to pay the tax.

We are of the opinion that in this way, municipalities took a very positive and proactive approach in solving COVID-19 pandemic and possible shortages on their incomes. They chose persuasive methods in order to inspire persons to fulfil their tax obligations by naming particular activities and services they provided from last year's tax incomes. They also offered a rescue hand by proposing repayment schedules in order for taxpayers not to be charged with committing a tax administrative offense. Lastly, they comprehensively stated possible consequences if a person refuses to pay the tax.

## **4 Discussion**

Since public administration might be exercised only based on law and by means of law,<sup>45</sup> this basic principle applies in the pandemic times, too. However, the pandemic has called for many amendments to statutes that bind the exercise of public administration within V4 countries. These adaptations to execution of public administration had to be taken in form of law, since otherwise the adaptations could interfere with rights of natural and legal persons stipulated and protected by law. The adaptations that we analysed would therefore not enjoy the protection of rule of law principle as they would be considered as unlawful arbitrariness of public administration.

Especially, measures such as new forms of communication have to be stipulated by law. One of the areas that was questioned by the pandemic was the way public administration communicates within itself and with the persons outside. In Hungary, the digitalisation of communication of public administrative bodies is well-developed which is an outcome of government's investments on the subject. Therefore, electronic administration is not uncommon. As a positive example that motivates persons to communicate with public administration electronically is also the electronic project of tax declaration for personal income revenue. Also in Czech Republic and in Poland, electronic communication has experienced significant growth during the pandemic. In Poland, parties to the proceedings were granted electronic access to administrative files without the need to set up electronic e-mail boxes. Polish legislation also enacted new methods of hybrid delivery in form of sending a scanned copy of the official document to the addressee. However, this approach is not widely used by the public as it is seen as a contradiction to the secrecy of correspondence. Regarding electronic communication, the only exception within V4 countries is Slovakia. In Slovakia, the electronic communication with public administration is not seen as a preferable way of communication by the public. There is a lack of the promotion of benefits of electronic communication in the media. As a result, only 2.1 % of eligible natural persons are able to communicate electronically with public administrative bodies, which is an alarmingly low number.

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<sup>45</sup> Article 2(2) of Constitution of Slovak republic, article 2(2) of the Charter of Fundamental Rights (Czech Republic), article 7 of the Constitution of the Republic of Poland. In Hungary, this flows from the principle of rule of law, article 2(1) of the Hungarian Basic Law.



In Slovakia and in Czech Republic, no substantial changes in legal regulation on prolonging the deadlines of administrative proceedings occurred as such legal regulation is already adopted in respective (general) Administrative Procedure Acts. However, in Slovak Republic the deadline of submission of tax declaration for income has been postponed. In Hungary, in many administrative proceedings it is sufficient now to only notify the authority about the starting of an activity and the authority has a wide margin of consideration whether to start an authorisation procedure or to accept the notification and stays lawfully inactive meaning practically the granting of the permission. However, this approach results in serious deficiencies regarding safeguards of administrative procedures, but also in judicial protection.

In Poland, we identified several changes in legal regulation that could be deemed as serious. Legislation suspended material and procedural terms for administrative proceedings and also legal actions such as complaints against inactivity of public administration were not admissible during the first wave of the pandemic. Moreover, this Polish solution might have breached the principle of legal certainty because it stated these conditions based on legislation that passed on 31 March 2020 that came into legal force on 14 March 2020, yet there is no unifying judicial decision on the matter.

During the pandemic, public administration of V4 countries started to use new technologies more widely while performing their activities. As a positive example we might mention the possibilities to conduct meetings of e.g. municipality councils (Czech Republic, Slovak Republic) or even public hearings of administrative proceedings (Poland) in an online environment by using services such as Zoom, Cisco Webex or Google Meet, etc. Since the principle of transparency could be at stake while conducting online meetings, the legislation that obliges to record and publish such meetings is appropriate (this applies to the municipality meetings and not meetings related to administrative proceedings). Also, using electronic measurements in the area of health care based on which patients are able to get their medication via electronic prescriptions is widely used and preferred (Czech Republic, Hungary, Slovak Republic). On the other hand, as a drawback we must state that not every person has suitable internet connection (traditionally secluded parts of V4 countries and elder people) to participate in such meetings. Therefore, legislation should pose effective limits to safeguard rights of persons who are unable to participate. As possibly questionable, we must mention the practice in Czech Republic where the scanning of administrative files and their subsequent use by e-mail occurred. This could be problematic in regard to cyber security in general.

In legal practice, we also encountered informal ways of coping with the pandemic. This relates to Slovak solutions regarding real estate tax.

## **5 Conclusion**

The COVID-19 pandemic hit hard in the whole world. As a result, the traditional everyday life of many people changed too. Governments all over the world introduced counter measurements that have exceeded everything this generation had ever encountered before. Their justification was quite clear – maintaining public health. Hand in hand with these measurements, legislators had to cope with their legal consequences and public administration was responsible for both adapting them and adapting to them.

Since many measurements took the form of mandatory lockdowns where people had to stay at home without a possibility to communicate with public administrative bodies, many administrative procedures faced issues of their delay. In this article, we described examples of how legislators and public administration of every V4 country faced this issue. The goal was to formulate proposals on how public administrative bodies could and should change the way they carry out administrative procedure in order to help public administrative bodies adapting to the pandemic along with maintaining the right to a fair trial within a reasonable time.

Based on provided analysis, we argue that several crucial principles bind public administration. Those principles, by their own design, have to bind public administration during the pandemic. However, the principles of rule of law and of subsidiarity of the exercise of public authority along with the right to good administration including the requirement of reasonable time were at stake. In order to meet these requirements truly, public administration took several measures. In general, the formal approach taken by respective legislators and public administrations complies with the law although there are several exceptions. However, as of today, there are no judicial decisions on the matter though they are probably near. When the informal approach was taken, it should be encouraged if it complies with the principle of subsidiarity of the exercise of public authority. This will be the case if meeting several conditions: the approach must comply with the law, it must not create any new obligations, but rather propose possible solutions to a specific situation, it shall be open to everyone and not breach the principle of transparency and equality.

Unfortunately, not all discussed issues have a simple solution. As of today, postal delivery abroad has no obvious solution, not even on European level. This issue is not tackled in EU Service Directive, neither in 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 nor in Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012.

However, the pandemic could be seen not only as a threat, but also a huge challenge for public administration in the (near) future. The pandemic is truly an opportunity for public administration to ameliorate its processes and to

catch up with digitalisation trends. These should not only be focusing on the starting point (the applications) and the endpoint (the delivery of the decision) of administrative procedures. There are vast possibilities for finding better ways for the participation of the persons interested in administrative authoritative procedures and also in other fields of administrative decision-making procedures like planning. These are essentials in the era of good governance. So far, no attention was given to these aspects except for the Polish possibility of online public hearings. This may be due to the fact that the pandemic was anticipated not to last for so long. Maybe it is time to adapt a strategic vision and see the first waves of the COVID-19 pandemic only as an initial impact.

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# E-Government Effectiveness and Efficiency in EU-28 and COVID-19

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## ABSTRACT

The task of every government, especially during the Covid-19 pandemic, is to provide services and goods for citizens and to maintain economic order. Therefore, the combination of legislation, the judiciary and administration is inevitable. Moreover, public administrations must transform the way they function by using more information and communication technology in order to remain responsive and efficient. This challenge was further revealed during lockdowns in individual countries, which affected their social and economic development. The solution to that challenge is the implementation of e-government in the public sector. It also increases innovation in governance processes as well as efficiency and effectiveness by offering more participative opportunities to citizens. Hence, a mature level of e-government development also arises. Nevertheless, there are significant differences among the levels of e-government development in the EU-28. The aim of this article is to assess the influence of e-government maturity on government effectiveness and efficiency in the EU-28. In order to obtain empirical results, a two-stage least square regression (2SLS) was applied. The empirical results show that e-government maturity positively and significantly contributes to enhancing government effectiveness and efficiency in the EU-28. In addition, the rule of law plays an important role in each stage regression model. Based on the empirical results, we can conclude that e-government is

**inevitable and should ensure the proper functioning of public administration during the Covid-19 pandemic.**

*Keywords: e-government, Covid-19 measures, government efficiency, government effectiveness, two-stage least squares regression analysis*

*JEL: H11, H70, H8*

## **1 Introduction**

The COVID-19 pandemic has affected every aspect of human lives, social and economic development, as well as the proper functioning of public administration. The only way to stop spreading the COVID virus has been social distance and self-isolation. Therefore, the quality of e-government must be improved and made publicly available to everyone. This practice requires the combination of e-governance with the innovative use of existing and advanced technologies (Shaw et al., 2020). Hence, in the light of the rapid use of information and communication technology (ICT), the public sector and administration have been faced with dynamic challenges. One of these challenges is to implement e-government that will support digitalization of the public sector by enabling its openness, transparency and effectiveness. By doing so, the public sector and administration will be fundamentally transformed. E-government can be described as an electronic exchange of information and services with citizens, businesses and other sections of government, and includes open government data and the use of information and communication technologies to allow innovation in governance (United Nations, 2020). The goal of e-government is the use of technological communications devices (computers, cell phones, tablets and the Internet) and different digital methods in government activities to achieve efficiency and effectiveness in providing public services to all users. As such, it provides conditions to citizens and entrepreneurs for direct and appropriate access to the government as well as for the proper delivery of services. This is possible through an effective e-governance institutional framework that provides conditions for the provision of quality public services which meet the requirements of citizens for transparency, accountability and inclusivity, which contributes to increasing the trust of citizens in their governments. In addition, the United Nations (2020) distinguish several types of digital interactions – digital relations between a citizen and their government (C2G), between governments and other government organizations (G2G), between government and citizens (G2C), between government and employees (G2E) and between government and businesses (G2B). To monitor the results and impacts of these digital interactions, the United Nations implemented the United Nations E-Government Survey. The E-Government Survey presents a systematic assessment of the use and possible usage of modern technologies to change the public sector by improving efficiency, effectiveness, transparency, accountability, access to public services and citizen participation in all member states (193) of the United Nations.



Decades ago, developed countries began to take advantage of advanced technology by providing online public services. Today, almost all the EU countries have a range of public services provided as e-services. Estonia is the leading European country recognized as “the most advanced digital society in the world”. Estonia has created an efficient, secure and transparent system where 99 percent of governmental services are online. Numerous solutions have been developed, such as e-Governance containing four sections – Government Cloud, Data Embassy, i-Voting and e-Cabinet. Other European countries are intensively researching and working to improve e-government solutions. The European Union supports this objective because one of the strategic priorities for the period 2019-2024 refers to “Europe fit for the digital age - Empowering people with a new generation of technologies”. The EU’s digital strategy “Shaping Europe’s digital future” aims to bring about the transformation of work for people and businesses. It consists of three main pillars to ensure that Europe gives its citizens, businesses and governments control over the digital transformation. In implementing the digital strategy, the EU has developed an e-Government Action Plan, which provides sources of information and guides to support local and regional administrations. This is especially important during the COVID-19 pandemic, since most of the government services needed to be made available online due to the lockdown. The COVID-19 pandemic has made it crystal clear that without efficient and effective online government services, most of the public function will not be achieved or be sustainable. In addition, Ullah et al. (2021) found that internet technology and e-governance enhancement during the COVID-19 pandemic have helped to combat COVID-19-related impacts. Moreover, researchers have also explored expectations created by public managers, policymakers and stakeholders concerning the implementation of e-government policies and applications. They have tried to verify whether e-government applications have been introduced according to the real demands from citizens and to evaluate whether e-government solutions have been effective (Rodríguez Bolívar, 2014). Based on all of the aforementioned, our hypothesis is that e-government maturity is positively and significantly associated with government effectiveness and efficiency.

As not much is known about the effectiveness and efficiency of e-government in the EU-28, the main aim of the paper is to assess the influence of e-government maturity on government effectiveness and efficiency in the EU-28 as a solution to improve public functioning during the COVID-19 pandemic. Accordingly, the paper contributes to existing literature in the following way. Firstly, it provides a detailed literature overview of the research in the field of government effectiveness and efficiency and COVID-19 measures in the EU. Secondly, it investigates the relationship between e-government maturity and government effectiveness and efficiency in the EU-28. The remainder of the paper is structured as follows. After the introduction, a brief literature review and theoretical framework are presented. The following section describes the data and research methods. In Section Four, the empirical results are presented. The paper ends with conclusion remarks and recommendations for further research.

## **2 Literature review and theoretical framework**

In the existing literature there are not many papers that examine both government efficiency and effectiveness with regard to promoting e-government development activity in the EU member countries.

Efficiency and effectiveness are two measures that are related to the results and outcomes of the functioning of each government. Efficiency determines how much each unit of output (e.g., public services provided) costs, and effectiveness measures the quality of that output or outcomes in providing public services. In the other words, public sector efficiency can be defined as the output relative to the resources employed, and public sector effectiveness (performance) can be defined as the outcome of public sector activities. Effectiveness is explicitly mentioned as one of the five political principles in the White Paper on European Governance. Based on the researched literature, it can be determined that for certain groups of countries, especially those that are underdeveloped, there is a lack of research that measures the efficiency and effectiveness of the public sector with a special emphasis on e-government. However, these measurements for different countries are inadequate.

The conducted research indicates that the efficiency of governments is most often monitored through the achieved results of their budget policies, i.e., the efficiency or inefficiency of public expenditures. Research has shown that there are significant differences in the efficiency of public spending between countries. In developing countries, the efficiency of government spending is primarily determined by a country's structural variables and governance indicators (Rayp and Van De Sijpe, 2007; Gupta and Verhoeven, 2001). In addition to fiscal indicators, for instance the share of tax revenues and public expenditures in the gross domestic product, the efficiency of the government's role in the economy can be monitored by the results of non-fiscal instruments, such as regulations, direct budget subsidies, subsidized loans etc. Non-fiscal instruments are more widely used in transition and less developed countries and are intended to achieve the same goals that should be achieved by the fiscal instruments (Tanzi, 1995, 1998).

Afonso et al. (2003) examined public sector efficiency and effectiveness (performance) using performance indicators for 23 industrialized countries. They examined the efficiency of public sectors using total public spending and several spending categories as substitutes for used funds. They analyzed them in relation to performance indicators as the opportunity costs of public sector activities. Efficiency for each country is presented by a ratio of performance indicators and public spending indicators. The effectiveness of the public sector is calculated by input and output efficiency, ranking countries in terms of public spending efficiency. The results of the research showed that there are no significant differences in effectiveness among the analyzed countries. Countries with a relatively small public sector have a higher level of efficiency as opposed to those with a large public sector. Tanzi et al. (2007) conducted additional research the results of which changed somewhat. They found that countries with smaller public sectors had higher performance levels, as measured by

their performance index, than countries with a larger public sector. Additionally, countries with a smaller public sector were more efficient in achieving their public sector performance levels than countries with a larger public sector. Research conducted by Hauner and Kyobe (2010) resulted in similar conclusions. Their research on public sector performance and efficiency based on data for 114 countries revealed a lower level of efficiency in the case of higher government expenditure in relation to gross domestic product. In addition, they concluded their research with analytical evidence that richer countries are characterized by better public sector performance and efficiency.

Government effectiveness is presented as part of the World Governance Indicators prepared by the World Bank. Kaufmann et al. (2010) presented the methodology of the Worldwide Governance Indicators, which consists of six dimensions of governance, namely voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law and control of corruption. One of the six governance dimensions defines government effectiveness as perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation as well as the credibility of the government's commitment to such policies. For example, developed countries like Denmark and Switzerland show a high level of government effectiveness (percentile rank is about 100), unlike Croatia, where government effectiveness is not high, and the rank has decreased from 73 (2014) to 67 (2019). In terms of the degree of democracy, research has shown interesting results. In countries with a high degree of democracy, it does not mean that it will automatically contribute to the efficient and economical delivery of public services. An example of this is Belgium, as a country with a high degree of democracy, where the level of efficiency has decreased, and the rank has changed from 88 (2014) to 80 (2019) and Ireland with a decreased rank from 91 (2014) to 86 (2019).

In the conducted research, Mandl et al. (2008) presented the conceptual framework for the efficiency and effectiveness of government spending as a link between inputs of resources, outputs of goods and services and outcomes in terms of accomplishment of goals. Their conclusion is that "the greater the output for a given input or the lower the input for a given output, the more efficient the activity is" (Mandl et al., 2008, p. 3). The level of government efficiency and effectiveness differs throughout the European Union. Mandl et al. (2008) presented an analytical framework for examining the effectiveness and efficiency of public spending in the EU. Their research was focused on innovation and expenses for research and development. Their findings show a positive relationship between an innovation index and spending on research and development, but they considered that this result does not mean that a high level of spending will automatically increase the innovation level. It is related to other institutional factors. Research has shown that efficiency and effectiveness vary between countries for several reasons, which can be grouped into the following: data coverage and collection are different across countries, the composition of government spending and its effects on the

efficiency of public services varied, government interventions on the economy includes not only taxing and spending, but borrowing and regulation (Di Matteo, 2013). Few surveys on government efficiency and effectiveness have been conducted in the new EU member states. Using various performance indicators, Slijepčević (2010) measured the efficiency and effectiveness of public administration in Croatia, comparing it with that of EU member states to determine whether and to what extent Croatia should implement reforms to increase the efficiency and effectiveness of its public administration. The Zugravu and Sava (2012) study presents the impact of restrictive fiscal and budgetary policies on the efficiency and performance of Romania's public sector between 2008 and 2011.

Government effectiveness and efficiency in providing public services can be measured by different indicators. Theoretical literature indicates that the type and number of indicators used depends on political, economic and cultural inequalities across countries. These inequalities influence the difference in the effect of e-government solutions on government effectiveness and efficiency. Based on the conducted scientific research, the literature presents numerous limitations of countries in the greater application of e-government solutions. Many countries face insufficient capacities for digital transformation to provide quality, accessible, reliable, fast, personalized, secure and inclusive public services at appropriate prices and to make them available according to the needs of the residents and entrepreneurs using open and participatory mechanisms. The key conclusions are contained in the United Nations E-Government Survey (United Nations, 2020). The latest survey, which was conducted in 2020, suggests that the countries at the most advanced levels of the e-government development index have allocated priority to developing capacities for digital government transformation. Countries with a high or very high e-government development index use information and communications technology to improve operational linkages between policymaking and service delivery. Countries that are at the bottom of the e-government development index ranking face the problem of underdeveloped institutions with regard to promoting the integration of processes and data among agencies and levels of government regarding public services delivery. Nam (2019) conducted research regarding the influence of e-government maturity on government effectiveness and efficiency as a cross-country review. The analysis based on various global indicators revealed that e-government significantly contributes to increasing government effectiveness, but did not contribute to improving government efficiency. There are many reasons for these results. For example, the political, economic and cultural differences across countries affect various impacts of e-government maturity on government effectiveness and efficiency.

Numerous other studies have been conducted on the impact of e-government in several key areas, for instance on public sector modernization and efficiency (OECD, 2010), effectiveness and efficiency (Eyob, 2004; Hackney et al. 2007), transparency (Bertot et al., 2012; Ciborra, 2005; Relly and Sabharwal, 2009), trust in government (Grimmelikhuijsen et al., 2013), anti-corruption (Andersen, 2009), public service quality (Reddick, 2006, 2009; Welch et

al., 2005; West, 2004; Lindgren and Jansson, 2013), accountability (Justice et al., 2006; Pina et al., 2007), and approaches/measures against COVID-19 (Open Government Partnership, 2020, Council of Europe, 2020). On a panel data set for the period 2002-2008, Das et al. (2017) found that e-government matured faster with rising affluence of gross domestic product per capita and improvements in information and communication technology infrastructure. Hence, all research shows that digital government will improve public service delivery, increase citizens' trust and increase transparency, accountability and inclusion, which will make life better for all the constituents of the country.

## **2.1 COVID-19 government measures in the EU-28**

Today, at the time of the COVID-19 pandemic, the role of digital government is crucial in promoting the health and safety of citizens and ensuring the conditions for the smooth functioning of public services. Digital technologies enable the connection of governments and people and facilitate governments' attempts to prepare and implement policy decisions based on up-to-date data and information, which is a condition for efficient management of public funds for the provision of public services to all users. During the COVID-19 pandemic, governments are sharing their information through national portals, mobile applications and social media platforms. In addition, many governments have been active in promoting open government data, both in terms of releasing data and re-using them to build different types of data products (OECD, 2021). The United Nations E-Government Survey for 2020 (United Nations, 2020) shows that the majority of governments have high levels of transparency in reporting and sharing crisis-related information. In the minority are governments that must develop systems of online services to participate in the fight against COVID-19. The survey reported that during year 2020, governments used more social media channels to report on COVID-19 statistics (e.g., total number of cases in a country, total fatalities as well as reporting cases by jurisdictions). By observing only, the EU-28, the eGovernment Benchmark study provides interesting results about the efficiency of digital public services. As such, it evaluates the performance of online public services that accelerate the digital transformation of e-government in the fields of modernizing public administration, improving cross-border mobility and designing and delivering new digital services to improve digital interaction. Based on the results (European Commission, 2020, p. 7), the European frontrunners in e-government are Malta (overall score of 97%), Estonia (92%), Austria (87%) and Latvia (87%). This is the evidence that despite the COVID-19 pandemic, countries have recognized the importance of digital government and they are now improving their development. Hence, the COVID-19 crisis has encouraged new initiatives for regional digital cooperation in the fields of digital connectivity, data governance, e-learning, technological resilience and digitalization of public services delivery. In addition, cities are also playing a major role in the pandemic. City portals have offered information to guide people to COVID-19-related services offered by central governments. Sharing the public COVID-19 data was a key component of the urban emergency

response. With cities in lockdown, new e-services have been developed. For example, Estonia has developed a community engagement application that lets local governments distribute information and guidelines to prevent the spread of the coronavirus. In Sofia, Bulgaria, the city administration initiated an application through which citizens can report on the COVID-19 social distancing orders to support the work of police officers. In Barcelona, Spain, a new economic recovery project called "Barcelona Never Stops" has been established. The aim was to implement a series of measures aimed at the regeneration of the economic and social network, as well as at the economic stimulation of the city. In Paris, France, a plan to support businesses, cultural actors and associations has been developed. Their measures include the following engagements for the next five years: 9 out of 10 service providers of the city will be SMEs, 6 million EUR will be invested in businesses, artisans, cultural enterprises and young innovative firms, 5 million EUR will support the tourism sector and 4 million EUR will support actors of the social and solidarity-based economy (OECD, 2020, p. 72). Additionally, governments in many countries have also studied new ways of using technology to communicate with older persons to help prevent their social isolation. Also, more governments have started integrating new technologies, such as artificial intelligence and block chain technology in digital government strategies.

During the COVID-19 lockdown and other restrictions, online services are being encouraged in countries that agree to use more e-government solutions to promote quality and availability. A precondition for the development of an online service is an investment in strengthening digital skills, because they can support social inclusion and help to react to an emergency (Ullah et al., 2020). In practice, other EU countries have developed various online solutions. These solutions can be grouped into several categories. Online payment systems are more efficient, faster, more convenient and economical than a traditional payment system and are strongly supported in many countries. During the COVID-19 pandemic, the implementation of digital health is desirable because of its direct effect on the reduction of health risks. Alwashmi (2020) expressed that, for COVID-19, a free triage tele-health assessment is an appropriate way to provide health services to citizens and has been proposed by the health institutions of many countries. Therefore, to combat COVID-19, many governments are taking appropriate measures where the publicly available data are created by ACAPS (2020) on their website. The COVID-19 government measures dataset contains a list of all measures implemented by governments worldwide in response to the coronavirus pandemic. The data collection includes a secondary data review in five categories: social distancing, movement restrictions, public health measures, social and economic measures and lockdowns. Moreover, governments have undertaken several stimulus packages, including fiscal and monetary measures to support households, health care, manufacturing, liquidity, public administration and others (Bayer et al., 2020; Cheng et al., 2020; Gourinchas et al., 2020; Siddik, 2020; Narayanan et al., 2021).

### **3 Data and research methods**

Nowadays, the term “e-government” has been considered as key instrument of modernizing government. Therefore, the theoretical literature was primarily focused on the evaluation of the impact of new technologies and e-government applications. In his study, Heeks (1999) found the benefits gained by e-government, such as increased efficiency, decentralization, increased accountability, improved resource management and marketization. Following the guidelines for the economic policies of the EU member states, i.e. Digital Agenda, e-government is one of the key areas where further progress is necessary. The impact of effective e-government implementation offers benefits, such as the improvement in information quality and information supply, reduction of process time, reduction of administrative burdens, impact of service quality and user satisfaction, cost reduction, and impact of e-government on economic growth and social development. Based on all of the aforementioned, the improvement in the relationship between citizens and public entities for high-quality public services increases the effectiveness and efficiency of public administration. Similar research was done by Nam (2019), where he examined the influence of e-government maturity on government effectiveness and efficiency as a cross-country review in the world. Therefore, our paper is focused on the assessment of the influence of e-government maturity on government effectiveness and efficiency in the EU-28. The paper utilizes a dataset which has been compiled from different data sources for each EU-28-member country, similar as in a research project by Nam (2019). In Table 1 a summary of variables considered in the empirical analysis is presented.

Table 1: A summary of variables considered in the empirical analysis

Variable	Role	Definition	Data sources/year
Government effectiveness	Dependent	Government effectiveness captures perceptions of the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation and the credibility of the government's commitment to such policies. The estimation of governance ranges from approximately -2.5 (weak) to 2.5. (strong) governance performance.	World Governance Indicators (WGI) (2019)
Government efficiency	Dependent	This indicator comes from sub-indicators of the Global Competitiveness Index. It is a composite of wastefulness of government spending, burden of government regulation, efficiency of legal framework in settling disputes and efficiency of legal framework in challenging regulations. Each indicator ranges from 1 (worst) to 7 (best).	Global Competitiveness Index (GCI) (2018)
E-government maturity	Endogenous	This refers to the level of progress made by a country regarding its development and the sophistication of the features present on its government websites.	United Nations E – Government Survey (UN E-GOV) (2018)
E-participation	Independent	This indicator focuses on the use of online services to facilitate the provision of information by governments to citizens (e-information sharing), interaction with stakeholders (e-consultation) and engagement in decision-making processes (e-decision making).	United Nations E – Government Survey (UN E-GOV) (2018)
Economic prosperity	Independent	This indicator reflects the total value of all goods and services produced less the value of goods and services used for intermediate consumption in their production, at current prices in EUR per capita.	Eurostat (2019)
Corruption control	Independent	This indicator reflects perceptions of the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as the «capture» of the state by elites and private interests. The estimation of corruption control ranges from approximately -2.5 (weak) to 2.5. (strong).	World Governance Indicators (WGI) (2019)
Human capital	Independent	This indicator consists of four components - adult literacy rate; the combined primary, secondary and tertiary gross enrolment ratio; expected years of schooling; and average years of schooling.	United Nations E – Government Survey (UN E-GOV) (2019)



Variable	Role	Definition	Data sources/year
Democracy	Independent	This indicator measures the level of democracy, which consists of five categories - electoral process and pluralism; civil liberties; the functioning of government; political participation; and political culture. Each category has a rating on a 0-to-10 scale, and the overall index is the simple average of the five category indexes.	Economist Intelligence Unit Democracy Index (EIU) (2019)
Political stability	Independent	This indicator measures perceptions of the likelihood of political instability and/or politically motivated violence, including terrorism. The estimation of political stability ranges from approximately -2.5 (weak) to 2.5. (strong) political stability performance.	World Governance Indicators (WGI) (2019)
Economic freedom	Independent	This indicator is a resource for the in-depth analysis of a country's political and economic developments. It covers four aspects of the economic environment – rule of law; government size; regulatory efficiency; and open markets. Their values range from 0 to 100.	Heritage Foundation (2019)
Rule of law	Independent	This indicator reflects perceptions of the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, property rights, the police and the courts, as well as the likelihood of crime and violence.	World Governance Indicators (WGI) (2019)
Power distance	Independent	This indicator is defined as the extent to which the less powerful members of institutions and organizations within a country expect and accept that power is distributed unequally.	Hofstede Center (2019)
Individualism	Independent	This indicator measures the degree of interdependence a society maintains among its members.	Hofstede Center (2019)
Masculinity	Independent	This indicator measures what motivates people, wanting to be the best (Masculine) or liking what you do (Feminine).	Hofstede Center (2019)
Uncertainty avoidance	Independent	This indicator deals with the way that a society deals with the fact that the future can never be known. Also, it refers to the extent to which the members of a culture feel threatened by ambiguous or unknown situations and have created beliefs and institutions that try to avoid them.	Hofstede Center (2019)
Public employee ratio	Independent	This refers to the share of national civil servants in central public administration in the total employment of an individual country.	Eurostat (2019)

Source: Authors' elaboration.

The assessment of the influence of e-government maturity on government effectiveness and efficiency in the EU-28 is estimated on the basis on a national cross-sectional dataset for each EU-28 member state for 2019, except for the variables government efficiency (2018), e-government maturity (2018) and e-participation index (2018), due to the lack of the latest data. Due to the endogenous nature of e-government maturity and under the assumption that political and economic determinants influence its level, a two-stage ordinary least squares (2SLS) regression analysis is employed. This methodological approach is commonly accepted in econometrics to estimate parameters in systems of linear simultaneous equations and to solve problems of omitted-variables bias in single-equation estimation (Angrist and Imbens, 1995). Accordingly, this type of regression emphasizes the model with endogenous explanatory variables in a linear regression framework. It consists of four types of variables – dependent, exogenous, endogenous and instrument variables. Table 2 presents the descriptive statistics, namely the mean, standard deviation, minimum and maximum values for the variables considered in the empirical analysis.

Table 2: Descriptive statistics

Variables	Obs	Mean	Std. Dev.	Min	Max
effectiveness	28	1.065	0.550	-0.280	1.938
efficiency	28	3.675	0.964	2.3	5.4
egovmat	28	0.802	0.070	0.667	0.915
epart	28	0.865	0.105	0.618	1
democracy	28	7.913	0.868	6.49	9.39
polstab	28	0.729	0.279	0.29	1.36
ecoproln	28	10.198	0.585	9.080	11.535
ecofre	28	69.814	5.985	57.7	80.5
corrcon	28	0.978	0.788	-0.16	2.15
rulelaw	28	1.101	0.592	0.04	2.02
humcap	28	0.863	0.057	0.78	0.97
powdis	28	52.107	20.737	11	100
indiv	28	57.964	17.856	27	89
masc	28	45.786	24.142	5	100
uncavo	28	70.750	21.592	23	100
empratio	28	13.635	20.693	0.460	113.682

Source: Authors' calculation.

The empirical strategy of our analysis consists of several stages. The first stage regresses e-government maturity on e-participation, economic prosperity, corruption control and human capital. In this regression we added an additional variable, i.e., e-participation, which does not exist in the analysis of Nam (2019). The second stage regresses government effectiveness and efficiency on traditional and specific determinants. The traditional determinants are democracy, political stability, economic freedom, rule of law and Hofstede's (1980, 1983) four cultural dimensions (power distance, individualism, masculinity and uncertainty avoidance). Specific determinants are e-participation, economic prosperity, corruption control, human capital and public employee ratio. In particular, the broadness of the government effectiveness and efficiency concepts requires a comprehensive consideration, including the political administrative system, economic development, and institutional and cultural contexts, as discussed in the mainstream literature on government effectiveness and efficiency (Schuppan, 2009). Moreover, as the e-government model has led to reducing public sector employees, we analyzed a 2SLS regression with and without the public employee ratio for each dependent variable.

#### **4 Empirical results**

In order to support the research hypothesis stated in introduction and before describing the 2SLS analysis, we checked Pairwise correlation coefficients. The Pairwise correlation coefficients between variables considered in the empirical analysis are presented in Table 3.

Based on the results from Table 3, we can conclude that there is a high correlation between bivariate relationships. E-government maturity is highly correlated with government effectiveness ( $r = 0.803$ ) and government efficiency ( $r = 0.765$ ). Besides this variable, variables like democracy ( $r = 0.900$ ;  $r = 0.839$ ), economic prosperity ( $r = 0.811$ ;  $r = 0.778$ ), corruption control ( $r = 0.927$ ;  $r = 0.889$ ) and rule of law ( $r = 0.946$ ;  $r = 0.852$ ) are also in high correlation with both dependent variables. Cultural dimension variables such as power distance, masculinity and uncertainty avoidance are not significantly or highly correlated with both dependent variables. The results of the empirical analysis for the assessment of the influence of e-government maturity on government effectiveness and efficiency in the EU-28 are presented in Table 4.

Table 3: Pairwise correlations

Variables	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)
(1) effectiveness	1.000															
(2) efficiency	0.835***	1.000														
(3) egovmat	0.803***	0.765***	1.000													
(4) epart	0.569**	0.584**	0.857***	1.000												
(5) democracy	0.900***	0.839***	0.832***	0.674***	1.000											
(6) polstab	0.457*	0.389*	0.147	0.055	0.438*	1.000										
(7) ecoproln	0.811***	0.778***	0.768***	0.559**	0.868***	0.450*	1.000									
(8) ecofre	0.663***	0.770***	0.450*	0.267	0.705***	0.487*	0.586**	1.000								
(9) corrcn	0.927***	0.889***	0.833***	0.590***	0.863***	0.391*	0.851***	0.705***	1.000							
(10) rulelaw	0.946***	0.852***	0.746***	0.443*	0.871***	0.486**	0.826***	0.727***	0.943***	1.000						
(11) humcap	0.552**	0.507**	0.639***	0.417*	0.610***	-0.033	0.518**	0.426*	0.657***	0.569***	1.000					
(12) powdis	-0.721	-0.620***	-0.648***	-0.407*	-0.723***	-0.373	-0.646***	-0.670***	-0.679***	-0.714***	-0.483**	1.000				
(13) indiv	0.504**	0.481**	0.541**	0.286	0.462*	0.011	0.535**	0.473*	0.530**	0.501**	0.483**	-0.579**	1.000			
(14) masc	-0.356	-0.223	-0.174	-0.162	-0.301	-0.142	-0.044	-0.261	-0.272	-0.322	-0.149	0.181	0.121	1.000		
(15) uncao	-0.612***	-0.538**	-0.470*	-0.370	-0.646***	-0.321	-0.512**	-0.757***	-0.623***	-0.582**	-0.478*	0.581**	-0.557**	0.153	1.000	
(16) empratio	-0.041	0.040	-0.013	-0.002	0.036	0.255	-0.037	-0.057	-0.198	-0.061	-0.250	0.083	-0.092	-0.098	0.197	1.000

Note: Significance: \*\*\* p<.001, \*\* p<.01, \* p<.05

Source: Authors' calculation.

Table 4: Regression results of government effectiveness and efficiency

	First stage predicting e-government maturity	Second stage predicting government effectiveness	Second stage predicting government effectiveness	Second stage predicting government efficiency	Second stage predicting government efficiency
<b>E-government maturity</b>		1.899* (0.914)	1.897* (0.879)	5.942** (2.09)	6.691*** (1.979)
<b>E-participation</b>	0.363*** (0.051)				
<b>Democracy squared</b>		-0.081* (0.037)	-0.094* (0.038)	0.225** (0.085)	0.265** (0.086)
<b>Democracy</b>		1.317* (0.583)	1.557* (0.608)	-3.37* (1.333)	-4.137** (1.368)
<b>Political stability</b>		0.24 (0.127)	0.312* (0.141)	-0.194 (0.289)	-0.379 (0.318)
<b>Economic prosperity</b>	0.015 (0.014)				
<b>Economic freedom</b>		-0.016 (0.008)	-0.016 (0.008)	0.11*** (0.019)	0.112*** (0.019)
<b>Corruption control</b>	0.028* (0.012)				
<b>Rule of law</b>		0.568*** (0.101)	0.523*** (0.107)	0.509* (0.231)	0.628** (0.241)
<b>Human capital</b>	0.175 (0.101)				
<b>Power distance</b>		-0.001 (0.002)	0.0 (0.002)	0.011* (0.005)	0.01* (0.004)
<b>Individualism</b>		0.001 (0.002)	0.001 (0.002)	0.0 (0.005)	-0.002 (0.005)
<b>Masculinity</b>		-0.002* (0.001)	-0.003* (0.001)	0.004 (0.003)	0.005 (0.003)
<b>Uncertainty avoidance</b>		-0.005* (0.002)	-0.004* (0.002)	0.017*** (0.005)	0.015** (0.005)
<b>Public employee ratio</b>			-0.002 (0.001)		0.005 (0.003)
<b>Constant</b>	0.158 (0.167)	-5.009 (2.367)	-6.119* (2.535)	1.282 (5.411)	4.256 (5.705)
<b>N</b>	28	28	28	28	28
<b>R2</b>	0.913	0.945	0.948	0.907	0.914

Note: 1) Significance: \*\*\*p<.001, \*\*p<.01, \*p<.05; 2) Standard errors in parentheses.

Source: Authors' calculation.

From the empirical results, it is evident that e-government maturity plays an important role in the establishment of government effectiveness and efficiency. This confirms our main hypothesis, stating that e-government maturity is positively and significantly associated with government effectiveness and efficiency. In addition, similar research has been conducted by Das et al. (2017) where the e-government maturity improved the information and communication technology infrastructure and rise gross domestic product. In the first stage regression, e-participation and corruption control significantly determine the prediction level of e-government maturity, while the other two variables (economic prosperity and human capital) do not. The second stage regressions of government effectiveness and efficiency apply the predicted value of e-government maturity as a key independent variable. As stated in Nam (2019, p. 15), "e-government maturity contributes to public perceptions of the overall high quality of government services, civil services, policy formation, and policy implementation". Therefore, the second stage models were divided into those including the public employee ratio and those that do not. The public employee ratio is negatively associated with government effectiveness, but does not have a significant influence on government efficiency on a sample of the EU-28. This result contradicts that of Nam (2019, p. 15) where "the public employee ratio is negatively associated with government efficiency but does not have a significant influence on government effectiveness" on a sample of all countries in the world. The interesting fact is that variable rule of law is positive and significant in all second stage regression models, which is in line with the initial expectations. This variable is especially important because it determines the quality of contract enforcement, property rights, the police, courts and likelihood of crime and violence, which is important in the establishment of all public functions of government during the COVID-19 pandemic. As there are two models of second stage regression of government effectiveness and efficiency, there is also a different impact of the variables. In a model of government effectiveness, variables such as democracy and political stability are positive and significant, while the variables economic freedom, power distance, masculinity and uncertainty avoidance are negative. In addition to the fact that they are negative, the variables masculinity and uncertainty avoidance also have a significantly negative influence on the outcome variables. This can be explained, since the EU-28 countries imply valuing legitimacy over survival in order to have effective and efficient government. When observing the model of government efficiency, the empirical results are quite different. The results of variable democracy are negative and significant, while political stability is only negative, but not significant. Economic freedom is positive and significant which is opposite as in model with government effectiveness. Regarding the cultural dimension variables, all of them (except individualism) are positive and some of them are significant (power distance and uncertainty avoidance). To transform the traditional government system into an e-government model, which is a key for the proper functioning during the COVID-19 pandemic, these cultural dimension variables are very important. In an adaptive and flexible culture, many governmental organizations should be very fast in order to establish

quick services for citizens and to make sure employees complete their tasks in a precise way. By creating such flexible organizations, unexpected challenges such as the COVID-19 pandemic could be solved quickly and effectively.

## **5 Discussion and conclusion**

Nowadays, in scientific literature, the topic of e-government effectiveness and efficiency brings about a very dynamic discussion. Due to the rapidly increased development of information and communication technology and unfortunately owing to the COVID-19 pandemic, this topic is even more important. In line with economic theory, the quality of government and government performance strictly depends on effectiveness and efficiency. Besides this, it is very challenging to define effectiveness and efficiency. Hence, Osborne and Gaebler (1992) define efficiency as a measure of how much each unit of output costs, and effectiveness as a measure of the quality of output. This is especially emphasized in the public sector as one of the largest producers of information and services in public administration. Therefore, public administration should pursue modern public governance practices (Ravšelj and Hodžič, 2020).

The scientific literature does not provide a great deal of evidence and studies that examine both government efficiency and effectiveness with regard to promoting e-government development activity in the EU member countries, especially now during the COVID-19 pandemic. Therefore, this paper covers the existing lack of research on the influence of e-government maturity on government effectiveness and efficiency in the EU-28. In order to obtain empirical results, a two-stage least square regression (2SLS) has been applied, where government effectiveness and efficiency are two dependent variables. The empirical results showed that e-government maturity positively and significantly contributes to enhancing government effectiveness and efficiency in the EU-28. In addition, the variable of rule of law plays an important role in all stage regression models. This is especially interesting, because it provides evidence that the quality of contract, property rights, the police, courts and likelihood of crime and violence are important determinants in the establishment of public functions. Similar to the research by Nam (2019), e-government significantly contributes to government effectiveness, but fails to raise government efficiency in a cross-country world view. The findings of this paper are beneficial for governments and policymakers in order to establish appropriate and quality public governance and practices that would serve as a basis for the implementation of additional COVID-19 measures. Despite the interesting results, the research is limited by the publicly available data for all the EU countries.

The United Nations (2020) point out that the COVID-19 pandemic has forced governments and societies to turn toward digital technologies to respond to the crisis in the short-term, recover from and resolve socio-economic repercussions in the mid-term, and reinvent existing policies and tools in the long term. To achieve all the objectives, governments should endeavor to implement an open government approach and use digital communication channels to provide consistent public information to their citizens. Governments need

to accelerate the implementation of new digital technologies, such as artificial intelligence, block chain and drones. The effectiveness and efficiency of investments in these technologies, as presented in scientific literature, could contribute to the development of knowledge-based industries, a decrease in risk and management of national and global health risks. Cities and local governments will help in responding to the needs of their inhabitants with sophisticated digital platforms, tools, applications and smart technologies. In order to achieve the continuous development of e-government, special focus should be the continuous analysis of the needs in different life situations, like during the COVID-19 pandemic. Hence, the implementation of efficient digital government functions is necessary to bridge the gap between more and less digitally advanced societies.

We believe that our further research in the field of efficiency and effectiveness of e-government should be focused on examining the situation in each individual European Union country. Such research has not been conducted in this region of Europe (Dečman, 2018). This analysis is a necessary basis for analyzing the current situation, formulating a shared vision, preparing a general strategy, planning development priorities and activities, as well as for the constant monitoring and evaluating of sustainable e-government transformation and its impact on the economy and society.

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# Remarks on the Reasoning: The Morals of a Hungarian Expulsion Decision in Times of Pandemic<sup>1</sup>

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## ABSTRACT

Several Iranian university students were expelled from Hungary to Iran due to their (allegedly) unlawful behaviour during their quarantine period at the outburst of the Covid-19 pandemic on grounds of being a threat to public policy and public security. The case reveals a worrisome practice in the reasoning of expulsion decisions, irrespective of the pandemic. By analysing a judgment on the review of an administrative decision on expulsion, the article explores the normative circumstances of the legal institutions appearing in the case. By comparing international, European Union, and Hungarian constitutional practice, the study reveals a controversial legal practice. It not only evaluates the case, but draws attention to the role, quality, and legal significance of reasoning of administrative acts which lately, with a quickly changing legislation, seems to be forgotten.

*Keywords:* *expulsion, reasoning of decisions, fair procedure, effective legal remedy, procedural guarantees*

*JEL:* K3, K4, K42

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## 1 Introduction: A controversial case at the dawn of the pandemic

In Spring of 2020, soon after the state of emergency was announced<sup>2</sup> in Hungary, there was a case that received huge press coverage.<sup>3</sup> Several Iranian university students were expelled from Hungary to Iran based on their unlawful behaviour during their quarantine period. The case that gives occasion for discussion is about an Iranian university student among them who had legally resided in Hungary for the past 9 years. She was quarantined with a group of other Iranian students and released from the quarantine on 12 March 2020 as she showed no signs of infection. Meanwhile, as she was accused of committing the crime of *violation of epidemic controlling measures* by leaving her hospital ward without permission once during the quarantine and behaved aggressively. She denied the accusation (Judgment, para. 3) but on 13 March 2020, the immigration authority expelled her from the territory of the European Union by deportation and ordered the expulsion and the ban on re-entry for 3 years. (Judgment, para. 3); Constitutional complaint, para 4.)<sup>4</sup> Later, during the criminal proceedings, the accusation was modified as the previous one contained a date of violation of rules when she had not been in the hospital yet, so obviously had not been able to commit any crimes. The date was then modified, and the later document mentioned no aggressivity. Finally, the expulsion was carried out on 16 April 2020 with an official escort to the state border of Hungary. A constitutional complaint was also submitted to the Constitutional Court with the request to annul the Metropolitan Court's judgment (along with others on the same reason of expulsion).<sup>5</sup>

The authority decision was based on the proposal of the investigating authority (police) in the criminal case, stating that her presence is a threat *to public security and public order* due to a well-founded suspicion of the violation of ep-

<sup>2</sup> In Spring, the state of emergency from 11 March was declared by Government Decree 40/2020. (III. 11.) and was put an end to it on 18 June 2020 by Government Decree 282/2020. (VI. 17.).

<sup>3</sup> For example, see the official government website for Covid-19 news: Coronavirus: Another 13 Iranian Students Expelled for Violating Quarantine Rules. MTI-Hungary Today 2020.03.16. at <<https://hungarytoday.hu/coronavirus-iranian-students-hungary-expelled/>> accessed 10 January 2021.

<sup>4</sup> According to the judgment, the expulsion was ordered on the basis of Article 43 (2) point d) of the Act on TCN which states as follows: *the immigration authority shall order the expulsion of a third-country national under immigration laws (...) d) whose entry and residence represents a threat to national security, public security or public policy; (...). and Article 43 (3) that „[a]n independent exclusion order, and an expulsion order under immigration laws may be issued upon the initiative of law enforcement agencies delegated under the relevant government decree on the grounds referred to, respectively, in (...) Paragraph d) of Subsection (2) within the framework of discharging their duties relating to the protection public policies defined by law. Where (...) expulsion is ordered under Paragraph d) of Subsection (2), the law enforcement agencies delegated under the relevant government decree shall make a recommendation as to the duration of such exclusion in cases falling within their jurisdiction. The competent immigration authority shall not derogate from said recommendation.”* The ordering of expulsion with an official escort was based on Article 65 (1) point c) of the same Act, while the ban on re-entry was based on Article 47(4) and Article 119 of the Executive Decree. The English text is available in the National Legal Database only for subscribers.

<sup>5</sup> 14 other complaints were submitted between 3 June and 18 September 2020 to the Constitutional Court in the issue of expulsion on the grounds of violation of epidemic controlling measures. See, Alkotmánybíróság, current agenda at <<http://hunconcourt.hu/current-agenda>> accessed 30 December 2020.

idemic measures. She applied for the only available legal remedy in the case: a court review. Having a look at the final and binding judgment [Judgment] of the Metropolitan Court, it reveals a worrisome practice on the reasoning of expulsion decisions that seems to be irrespective of the pandemic.

## **2 Grounding of administrative decisions: Research questions and the way to find answers**

The anonymised court judgment was handled by the *Hungarian Helsinki Committee* who represented one of the Iranian students in question as, despite the legislation that orders the courts to upload the anonymised judgments to a public database, it is still not available in the system.<sup>6</sup>

The Metropolitan Court did not contest the authority decision thus declared the action for judicial review unfounded (Judgment, para. 7). It responded to some parts of the claim,<sup>7</sup> like the argumentation on the non-application of the principle of non-refoulement as the legal remedy claim referred to the lack of the country information and evidence on what basis the asylum authority had issued its opinion to the immigration authority. (Judgment, para. 5). However, it completely refused to re-examine the basis of the whole procedure as identified no procedural error since the authority decision mentioned the police initiation as legal background and due to the obligatory nature of the police initiation, the immigration authority fulfilled its obligation of reasoning by purely referring to this fact. The factual basis and their evaluation of the police proposal were incorporated in neither the authority decision nor the judgment; it was only presented to the Student during her hearing (Judgment, para 20.) on the same day the expulsion decision was issued. Recalling the *de facto* special authority nature of the police, the legal remedy claim called attention to the missing procedural guarantees belonging to this legal institution, namely, the incorporation of the factual and legal grounding of the police proposal findings as a crucial element of the immigration authority decision (Judgment, para. 5.).

In the legal remedy phase, the Metropolitan Court denied the police being a special authority (Judgment, para. 17) and declared that the relevant procedural law was respected by the immigration authority, and its decision is conformity to the law (Judgment, para. 9) meanwhile, the reason *why the Student posed a threat to public security and public order* remained unknown. Besides, there were confusing changes in the police documentation on the alleged breach of law: the time of commitment was changed, and the accusation of aggressive behaviour also disappeared in a later protocol (Constitutional com-

6 The Author is grateful to Dr. Eszter Kirs legal officer for providing the anonymized version of the Metropolitan Court's judgment. Anonymised court decisions, with some exceptions, are to be published within 30 days counting from its putting in writing with free availability in an online system (at <<https://eakta.birosag.hu/anonimizalt-hatarozatok>> accessed 10 January 2021) according to Art. 163 of Act CLXI of 2011 on the organization and administration of courts. At the time of writing of this paper, the Judgment was not available in the database.

7 The legal basis of the expulsion (Judgment, para. 5.); the applicability of the non-refoulement principle (Judgment, para. 22-24.), the right to private life (Judgment, para. 24.) the right to be heard during the procedure (Judgment, para. 25.).

plaint, para. 3). All legal problems are linked by one core element: the *lack of factual reasoning* of decisions in the case. Both the administrative authority decision and the Court judgment referred to the facts and reasoning of a police initiation as obvious and responsive reasons of the measure taken, but none of them incorporated anything but that provision of the *Act on the Admission and Right of Residence of Third-Country Nationals* (Act on TCN), that makes the police initiation binding upon the immigration authority. Besides, the concrete legal basis of the decision that names the threat to public security, public policy or public order, namely point d) of Article 43 (2) of the Act on TCN was missing. No facts, no reasons, no explanation just the pure reference to the police initiation and its binding nature by invoking the legal norm to support that.

The question is therefore if *it is sufficient and adequate legal basis to refer to the obligatory nature of reasoning* of a proposed measure coming from another authority to ground a decision. Furthermore, does this type of reasoning substitutes the factual and legal explanation part in an administrative authority decision in the view of rule of law requirements for administrative proceedings? May it be called *fair procedure* when even after judicial review, the subject gets no answer on the reasons for the measure taken? The sense of law gives a hint of the prejudice of negative but to make sure, the Hungarian normative circumstances are explored step by step.

Decisions of administrative authorities are not available for the public, so the historical facts of the case are based on the state of affairs incorporated in the Judgment (para. 1-3) and the state of affairs summarised in the Constitutional complaint (para. 1-4) and the legal statements of the Judgment are evaluated in the view of the international standards, the constitutional practice and the administrative procedural provisions related to the reasoning of administrative decisions. All support the hint even in the state of emergency, and also by exploring the domestic normative background, a worrisome legislative development is revealed.

### **3 Findings on the legal reasoning of administrative decisions and the evaluation of the Hungarian practice**

#### **3.1 The grounding of the decision on expulsion in the primarily applicable law in force**

The Act on TCN enlists the basic content of the immigration authority decision and also enlists the extra elements related to the circumstances of the expulsion. (Act on TCN, art. 46 (1)-(1a)) The basic is, however, the same as all the classical elements of a formal authority decision with expressed reference to reasoning. Reasoning shall contain the statement of facts and the reasons for the opinion of the special authority involved in the procedure. (Act of TCN, art. 87/M (1) cf. GPAP, art. 81 (1) and Boros, 2006, p. 420). Also, a law or government decree (d) may lay down additional detailed rules for certain types of cases (Act on TCN, art. 87/M (2)).



Since the entry into force of the new procedural code in 2018, immigration cases due to their specific procedural features are under the scope of only specific procedural acts as in this case, it is the Act on TCN, (GPAPC, art. 8 (1 d)) while it does not mean that referring to general rules has no place and the predeceasing legal practice, that was relevant for immigration authority proceedings before, disappeared without any trace (Patiy, 2012, p. 79). The constitutional based procedural right guarantees and their achievements developed in practice penetrates all authority procedures (GPAPC, art 1. referring to FL, art. XXIV. and XXVIII; GPAPC Commentary to art. 1. para 1.; art 3, para. 2). These provisions are dominating over the application of specific procedural rules as serving higher values of legality, therefore the relevant guideline findings developed by case law, regardless of whether the authority procedure is falling inside or outside of the scope of the *general public administration procedures code*, are unavoidable (Balogh-Békési, 2016, p. 14). Those procedures that do not fall under the scope of the general code due to their distinctive features are still authority procedures, therefore the constitutional requirements apply to them (Hajas, 2016, p. 19; Varga, 2019, pp. 163–169). The practice developed continues to exist in the absence of a specific regulation, based on more abstract concepts, as the goal is still the same: to make a lawful decision suitable for judicial review (Váradi-Tornyos, 2018, p. 185). The controllability of legality and to avoid arbitrariness still requires authorities to justify their decisions appropriately (Patiy-Varga, 2019, p. 41).

The Metropolitan Court defines its path to follow when it recalls the constitutional provision that orders to examine the lawfulness of the authority act by interpreting the relevant legal provisions in the view of the Fundamental Law, the constitution of Hungary (Judgment, para 11.; FL, art. 28.).

Factual and legal reasoning is generally a procedural guarantee and key to legality of both administrative and judicial decision acknowledged as such by the Council of Europe, (Hirvisaari v. Finland, para. 30; Suominen v. Finland, para. 37; Baucher v. France, para. 47-51)<sup>8</sup>, the Court of Justice of the European Union (EU Charter, Article 41 (2) c); TFEU, art. 296.)<sup>9</sup> and by the Hungarian constitutional practice.

Article XXIV (1) of the Fundamental Law now clearly expresses the right to fair administrative procedure and the obligation of authorities to ground their decisions but it also has a long-standing practice (Chronowski, 2014, p. 143). The Hungarian Constitutional Court supported its statements by the Strasbourg case-law (7/2013 CCD pp. 387-388 [31]) when it called attention that the importance of thoroughness of the essential parts of the case as a mini-

8 However, Article 6 (1) of the Convention for the Protection of Human Rights and Fundamental Freedoms and the case-law refers to judicial decisions, there is no evidence that administrative procedures fall under lighter requirements for procedural. Indeed, the obligation of reasoning of decisions is one of the main administrative procedural principles. (Stelkens and Andrijauskaite, 2017, p. 24.; Hepburn, 2012, p. 15.; CoE Handbook, 2018; pp. 35-36). The right to fair procedure echoed in Article 6. is in fact determines the possible extent of judicial review. (Dudás and Kovács, 2018, pp. 158-159).

9 In exceptional cases, especially in the case of encrypted documents, the incomplete statement of reasons may be legally recognized, but even in such a situation, the argumentation shall never be deprived of its meaning (Martin, 2019, p. 2207; Opdebeek and Somer, 2016, p. 115).

num requirement for reviewability of authority decisions. Besides, the court also must give an analytical explanation in a manner that conforms with all the circumstances of the case (7/2013 CCD, p. 387-388. para. 31; 34). This requirement is not met when the superior court upholds the lower court's arguments on the substance of the case without further examination and without stating the reasons for the investigation, (7/2013 CCD pp. 387-388. para. 31). and that has just happened in the Iranian Student's case. Although the legal practice was clear: based on the constitutional basics, following the relevant procedural laws in a concrete case, a decision shall be justified by facts, proofs and by the explication of their evaluation and the motifs behind deliberation. If the obligation for reasoning is not in conformity with these constitutional standards, it means that the procedural law is interpreted and applied unconstitutionally (7/2013 CCD p. 388. para. 34). It was also acknowledged that the reasoning of administrative decisions is the proof of its legality as well it establishes the possibility of verifying if the administration functions within the frames of law. Therefore, the obligation of reasoning is one of the guarantees of a lawful and fair process (5/2019 CCD, p. 415. Para. 13; T-425/04, para. 315; T-256/11 para. 107.; T-107/15, para. 111; C417/11 P para. 50 and 53.; C-566/14 P, para. 69). Thus, it is key to an effective legal remedy.

As for the State of emergency, the application of constitutional rights may be restricted (FL, Art. 54 (1)) but even in such case, the restriction shall be done if it necessary and proportionate to the objective pursued and it may not deprive the relevant fundamental law of its essential content. (FL, art. I (3) see also ICCPR comment, para 16.). As for the derogation, none of the Government decrees suspended (or limited) the duty of authorities to ensure fair procedure, grounding of decisions and effective legal remedy.

### **3.2 The Hungarian legal practice on the insufficient legal and factual grounding of administrative decisions**

The Constitutional Court interpreted the obligation of reasoning as a part of fair procedure requirements and judicial practice made it clear that the ignorance or violation of the duty of grounding as a procedural guarantee result in an infringement of the law affecting the merits of the case even if the authority would otherwise make the same administrative decision in compliance with the guarantee rules (EBH2017. K.8.) As for the content and quality of this obligation, the authority shall state the facts including the matching of factual elements with the applicable legislation and the *detailed* explanation of the legal statements (BH2019.91.) It follows that referring to merely a legal act, as here, in this case, the provision that makes the police initiation obligatory and explaining and interpreting this obligatory nature from different angles (Judgment, para. 16-18), is not in conformity with the requirements established by law and settled by constitutional and judicial practice.

Legal reasoning shall also include the proper reference to the legal provision that serves as the basis of the decision. The complete failure to indicate legislation is a serious insufficiency, and the legal reference cannot be replaced

by the court while doing a review (BH2016.316.) For this reason, the finding of the Metropolitan Court that argues that the legal basis on which the decision is based (namely, *point d*) of Art. 43 (2) of the Act on TCN) can be “*clearly established*” (Judgment, para. 16) and does not classify its lack as a deficiency, raises concerns. If the breach of the procedure is of such a degree that it renders the authority decision inadmissible on the merits (and the problems of quality of factual and legal reasoning undoubtedly constitute such), the court must name that circumstance. The decision ordering the expulsion of the immigration authority cannot be changed by the court according to the law in force (Act on TCN, art. 88/R (2)), but it may guide the conduct of the new procedure (repeated procedure) ordered in the judgment, covering all relevant points of the remedy of the established violation (CAL, art. 86 (4)). The practice classifies an infringement as unsuitable for a substantive review if the statement of reasons does not establish the legality of the decision; (KGD2013.47.) the decision, concerning the available data, facts, legal basis, and legal consequence, is not clear about the reasons and motifs of deliberation; (KGD2015.91.) or the decision has no facts, legal reasons and does not contain the legal bases on which the decision is based. (KGD2012.196.).

It seems that either both the Court and the authority made a procedural mistake, or the police proposal is untouchable and falls outside all requirements related to procedural guarantees.

### **3.3 The obligation of reasoning if other authority contributions are involved in the decision-making process**

#### **3.3.1 The procedural role of the police proposal for the expulsion and ban on re-entry**

The Metropolitan Court argued that the ongoing criminal proceedings that served the basis of the investigating authority’s proposal for the expulsion are completely separated from the immigration authority’s procedure that ordered the requested measure, and there is no relationship between the outcome of the criminal procedure and the administrative legal consequence of the (alleged) behaviour that happens to be the object of the criminal case. Therefore, there is no reason to contest this part, including the content of the proposal with its factuality and legality and there is no possibility to invoke the criminal law related (Constitution 57. § (2); Kfv.III.27.519/1997/6.; Kf.II.25074/1994/4. *cf.* FL, art. XXVIII (2) GPAPC Commentary, art. 1. para. 10) *right to presumption of innocence* to revoke the administrative decision of expulsion. (Judgment, para. 20).

Legal practice is consistent in requiring the demarcation in reviewing procedures: the activity of the police, as an investigating authority, and its procedural activities concerning investigations is not a subject of administrative litigation, (BH2011.179.) the administrative court has no constitutional empowerment to review activities related to criminal procedures. (Kfv.III.37.315/2012/4.; GPAPC Commentary, art 7. para. 8). Among other things, this may explain the

fact that the content of the proposal of the investigating authority - the facts establishing the threat to public order and its classification - could not be examined by the Metropolitan Court. However, this explanation cannot save the lack of obligatory elements in the immigration authority decision, except for the case if it would have been classified information.<sup>10</sup> Nevertheless, in the Iranian Student's case, this reason did not even occur. Meanwhile, it shall be noted, that even in case of classification, the possibility to have access to the classified document by claim and also a legal remedy in case of denial is ensured by law. (Act CLV of 2009, art. 11.) International practice acknowledges if the documentation in a case is not a part of the reasoning but available in a separate document (C-16/65, p. 888; C-119/97 para. 57).

However, the right to submit a proposal which is *order* and not a suggestion to consider raises further questions especially in the view of the legal remedy claim addressed to the court, namely the reference to the police as a *special authority*.

This latter in the Hungarian administrative authority practice is a manifestation of a sort of task -sharing: the proceeding authority issues the decision within the competence and the special authority, upon the assignment by act or government decree, assess a clearly and precisely defined special issue related to the case. The involvement of the special authority and the respect of its professional opinion is obligatory, it leaves no room for deliberation, and the proceeding authority is also obliged to incorporate the factual and legal considerations of the assessment into its grounding of the decisions of the proceeding authority; otherwise, the violation of either of these rules causes nullity of the decision (GPAPC, art. 55 (1); 123 b)). The legal remedy is thus ensured against the assessment by a claim against the proceeding authority's decision (GPAPC, art. 55 (4) Huszárné Oláh, 2017, p. 137.; Kálmán, 2018, p. 113). In immigration cases, the law provides for the involvement of special authorities (Act on TCN, art. 78 (4); Executive Decree, art. 72/H; 97; 97/A; 106/A; 165) cf. Immigration Law Practice, 2013, p. 26), but despite the obvious resemblance to the role of the contribution of the police or the asylum authority, none of them is considered as such. The investigating authority is not an actor in the procedure, but its contribution led to the opening of the immigration authority procedure. This type of relationship with the proceeding authority does not qualify special authority involvement not in the case if it leads to an obligatory starting of the procedure. (2.Kf. 28.405/2004/2.; GPAPC Commentary, art. 55. para. 7). It cannot be categorised as a related procedure either as it would assume a decision on the side of the police, however, there is no such thing, but a proposal based on some presumption (GPAPC, art. 45 and its legislative motifs).

### 3.3.2 The asylum authority's opinion on the non-refoulment principle

The immigration authority is under obligation to request the opinion of the asylum authority to determine as to whether the principle of non-refoulment

<sup>10</sup> KGD2016. 27. In this case, the proposal was made by the Counter-Terrorism Centre. See similar, refusal of constitutional complaint in the case of decision 42.K.32.031/2019/8. by 3171/2020. CCO, p. 899, para. 14-15.

applies if the issue of expulsion occurs and the asylum authority is obliged to comply with the request without delay. The immigration authority shall not derogate from the opinion on the evaluation of the third country (Executive Decree, art. 124 (3)). So, at first glance, its role is that of special authority, however, the legal practice is clear: In the absence of a designation, a document sent to the authority shall not be considered as a special authority assessment (Immigration law practice, p. 26; Kfv.III.37.587/2011/7.; GPAP Commentary, art. 55. para. 2). The designation is undoubtedly missing.

It cannot be treated as a seconded expert, according to the general rules, provides means of proof when the proceeding authority lacks the expertise in a significant issue that would be crucial for the outcome of the case. It is incorporated in the proceeding authority's decision among the other means of proof and its evaluation is explained as a part of the grounding, therefore it can be contested by legal remedy against the decision itself (GPAPC, art. 62.; 71 (1); 81(1)). Law may prescribe that a certain proof shall be requested for a case (s the opinion of the asylum authority) but in this case, the asylum authority gives an obligatory assessment that leaves no room for any sort of deliberation. However, even if the Student's legal remedy claim missed the information that supported the qualification of considering Iran as a safe country to return (Judgment, para. 5), the Court gave a detailed explanation on the non-applicability of the non-refoulment principle on the grounds of the higher number of infections there. So, in this issue, the lack of grounding was effectively remedied (although in a negative way for the Student), even if it missed to mark the lack of incorporation of the grounding of the asylum authority's assessment in the decision that ordered the expulsion (Judgment, para. 22-23).

### **3.4 Confusing normative development – missing procedural guarantees?**

In the present case, two authorities appear apart from the proceeding one, each takes a different role and *de iure* none of them is neither a seconded expert in a specific issue nor a special authority. On the other hand, both produce a significant and unavoidable influence on the decision itself, the expulsion and the normative development of their status is confusing. It clearly shows their growing importance and significance as obligatory assessment providers as both represent *sui generis* legal institutions. In this case, it means that in the view of the existing procedural institutions; they are unknown *per se*.

The problem of interpretation of procedural guarantees and classification of a legal phenomenon may be traced back to the legal modifications of immigration law in recent years.

As for the asylum authority, its role was interpreted differently before 2015 and caused controversial practice: upon its opinion on the third country, the immigration authority had the right to *individualise the statements* in the view of all other data and information of the case of a concrete person. Therefore, the immigration authority had to give reasoning on why it applied or refused

the country evaluation given by the asylum authority in every case differently (FT 20.K.32.700/2011/10.; 20.K.33.146/2011/4.; Immigration law practice, p. 26.; pp. 112-113). In 2015, the legislation changed: the obligatory nature of the asylum authority was introduced to the provision, depriving the proceeding authority of its discretion and right to deliberate the personal circumstances.<sup>11</sup>

It is an interesting aspect to add, that before 2007, the Hungarian administrative practice knew this type of involvement of obligatory professional opinion in the procedure but without the procedural guarantees in sectoral law. To put an end to such *ex lege* situation with the lack of proper procedural guarantee, the procedural code in force at that time (which also ruled immigration cases then) was modified<sup>12</sup> requiring a proper assignment as a special authority (GPAPC commentary, art. 55. point 7). If the legislator aimed to regulate the obligatory nature of the opinion but without ensuring the procedural guarantees related to special authority assessments, at least by analogy, then it is a step back towards an unlawful practice.

Considering the procedural role of the police, the legislator has introduced the possibility to propose to the immigration authority 2010 but before 1 January 2018,<sup>13</sup> the proposal of the investigating authority was indeed a recommendation and not a binding order. Currently, the Act on TCN expressly states that the competent immigration authority shall not derogate from the proposal (Act on TCN, art. 43 (3); KGD2019.105) it is not entitled to override it, neither the necessity of expulsion nor the recommended time of the ban on re-entry (Act on TCN Article 43 (3); legislative motifs to Act CXLIII of 2017, art. Article 38).

The immigration authority proceeds *ex officio*, whereas another authority gave the hint to open the procedure, (GPAPC Commentary, art. 104. para. 1) however, the analogy does not help this time: there is no similar legal institution in the Hungarian legal practice as all fail at the 'obligatory order' nature of the initiation (cf. Act CLXV of 2013, art. 2/A -3 (1); GRAPS Commentary, art. 29. § (1)-(2) para. 4. b) and d), cf. GRAPS Commentary, art. 15. para. 4. b); Lap-sánszky, 2019. pp. 419-420).

Thereby, there is another example of *sui generis* legal phenomenon: the proposal maker authority does the fact-finding, the evaluation of the facts and the deliberation and thus *de facto* the decision-making, while the competent proceeding authority ensures the *de iure* format of decision-making. In the present case, the full documentation (the detailed matter of facts, and the

11 Introduced by Article 7 of Government Decree 204/2015. (VII. 23.) on the modification of Government Decree 375/2010. (XII. 31.) on aid for public employment and on the legal harmonization of certain migration, asylum, and other government decrees. According to its Article 34, it entered into force on 1 August 2015.

12 According to Article 2 (1) i) of Act CIX of 2006 on amendments to the law related to the formation of governmental organization, Article 58 (6) of GRAPS added the following lines in italics: Act or government decree may stipulate that the proceeding authority is bound by the opinion of a specific scientific or professional body or expert body on a specific issue. In such a case, the rules on the assistance and procedure of the special authority shall apply *mutatis mutandis*, provided that the same body or body of experts may not act unchanged in the appeal procedure.

13 It was Article 38 of the Act CXLIII of 2017 that inserted the provision into the Act on TCN.

reasoning of the argumentation that led to the final consequences of expulsion) of this kind of cooperation does not appear in the proceeding authority's decision, thus it raises the question of the legal relationship of authorities that makes this practice possible. Otherwise, the authority decision is, due to its serious insufficiency, unsuitable for a substantive review.

### **3.5 Is there a solution in Hungarian legal practice to overcome procedural loopholes?**

After several legal steps of the representant of the Student, the Budapest Police Headquarters declared that the Iranian student was no longer a threat to public policy or public security, therefore, in respect of this statement, the immigration authority withdrew the ban on re-entry by its decision of 9 October 2020.<sup>14</sup> On this basis, the Constitutional Court declared the complaint expired and closed the case of constitutional complaint (3487/2020 CCO, p. 2739, para. 14). Were the authority and the Court right when both kept aloof from the factuality of the police proposal?

In lack of concrete legal provisions, the legal principles may serve as a fulcrum, notably, in this case, the officiality and the clarity of administration. The authority is obliged to enforce the principle of officiality from the beginning of the procedure, through the conduct of the procedure, until its completion and the execution of the decision. This includes the obligation to establish the facts, (30/2015 CCD, p. 787 and p. 792, para. 39 and 53) and, in close connection with that, the appropriate statement of reasons in the light of the principle of fair process (FL, art. XXIV; Kfv.I.35.066/2016/7). The Constitutional Court pointed out that the right to a fair procedure (and thus good administration) and ultimately the rule of law is contrary to such authority activity, which interprets the purpose of the legislator to ensure effectivity but at the cost that makes the client vulnerable, and in fact, essentially defenceless against the action of the public authority (165/2011 CCD, p. 1302, para. V.1.1.). Simplicity (the principle of intelligibility) also serves the interests of the client in this respect, as the conduct of the procedure and the decision itself shall be understandable and clear (GPAPC Commentary, art. 2. para. 5).

The rules on formal decisions are intended to ensure that the client has a complete picture of the facts which the authority has revealed, which had been considered and been refrained in formulating the opinion and under which legal provisions the decision has been made. This point of view has been consistently guiding legal practice for decades (Kfv.I. 35.534/1999.; 4.Kf.27.031/2005/9.; 4.Kf.27.369/2006/7, GPAPC Commentary, art. 80. para. 5), maturing this way, the requirement that the operative part of the decision and the statement of reasons must be consistent with a *general principle of law* ((Kfv.V.35.538/2009/5.; Kfv.III.35.425/2015/7.; GPAPC Commentary, art. 80. para. 5).

<sup>14</sup> The letter is available as attached to the case files of the Constitutional complaint at <<http://public.mkab.hu/dev/dontesek.nsf/0/DA7553273FBDB2AFC1258589005BEB59?OpenDocument>> accessed 30 December 2020.

The decision is well-founded and lawful only if the factual and legal reasons set out in the statement of reasons duly substantiate the authority decision (Kf.IV.37.291/2004/2.; GPAPC Commentary, art. 80. para. 5). The justification shall be comprehensive, cover all parts of the decision-making process, and the authority's reasoning logic should be traceable (Kfv.III.37.191/2006/7). Thus, the adequacy of the content of the decision is a guarantee that the decision can be verified later, and its correctness and legality can be judged on this basis (2.Kf.27.236/2008/6.; 2.Kf.27.237/2008/7.; GPAPC Commentary, art. 1. para. 6).

Procedural guarantees in immigration proceedings even during a state of emergency as the non-refoulement rule raises human rights and fundamental rights issues that also affect international and EU law obligations of the State (15 of 1989 Decree-Law, art. 33.; FL, art. XIV (4); EU Charter, art. 18-19, cf. Molnár, 2019, pp. 184-202; Tóth, 2015, pp. 63-65; Blutman, 1997, pp. 5-27). If the procedural rules leave loopholes, the interpretation in the view of constitutional values requires the applicability of the guarantees that are connected to a special authority involvement can be derived from the spirit of the law and by legal interpretation, guidelines are given by the Fundamental Law. Therefore, the relevant provisions of the Act on TCN shall be interpreted in a way, that ensures the procedural guarantees around the involvement of the asylum authority the same way as law ensures procedural guarantees in case of the obligatory assessment of the special authorities (Kfv.X.37.055/2001/5.; Kfv.X.37.055/2001/5.; GPAPC Commentary, art. 55. para. 7. and FL, art. XXVII. (7)).

All in all, in the lack of exact legal provision or the possibility to use an analogy, the requirement of the principle of officiality including the clarification of facts and reasoning of the decisions together with the constitutional practice and method of interpretation, the following conclusion is deduced: the authority decision examined by the Metropolitan Court in the frames of the administrative lawsuit, by not containing the facts and justification established by the investigating authority, was incomplete to such an extent that a substantive review was not possible, therefore, excluded the possibility of an effective legal remedy. Therefore, under the current rules to apply, the Metropolitan Court should have annulled the authority decision and ordered the immigration authority to reopen the proceedings (Act on TCN, art. 88R (2); CAL, art. 90 (3) d) and 92 (1) d) *cf.* Article 92 (1) a)).

## **4 Conclusion**

The present study aimed to draw attention to the significance of reasoning of authority decisions: it is an essential condition for verifiability of legality and to avoid arbitrariness. Authorities shall give adequate reasons for their decisions under all circumstances. To that end, it examined the issues relating to the obligation to state reasons in a decision on the expulsion of an Iranian student on grounds of public policy, public security, through the judgment of the Metropolitan Court that made a review and it tied to evaluate the legal situation caused by the breach of the obligation as a procedural legal guarantee



in the view of the national and international legal practice. No matter what it is called or how the available legal practice is twisted, the interpretation of the constitutional requirements, supported by the relevant international and domestic case law, the duty to incorporate the opinion of the asylum authority shall be a part of the argumentation of the immigration authority and be available for legal remedy. Summing up, the case is a message for the legislator to pay more attention to the regulation of procedural guarantees for the *sui generis* legal institution.

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# Impact of the COVID-19 Crisis on the Regulation to Tourism in the Czech Republic

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## ABSTRACT

The article deals with issues concerning the regulation of tourism during the Covid-19 crisis in the Czech Republic. Tourism is among the most affected economic sectors by the current pandemic. During the pandemic, the State compensated the financial losses of tourist guides, but such compensations were – according to the guides themselves – insufficient. The aim of the research was to find out how tourist guides see the Czech crisis legislation with regard to tourism and the legislative measures taken by the Czech Government and Ministry of Regional Development to support tourism. For such purpose, questionnaires were distributed to employees in tourism – guides, particularly. We examined their attitudes to the tourism legislation in the Czech Republic in connection with the pandemic situation as well as public administration. Next, in-depth interviews were conducted. On the one hand, the research revealed great interest of tourist guides in the legislation and the current situation in the Czech Republic. On the other hand, it showed a negative evaluation of the adopted legislative measures and crisis legislation. On the basis of the research, the most important aid factors were identified: financial aid, greater support from the State and municipalities, exemption of social security and health insurance payments, promotion of tourism and guide services, support in the form of upgrading skills and retraining. The empirical part of the research, which used the Chi-Square Test of Independence, pointed to a dependence between gender and the attitude related to the legislation knowledge, between gender and monitoring of the current situation in European legislation concerning tourism and tourist guides, and between gender and attitudes when evaluating the

legislative measures adopted by the Czech Government and Ministry of Regional Development in relation to tourism support. At the end of the study, some recommendations are provided on how to improve the present situation.

*Keywords:* tourist guide, public administration, Covid-19, tourism, Czech Republic, management.

*JEL:* H7, K4, Z3

## 1 Introduction

The COVID-19 pandemic is a genuine stress test for states around the globe (Aburumman, 2020; Wen et al., 2020; Romagosa, 2020; Hossain, 2021). The economic crisis caused by the COVID-19 pandemic has also painfully affected tourism in the Czech Republic and all related sectors. For example, Czech spa industry has experienced a decline of sales by 60 percent during the first five months of 2020 and reports loss worth hundreds of millions CZK. Long-distance flights, bringing almost 0.5 million tourists from China and the US last summer disappeared. It is not purely the case of the Czech Republic (CR), but it is obvious that the field of tourism belongs to the economic sectors most affected by the current pandemic (Skare, Soriano and Porada-Rochoń, 2020). Rebuilding tourism is a priority but the sector must become more sustainable and resilient in the future. Tourism continues to be one of the sectors hit by the coronavirus pandemic in the hardest way and the outlook remains highly uncertain. According to the OECD, tourism has fallen in 2020 by about 80% (OECD, 2020). The situation was and still remains unfavourable and the chances for near economic recovery are pessimistic. The measures taken against the Covid-19 have brought (not only) to the Czech Republic fewer tourists and the decline of 90 % in entrepreneurship in the tourism sector (ČT 24, 2020). This drop has also been given by the fact that 10.8 million tourists were accommodated in the Czech Republic, which is the year-to-year drop of 51%. There were nearly  $\frac{3}{4}$  (three quarters) fewer guests from abroad. The tourists spent 31.2 million nights in hotels, boarding houses or campsites, a year-to-year fall of 45.3 percent (Idnes, 2021). This had and continues to have the crucial impact on travel agencies, tour operator agencies, guides working in tourism, consequently, on the follow-up industries such as hotel management and gastronomy as well.

In this study, we want to concentrate on segment tourism sector, particularly, on tourist guides and how our State helped them and compensated them for their financial losses during the pandemic. The survival of businesses throughout the tourism ecosystem is at risk without continued government support and although governments have taken impressive actions to cushion the blow to tourism, to minimise job losses and to build recovery in 2021 and beyond, more needs must be met, and in a more co-ordinated way (OECD, 2020). In the Czech Republic, there were 4500 people working as tourist guides in the first half of the last year (Týden.cz, 2020). Especially during the first pandemic



wave of the Covid-19, some errors and failings occurred in terms of the support for tourist guides provided by the Czech Government. These mistakes, made considerably uncertain not only the guides themselves, but also their associations (Irozhlas.cz, 2020). How significant these faults were and what the attitude of the guides themselves concerning the compensation from the State for the loss of their revenues is, will be the subject matter of this study. In the process, we will focus on political, administrative and communication tools regarding this support. By now, we have learned from the Czech Republic Guide Association statement that the help in the form of compensations of the losses came too late, which has already been manifested negatively and is to be pointed out in the following chapters (Asociace průvodců, 2020).

Merely in the field of travel agencies and tour operator agencies, the whole 12 % of these (over 100 market economy operators) halted their business activities by the end of October 2020. The number of the shut-down businesses in case of tourist guides has not been at our disposal yet, however, the seasonal nature and the clustering of international tourism into the particular urban areas of the Czech Republic – predominantly Prague, West-Bohemian spa areas, Český Krumlov or Brno and areas connected to this, the accumulation of tourism industry staff, makes it more difficult for the tourist guides to find their potential place in the labour market if they were to leave their position. Of course, the government, by means of their subsidy scheme Covid-Tourism, tries to aim at the tourist guides' professional development so that the guides are not dependent on one and the only market segment, but could find their place even in the different fields. The vision of the Ministry of Regional Development's (MMR) authority is to find provisional employment with respect to language-knowledge, Czech language or history, for instance in the education system. However, the existing practice does not comply with that (MMR, 2020).

The study is designed as follows. Firstly, the attention will be paid to the current knowledge we have about risk-management in the tourism sector in relation to the catastrophes, mainly with various health pandemics. We have some of not utterly complete findings at our disposal, which are obviously not transferable to the present-day situation concerning the Covid-19, nevertheless, it is possible minimally, to draw certain trends from them. In the next chapter, then, we will already deal with the Czech Republic and the help directed to travel agencies, tour operator agencies and tourist guides. We will highlight that even though the pandemic in the Czech Republic had broken out as early as in March 2020, the aid scheme was declared no sooner than in September 2020. This caused strong discontent of tourism entities together with tourist guides, on whom we will concentrate here. These reported only 10% of the usual procurements (Asociace průvodců, 2020).

The research was both, quantitative and qualitative. In other words, a questionnaire survey and subsequently, additional in-depth led interviews. The research was carried out with respect to the current pandemic situation, mainly in the electronic form (in case of questionnaires), or by phone and partly in person too (in case of additional interviews). It is necessary to add that during

the last year, apart from pandemic measures, rather a crucial change of legislation was made - in accordance with a new Law No 159/1999 Coll. provision, tourist guide activity can be performed only by a person to whom the Czech Tourist Guide Certification Card has been issued.

In the empiric part we concentrated on the quantitative research among tourism employees, namely tourist guides during the Covid-19 pandemic period. We examined the guides' opinions on the legislation in the field of tourism (T) in relation to the pandemic situation and public administration. The goal of the research was to find out how the tourist guides viewed Czech Government's crisis legislation for the tourism sector and the legal measures taken by them and The Ministry of Regional Development in terms of the tourism support provided. This included ad hoc, short-term primary information research of the descriptive, explorative and monitoring type focused on the facts. The research methods used for this study was: accumulation of the data by means of primary research techniques, a data analysis based on the secondary information sources, and statistical hypotheses-testing with the Pearson Chi-square test. The research was both, quantitative and qualitative, in other words - the questionnaire survey and subsequently, additional in-depth led interviews. The research was carried out with respect to the current pandemic situation, mainly in the electronic form (in case of questionnaires), or by phone and partly in person too (in case of additional interviews). The interviewing has been realized by means of personal questioning in the form of questionnaire in the written as well as electronic version. The final amount of the research sample gathered was given by the guides' willingness to participate in the research.

## 2 Literature review

Scientific literature offers a wide range of studies about risk management in the tourism field (Boksbergera, Biegerb and Laesserb, 2007; Fangnan et al., 2016; Bezkhlilbna, But and Nykonenko, 2018). It is essential to mention that exactly the question of risk is in Tourism the key one (Fodoudi, Tabaghdehi and Marvi, 2021; Rosselló, Becken and Santana-Gallergo, 2020). There are also the studies dealing with risk management in the sector of health risks, together with the fear of infectious viruses which would disrupt the operators' enterprises in Tourism or which could have a negative impact on the health of tourists in the various destinations (Cartwright, 2000). We know about the effects of the pandemic SARS (Chen, Law and Zhang, 2021), for example the fact that an epidemic SARS outbreak in 2003 led to the drop of 29 % in hotel stock prices in Taiwan (Chen, Jang and Kim, 2007). Similar results were calculated in other countries too (Chen, 2011). The research in this field showed that the relation of Tourism industry towards unexpected events was accentuated nowadays as a research topic (Law, 2006; Floyd, Gibson, Pennington-Gray and Thapa, 2004; Hall, 2010; Hajibaba, Boztuğ and Dolnicar, 2016; Novelli, Burgess, Jones and Ritchie, 2018; Modlin, Alderman and Gentry, 2011), however, far less attention has been paid to the Tourism and health risks relationship (Zopiatis, Savva and Lambertides, 2019).

We know that the COVID-19 pandemic, labelled as a „black swan event“, has been causing severe damage to the economy from a disease outbreak (Pak et al. 2020; Niewiadomski, 2020; Gössling, Scott and Hall, 2020). The range of this disease forced the WHO to declare the Covid-19 on 11 March 2020 a pandemic. Nowadays, the virus has been spread all over the world, exhibiting itself in various parts of the globe with different intensity (Pappas and Glyptou, 2021; Sikiru and Salisu, 2021). Crucial is implementation of restrictive measures, together with restrictions on free movement of persons, curfews and bans on travelling. This has resulted in closure of borders for tourists and the necessity of social distancing. Therefore, the Covid-19 has caused a huge economic recession (Eichenauer and Sturm, 2020; Chang, McAleer, and Ramos, 2020; Kock et al., 2020), the consequences of which can be predicted only with difficulty, though they can be worse than existing pandemic (UNWTO, 2020a). In fact, prohibitions on tourism already have and from now on, will have an impact on the world-wide tourism and it will affect practically all of its types (Shek, 2021).

This has already been confirmed even by ‘World Tourism Organization’ which in the relation to this, invites the states to the ‘reasonable’ measurements implementation in order to support tourism and save the livelihood the people who earn their living in this field (UNWTO, 2020b). With regard to the Covid-19, the data and only slowly lessening pandemic are not favourable at all. Last year, the decline in the number of foreign tourists was of 70%. Especially small firms are vulnerable; however, they ensure 80% of the world tourism. The consequences are obvious in all of the states, nevertheless, they are most vividly demonstrated in those countries that are dependent on tourism. According to ‘The World Travel & Tourism Council’ (WTTC, 2020), based on the knowledge about previous pandemics, this field has been recovering slower than other economic sectors. The UNWTO, in this relation, appeals to states to transform tourism sector. For this ‘restart’, the UNWTO has determined 5 priorities: 1) to mitigate socioeconomic impacts on peoples’ lives, particularly on employment of women and social security, 2) reinforce competitiveness and resilience, 3) support innovation and tourism digitalization, 4) strengthen sustainability and green growth oriented to natural undemanding resources and low-carbon-tourism, 5) coordinate partnerships for sector-transformation so as to achieve the Goals of Sustainable Development (UN, 2020).

According to the OECD, the main policy priorities that governments should pay attention to are:

- Restoring traveller confidence.
- Supporting tourism businesses to adapt and survive.
- Promoting domestic tourism and supporting safe return of international tourism.
- Providing clear information to travellers and businesses, and limiting uncertainty (to the extent possible).

- Evolving response measures to maintain capacity in the sector and address gaps in support strengthening co-operation within and between countries.
- Building more resilient, sustainable tourism (OECD, 2020).

### **3 State's role in helping the tourist industry**

The OECD also draws attention to the fact that a range of tourism professions should be financially supported in the Covid-19 pandemic. In particular, among these professions, tourist guides appear as well. It is possible to find information related to the importance of such implementations from both sides, the government and the public administration side, to compensate for 'gaps in provision' of these services. Thus, it indicates how crucial a role the state plays in the tourist guides' survival (Nhuyen and Thi, 2021; Toanoglou, Chemli and Valeri, 2021). It is in line with the WTTC appeal to governments to implement policies that would directly support the sector across the following three areas, namely:

- Protecting the Livelihoods of Workers: Financial help must be granted to protect the incomes of the millions of workers in a severe difficulty.
- Fiscal Support: Government must extend vital, unlimited interest-free loans to global Travel & Tourism companies as well as the millions of small and medium-sized businesses as a stimulus to prevent them from the collapse. Governments dues and financial demands on the Travel & Tourism sector need to be waived with an immediate effect for at least the next 12 months.
- Injecting Liquidity & Cash: Cash flow assistance to support big and small players of the Travel & Tourism sector is critical as well as to offer targeted support to severely affected industries within the sector (WTTC, 2021).

On 19 June 2020, the European Parliament voted on a resolution on transport and tourism in 2020 requesting a further action to support small and medium-sized enterprises hit by the crisis and funding to help the sector. MEPs said that the crisis should be considered as an opportunity to modernise tourism in the EU by making it environmentally friendly and socially responsible. Businesses and workers from the tourism sector already benefit from the EU measures taken in response to the Covid-19 crisis, including liquidity support, fiscal relief and an easing of state aid rules, as well as the temporary suspension of the EU rules on airports slots to avoid empty flights. To protect travellers, the EU has updated the guidelines on passenger rights and the package travel directive. It has also facilitated the repatriation of tens of thousands of Europeans stranded abroad, through the EU Civil Protection Mechanism. The EU measures to support the tourism industry complement and reinforce measures taken at the national level. The European Commission proposed on 4 September that the EU countries should coordinate their measures restricting free movement during the pandemic. The aim is to reduce uncertainty for travellers and businesses resulting from a wide range of diverging national rules (EU Parliament, 2021).

The support has the form of subsidised interest rates on loans, direct grants, and exemptions from the obligation to pay certain social contributions. Un-

der the subsidised interest rates measure, the State support covers the reimbursements, on behalf of tour operators, of package tours cancelled because of the coronavirus outbreak. The aid in the form of direct grants will support companies operating in the tourism and cultural sector, which had to interrupt their activities due to the coronavirus outbreak (Poland). The exemption from the obligation to pay certain contributions will support companies active in the tourism and cultural sector (which have lost in Poland more than 80% of their revenues due to the outbreak). Hungary notified the following main modifications to this scheme: (i) the extension of the measure to an additional loan programme called the "Széchenyi Tourism Card", that is accessible to small and medium-sized enterprises (SMEs) active mainly in the tourism sector and it takes the form of an overdraft facility.

Tourism is a distinct service sector and the Czech Republic economy (Novotný, 2021). As for the data from 2019, there was 240,000 people employed in tourism and thus, created about 3% of the GDP. In the Czech Republic, so-called 'self-employed', have relatively a high share in the overall employment-rate. If in 2018, there were 240,000 people working in this sector, there were 41,500 self-employed ones (ČT21, 2021). In hotels, restaurants, private transport related to tourism, along with tour operators, cultural services and other businesses, there were 63.4% of men and 36.6 of women self-employed. According to various prognoses, it had been assumed that in 2020, tourism sector would at least confirm very good efficiency in both – national tourism supported by Czech household finances and in the incoming tourism sector, which recently, has been boosted by the sharp rise in the number of tourists from Asia.

Nevertheless, the reality was different: the last year showed due to the pandemic Covid-19, a considerable drop not only in the national tourism but also in already very low demand for tourist-guide services. Travel restrictions worldwide as well as in Europe have stopped traditional interest of foreign tourists to visit the Czech Republic, so the number of visits remained on the historic minimum for the whole year.

Travel agencies and operators recorded the losses on bad pre-payments for planned tours that had been sent at the beginning of the pandemic to their foreign partners, minimum of the tour packages were sold during spring and summer (in comparison with the previous seasons) and what is more, they had to give the money back to clients for the trips which could not have been organized. The array of tour operator agencies is also dependent on Incoming tourism which is in the deep fall. Furthermore, tourist guides happened to be in the crisis as well. They certainly, could have postponed their payments for social and health insurance till August, however, how, as 'The CR Guides Association' added: 'from September, they were forced to interrupt the business conducting since they had no chance to earn enough even for tax-payment from this year season.' The summer holiday time slowly comes to an end and together with that, and so do tourist guides. Under such existing conditions, there is no way to continue and the next peak season is yet far (Asociace průvodců, 2020).

The Czech Government support came a bit late. The Government of Prime Minister Babiš did not approve the 'Covid Tourism' programme before 19 October 2020 (MMR, 2020). The programme ensured 500 billion CZK (19264 mld. euros) to support travel agencies, operators with the aim to boost the liquidity, save operation and keep offerings of existing services and work places. Although the draft regarding the Aid scheme was of course, consulted with professional associations operating in tourism - especially with the Czech Tourism Forum, the Travel Agency Association of Tour Operators and the Travel Agents of the Czech Republic, the Association of Czech Travel Agents, but from these in fact, there could be heard critique in unison that the support comes late. In the programme, there is a half of billion CZK and it will be possible to draw money till June 2021 (Novotný, 2021).

Travel agencies support includes maximum 2.75% of the planned revenues from the trips and tourism services sold that are the part of joined travel services for the year 2020. In case of tour operators, the subsidy has been counted with regards to the number of the tours. Particularly, 500 CZK (approx. 19, 2 EUR) for the trip cancelled due to the pandemic and purchased (tour contract made) within the period between 1 Dec 2019 and 1 October 2020, and for the stay in the spa cancelled if the facilities were shut down. Moreover, terms and conditions regarding the subsidizing of incoming tour operators have been laid down at 50,000 CZK (1926 EUR). The tourist guides support goes in two directions. The State compensates their revenue losses (the programme Antivirus), next, they can as a part of the programme Covid-Tourism, receive one-time financial support of 50,000 CZK (1926 EUR) on condition that they will provide specialized educational services (minimally 10 hours) for the schools founded by the state, district or a municipality, or if they provide further education or retraining courses accredited by the Ministry of Education, Youth and Sports with the purpose of work placement on the labour market (e.g. Pedagogical Minimum). If they meet not meet a single condition, they can receive one-time payment of 40,000 CZK (approx. 1541 EUR). The support should have had the positive influence on the sector as well as tourist guides' skills development so that when necessary, they would be able to find their work place in other fields - not dependent on incoming tourism (Novotný, 2021).

It is necessary to add that during the last year, apart from pandemic measures, rather a crucial change of legislation was made - in accordance with a new Law No 159/1999 Coll. provision, tourist guide activity can be performed only by a person to whom the Czech Tourist Guide Certification Card has been issued. The Ministry of Regional Development issues two level-types of National Tourist Guide Certification Cards. To receive the first one, only registration is required while for the second level, professional qualification is expected given by corresponding education. Tourists themselves can choose how professional their guide should be necessary for them. This step responds to a long-term pressure of guides on regulation of their activity so as to eliminate existence of imposters and unqualified guides known especially in Prague. In addition to that, the Government of the Czech Republic approved the MMR's proposal to exempt guides from paying 1,000 CZK (38,5 euro) fee for the cer-

tification card necessary their jobs from March. It is another way how to help tourist guide providers affected by the Coronavirus crisis. Thus, their already worrying financial situation linked to the reduction of their activity caused by the Covid-19, will not even deteriorate.

#### **4 Research methods**

The study tries to respond to the question: 'How the tourist guides themselves perceive the Government aid' during the Covid-19 pandemic period.

The reason why we have selected tourist guides as a target group from the field of sole-traders in tourism was to get opinions of one significant group conducting the business in tourism and hardly hit by the pandemic Covid-19. We have addressed respondents with the help of the Czech Republic Guide Association. The survey took place last year in November and December. We examined their attitudes to legislation in tourism in connection to the pandemic situation and in relation to public administration. The aim of the research was to learn how guides evaluated the crisis legislation of the Czech Government in tourism and their and the MMR's legislative measures in the scope of support from the CR.

Research methods included data-gathering by means of primary research techniques, the data analysis available from secondary information sources and statistical hypotheses-testing using the Pearson Chi-Square Test. Inquiring was realized by questionnaires with the preference of the electronic form, but a part of questionnaires was received in the written form as well. The research sample of guides formed 196 respondents of different age groups, sex and length of practical training. The most of respondents were aged 61 and more (30%), 24% aged between 41 and 50 and 4% aged 51-60, 18% aged 31-40 and approximately 4% aged 21-30. Mostly, the respondents (70%) had university education, a quarter of them then, high-school education with the Maturita exam and 2% had high-school or other education, minority were men (32%). As for the length of practical training, this differed, the most of respondents had 21-31 years of experience (31%), less than 9 years (28%) and identically, approx. one fifth, had from 11-20, and 31 and above, years of experience. The respondents were from the whole of the CR, the most of them from Prague (53%).

Besides questionnaires, we have conducted 20 intensive interviews as an additional technique. These were structured, questions formulated similarly as in the case of questionnaires as we tried to achieve a deeper knowledge of the guides' attitudes. Interviewer's handbook was first tested out and subsequently, interviews were carried out so as to guarantee respondents' anonymity.

With respect to objectives defined, research questions have been determined (RQ1-RQ3, see details below) as well as hypotheses (found below). This Pearson Chi-Square Test has been used to show relation between respondents' sex and the opinion on the factors examined. By means of the Independence

Test (examining relationship between two quantitative variables, the existence of dependence has been tested at the significance level  $\alpha=0,05$ .

In accordance with the questions, hypotheses have been formulated and the Pearson Chi-Square Test has been applied for their statistical testing. By means of the Chi-Square Test, correlation and existence of dependence between tourist guides' opinions on the problematic of legislation in the time of the pandemic and current development concerning tourism in the Czech Republic and in Europe and sex of respondents have been scrutinized. Dependence between the factors stated and education could not be determined because the conditions of figures expected have not been met. The research questions, statistical hypotheses and evaluation of hypotheses with the use of the Pearson's coefficient on the significance level  $\alpha = 0,05$  have been identified. Expected observation values based on the mathematical relationship (1) and (2), values  $n_{i.}$  and  $n_{.j}$ , are expressed as a count of all of particular observations.

$$e_{ij} = \frac{n_{i.}n_{.j}}{n}, \quad (1)$$

$$n_{i.} = \sum_{j=1}^s n_{ij} \quad n_{.j} = \sum_{i=1}^r n_{ij}, \quad (2)$$

The condition for acceptance of a hypothesis is that distribution is less than 20 % of the values expected less than 5 and none of expected values should not be lower than 1.

RQ1: Are guides familiar with the legislation related to tourism and tourist guides in terms of measures connected to the pandemic crisis Covid-19?

Hypothesis  $H_0$ : There is no dependence between sex and being familiar with the legislative regarding tourism and guides.

Alternative hypothesis  $H_1$ : There is a relationship between sex and being familiar with the legislation regarding Tourism and guides.

For verification of the hypotheses on in/dependence between sex and the opinion that respondent is familiar enough with the legislation regarding to tourism and guides in times of the pandemic Covid-19, the Pearson Chi-Square Test has been used. Frequencies observed and expected which the test compares, are shown in Table 1.

Based on addends for testing criteria, Pearson Chi-Square (15,48 see Table 2) has been calculated, furthermore, the critical value on significance level  $\alpha =0,05$  and degree of freedom which is equal to the value  $(r-1)(s-1) = 4$ . From the results it is clear that Chi-Square is higher than critical value (15,48 > 9,49), also p-value is lower than significance value  $\alpha$  (0,0038 < 0,05). On the basis of these findings, we reject the null hypothesis on independence, however, we accept  $H_1$  hypothesis: there is dependence between sex and attitude concerning familiarity with the legislation. One of the possible calculations of critical value is application of the Microsoft Excel CHINV function.



Table 1: Frequencies observed and expected

Observed frequencies – Eij						
	yes	rather yes	cannot tell	rather no	no	Total
women	24	90	0	16	4	134
men	12	34	6	6	4	62
total	36	124	6	22	8	196
Expected frequencies – Qij						
	yes	rather yes	cannot tell	rather no	no	Total
women	24,61224	84,77551	4,10204082	15,04082	5,469388	134
men	11,38776	39,22449	1,89795918	6,959184	2,530612	62
total	36	124	6	22	8	196

Source: authors

Table 2: Addends for test criteria  $(E_{ij} - Q_{ij})^2 / Q_{ij}$

	yes	rather yes	cannot tell	rather no	no	total
women	0,02	0,32	4,10	0,06	0,39	4,90
men	0,03	0,70	8,87	0,13	0,85	10,58
total	0,05	1,02	12,97	0,19	1,25	15,48

Source: authors

RQ2: Do guides monitor current development in Czech and European legislations regarding to tourism? Two questions have been raised.

Hypothesis  $H_{1_0}$ : There is no dependence between sex and monitoring of current development in Czech legislation regarding of tourism and tourist guides.

Alternative hypothesis  $H_{1_1}$ : There is relationship between sex and monitoring of current development in Czech legislation regarding of tourism and tourist guides.

After the hypothesis verification on dependence, the Pearson Chi-Square (2,37989) has been calculated and next, critical value on significance level  $\alpha = 0,05$  and a degree of freedom which is equal to the value  $(r-1)(s-1) = 2$ . The results indicate that Chi-Square is lower than critical value ( $2,37989 < 5,991465$ ), thus, the null hypothesis cannot be rejected. We accept  $H_{1_0}$  hypothesis on independence, however, the condition has been determined: more than 20% of expected values is lower than 5. (2 values, Tab 3). Hence, the dependence has not been verified.

Table 3: Expected frequencies

	yes	rather yes	no	Total
women	72,47	60,16	1,37	134,00
men	33,53	27,84	0,63	62,00
total	106,00	88,00	2,00	196,00

Source: authors

Hypothesis H<sub>20</sub>: There is no dependence between sex and monitoring of current development in European legislation regarding tourism and tourist guides.

Alternative hypothesis H<sub>21</sub>: There is dependence between sex and monitoring of current development in European legislation regarding tourism and tourist guides.

Based on addends for testing criterion, the Pearson Chi-Square (15,48) has been calculated and critical value on significance level  $\alpha = 0,05$  and a degree of freedom which is equal to the value  $(r-1) (s-1) = 3$ . The results show that Chi-Square value is higher than critical value ( $13,6572 > 7,814728$ ), furthermore, p-value is lower than significance value  $\alpha$  ( $0,003411 < 0,05$ ), based on these findings, we reject the null hypothesis on independence and accept hypothesis H<sub>21</sub>.

RQ3: How do the guides perceive Czech Government and the MMR's measures in terms of support from the State in times of the pandemic Covid-19? 2 hypotheses have been determined.

Hypothesis H<sub>10</sub>: In the time of pandemic, there is no dependence between sex and attitude concerning evaluation of the government and MMR in terms of support of tourism field.

Alternative hypothesis H<sub>11</sub>: In the time of pandemic, there is dependence between sex and attitude concerning evaluation of the government and the MMR in terms of support of Tourism field.

Based on addends for testing criterion, the Pearson Chi-Square (2,37989) has been calculated, then, the critical value on the significance level  $\alpha = 0,05$  and a degree of freedom  $(r-1) (s-1) = 4$ .

The results show that Chi-Square value is higher than the critical value ( $11,2303 > 9,487729$ ), also the p-value is lower than significance value  $\alpha$  ( $0,024094 < 0,05$ ), on these grounds, we reject the null hypothesis on independent variable and we accept H<sub>11</sub> hypothesis, there is dependence between sex and the attitude concerning evaluating the government's and the MMR's measures in terms of support of tourism.

Hypothesis H2<sub>0</sub>: There is no dependence between sex and influence of the crisis legislation of the Czech Government and the MMR in the time of the pandemic.

Alternative hypothesis H2<sub>1</sub>: There is, in the time of the pandemic, dependence between sex and influence of the Czech Government and the MMR.

Based on addends for the testing criterion, Pearson Chi-Square (0,374951) has been calculated, followed by critical value on significance level  $\alpha = 0,05$  and a degree of freedom which is equal to the value  $(r-1)(s-1) = 3$ . From the results, it is clear that the Chi-Square value is lower than critical value ( $0,374951 < 7,814728$ ), thus, the hypothesis cannot be rejected. We accept hypothesis H2<sub>0</sub>; dependence between sex and influence of crisis legislation of the Czech Government and the MMR in the time of pandemic has been verified.

Table 4 summarizes the results of analyses of dependencies between two variables by means of the Chi-Square Tests of Independence.

**Table 4: Results of Chi square independence tests**

	<b>Chi-Square</b>	<b>degree of freedom</b>	<b>critical value</b>	<b>p-value</b>	<b>condition</b>	<b>H<sub>0</sub></b>	<b>dependence/ independence</b>
<b>1.</b>	15,48	4	9,49	0,004	yes	reject	dependence
<b>2.</b>	2,38	2	5,99	0,301	no	accept	independence
<b>3.</b>	13,66	3	7,81	0,003	yes	reject	dependence
<b>4.</b>	11,23	4	9,49	0,024	yes	reject	dependence
<b>5.</b>	0,37	3	7,81	0,945	yes	accept	Independence

Source: authors

Explanatory note:

1. Are you familiar enough with the legislation concerning tourism and tourist guides?
2. Do you monitor development in Czech legislation regarding tourism and guides?
3. Do you monitor development in European legislation regarding tourism and guides?
4. How do you perceive legislative measures of the government and the MMR in terms of support of tourism field?
5. What is the impact of the Czech Government and the MMR's crisis legislation in tourism field?

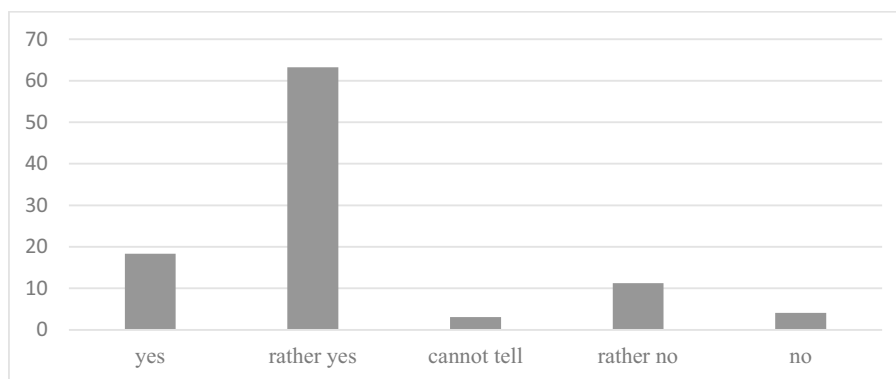
From the figures in Table 4, we can state that there is existence of dependence between sex and monitoring of current development in European legislation regarding to tourism and tourist guides, however, a condition has been violated (expected values were lower than 1), thus, we cannot consider the dependence to be relevant. What is more, H1 on dependence has been verified in case of sex and following of Czech legislation on tourism in the field of guiding in times of pandemic. In case of attitude to legislative measures of the Czech Government and the MMR in terms of support of tourism

in the time of the pandemic and sex, there was no dependence verified (the null hypothesis on independence has been accepted).

## 5 Results

The research proved that most of the respondents (82 %) declared that they were familiar enough with the legislation concerning tourism and tourist guides, 15 % has an opposite opinion (Fig. 1). A high number of guides does not consider the present-day legislative regulation on guide assistance activities to be appropriate. Guides are mostly people with the tertiary-level education, many of whom understand the legal issues in their profession, hence, it is logical. Moreover, also their CR Guides Association (AP ČR) is, in transmitting of up-to-date information, relatively active.

Figure 1: Do you think that you are well aware of legislation concerning tourism and guides? (in %)

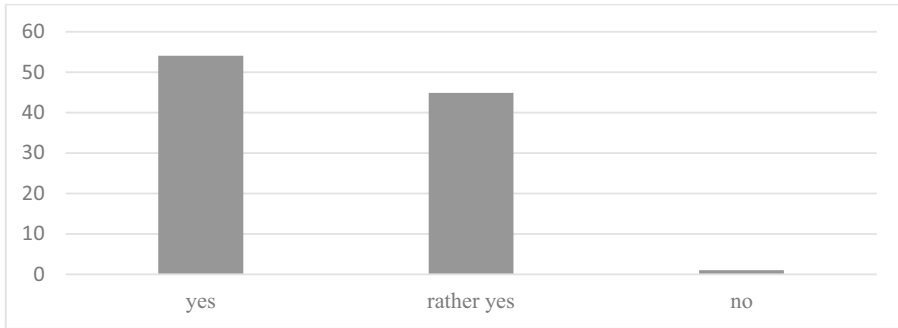


Source: authors

Current development in Czech legislation concerning tourism and guides is monitored approximately by 99 % of the respondents (Fig. 2). On the other hand, with regards to open questions, which constituted the part of the research too, it has been shown that in fact, a proportion of people informed especially about current legislation is lower. Since we have also asked about new measures planned by the MMR, i. e. the Czech Tourist Guide Certification Card. Here, the familiarity has been lower and reached 66%. This is somewhat surprising given how topical the issue is for the AP ČR and generally, especially for guides mainly from Prague. It may be explained by the fact that because of closing down of tourism industry in the Czech Republic, guides do not hurry to obtain the card. The implementation themselves i.e. of the Czech Tour Guide Certification Cards, the guides consider to be something which will not benefit guide activity regulation. The guides from Prague take their stand in the card-implementation issue more positively, which is understandable as the change of this state and the card-implementation has been the main initiative of the local authority in Prague, coordinated the AP ČR.

It is essential to add that the research took place in November and December 2020 and that obligation to obtaining the certification card has been implemented since March 2021, and that guides were, until the end of February, exempted from paying the administrative fee.

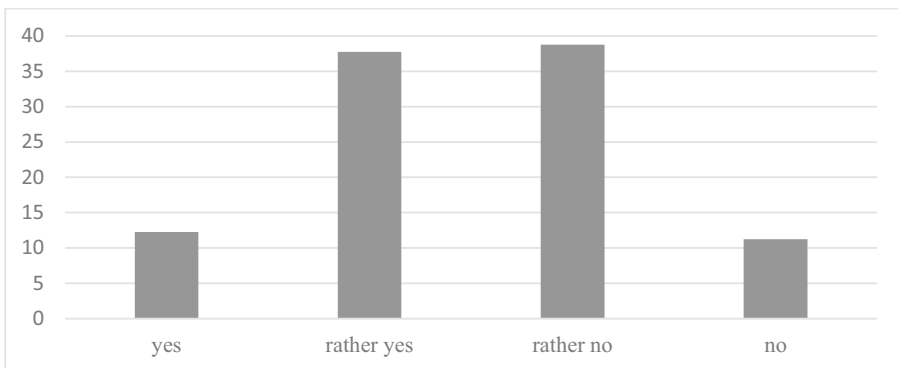
**Figure 2: Do you pay attention to the current situation in Czech legislation related to tourism and guides? (in %)**



Source: authors

We have also asked respondents if they pay attention to the current European legislation regarding tourism and guides. The results, are, in comparison with their knowledge of Czech legislation, significantly different. A half of the respondents does not monitor current European legislation (Fig. 3).

**Figure 3: Do you pay attention to the current situation in European legislation related to tourism and guides? (in %)**

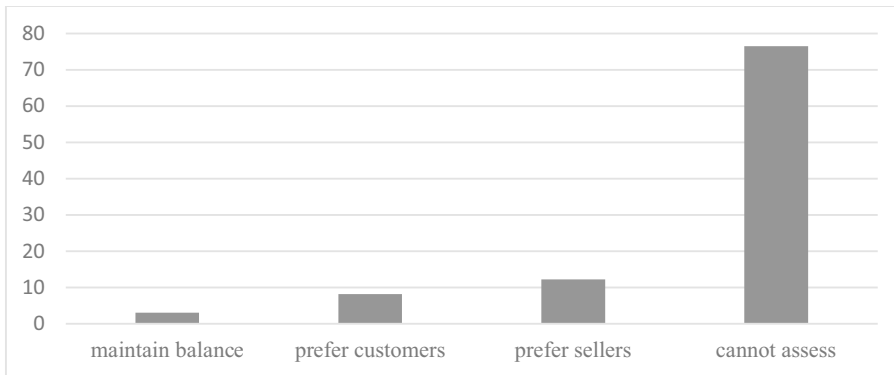


Source: authors

We have also studied how the respondents, in the time of the pandemic Covid-19, evaluate legislative measures of the Czech Government and the MMR concerning support of the tourism sector. Most of the respondents has a negative attitude to the legislative measures put into practice by the government and the MMR in the field of support of tourism in the time of pan-

demic. Only more than one fifth can see the situation positively (Fig. 4). From additional interviews it is obvious that guides criticize especially the slow process of the support.

Figure 4: Evaluation of legislative measures of the Czech Government and the MMR in tourism sector (in %)

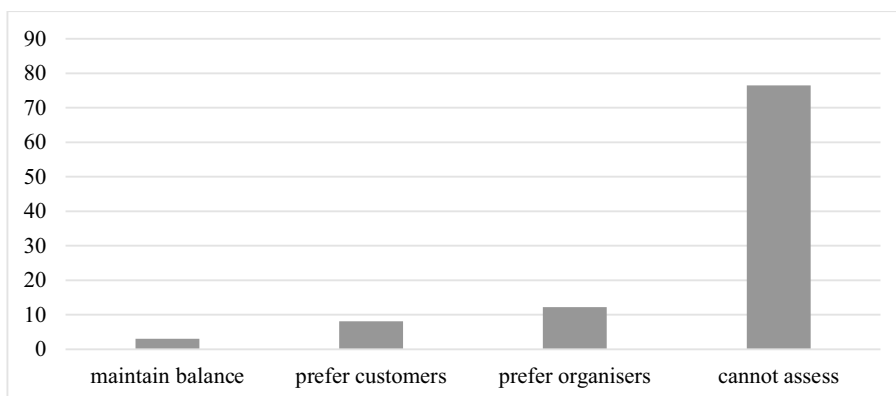


Source: authors

Although, the government began to pay out the compensations from 12 March 2020 at a few-weeks interval, which was not systemic aid. This did not happen within the programme Covid-19 Tourism until October 2020. Before that, critique had emerged a few times, even in media, coming from the AP ČR complaining that the government does not communicate with guides and does not take any effective steps to support the whole Tourist field, guides included. About 77% of the respondents is not able to assess the impact of the Czech Government's crisis legislation concerning Tourism. More than one tenth of them think that the crisis legislation sides organisers (i.e. travel agencies, and the like), 8% see the impact in siding with customers and only 3% mentioned that they are on balance between legitimate interests of entrepreneurs in tourism field (Fig. 5).

In open questions which formed part of our research activities, we have requested guides about the sort of aid they would welcome. Predominantly, answers focused on financial support (compensation of income losses), especially on their swiftness and administrative simplicity. Next, they noticed some rational State aid and the support of guide's retraining so as to have a greater chance to react in the flexible way to the new post-Covid period. Based on these answers, we have identified the most crucial aid factors: financial aid, more support from State and the local authority, social and insurance payment exemptions, promotion of tourism and guiding services supported by the State, and aid in the form of qualification and retraining.

**Figure 5: Effect of crisis measures of the Czech Government in the tourism field (in %)**



Source: authors

Concerning the noticed financial aid, apart from compensations, there also appeared the exemption or reduction related to payments of social security and health insurance. Interestingly, there was a certain stress on the support of up-skilling and an offer from job centres in the field of guides' training and their further education too. It can be assumed that part of them consider either cessation of their trade or taking up a second job and so on.

Besides measures linked to limitation of the work of guides in terms of the Covid-19, other factors of aid aimed at their functioning there occurred such phenomena as limitation or regulation of the number of new guides, in particular those without any qualification or knowledge, which according to them deteriorates image of this profession. Respondents also state aid with reasonable promotion of guides' activity who cooperate with guide agencies or travel agencies, reduction of an administrative character concerning demands related to the occupation, or the possibility of confluence of trade licence and record-taking and drawing of benefits from the job centre. Even though these stated measures are not related to the Covid-19, they are an interesting form of feedback to which more attention should be paid from the MMR's side.

In interviews, critique of government administration could be found quite often. This could be directed at both, insufficient financial aid as a result of cessation of their trade and problems with the complicated administrative character of this aid. There was repeatedly mentioned an example of illogical conditions under which, during the first wave of the pandemic when it was possible to reach the financial support from the MMR, guides had to prove 90 working days in the year 2020. However, it was not possible to reach that due to the fact that emergency state was declared in the Czech Republic on 12 March 2020. Then, in fact, tourism ceased to exist, hence, from the third month of the year, they managed to have a part-time job only.

Quite considerable scepticism has been expressed towards measures not implemented so far and mistrust towards them as well as the government, which is related to an inappropriate conception of particular measures. As we know, the Czech Republic suffers from the Covid-19 considerably, which prevents entrepreneurs in the tourism field from conducting their businesses. Critique has been directed towards all of the fields of the current multi-level governance in the Czech Republic, i.e. also to an inappropriate crisis governance on both, municipal and regional levels.

## 6 Discussion

The results of the questionnaire survey proved that guides in the current Covid-19 pandemic regarded themselves as well informed when it came to legislation and a various kind of regulations and limitations concerning tourism. They also claim that they are interested in current development in the legislation, mainly the Czech one and partially in the European one too. In case of the EU norms, a half of our research sample does not follow the current legislation at all. Most of the respondents evaluate legislative measures implemented by the government of the Czech Republic and the MMR in tourism field in times of pandemic in a negative way. Only one fifth of the respondents consider the measures taken by the government in tourism and their impact as positive. This scepticism has been confirmed in additional investigation using the form of interviews. Majority of respondents were not able to say what impact financial and administrative measures had so far on the tourism sector as well as on guides alone, the most of respondents was not able to tell. Merely a tenth of the respondents can see effects of present measures taken by the Government, in siding entrepreneurs.

In accordance with the aim of the research, there were three research questions defined and hypotheses formulated. Dependence between sex and the factors examined was found with the use of the Independence Test Chi-Square. It is evident from the independence testing, we accept H1 hypothesis, thus, there is dependence between sex and:

- familiarization in terms of legislation concerning tourism and guides,
- monitoring of the current situation related to tourism and guides in European legislation,
- attitude detected in the process of evaluation of legislative measures of the government and the MMR related to the tourism sector support.

Conversely, there was no dependence found between monitoring of current development in the Czech legislation concerning the tourism and guides and dependence between sex and impact of crisis legislation of the Czech Government in the time of the pandemic.

This research has certainly its limitations of which we are, when interpreting results, well aware of. However, especially on the basis of quantitative investigation as well as additional qualitative research in the form of interviews, we



will try, in spite of the fact mentioned, to formulate a few recommendations directed towards public administration and improvement of the current the tourism policy during the pandemic Covid-19. It is obvious that the communication of government administration with entities in tourism, in our case – guides as well as measures implemented so far (financial and administrative) show some deficiencies.

Statistics show, entrepreneurs' trust in public administration is disappearing, which is apparent from our results. Trust in the State from the side of firms, entrepreneurs and sole traders, is generally disrupted in the Czech Republic, thanks to unclear and ambiguous decisions, and the frequent changes and insufficient communication from the side of the State. Although, key measures from the first wave like those aimed at sustaining jobs, for instance the fact that the Cabinet postponed the due date of taxes and insurance, extended them allowance, made cash for firms accessible and exempted them from paying part of taxes, thus, had worked, problems occurred during the second wave. These trends manifest themselves also in guides' responses and fall into the wider context.

It can be concluded that the current communication fails and that it is necessary to improve it sufficiently. Immediately also certain limitations in digitalization of public administration in the Czech Republic has been revealed, namely in insufficient interconnecting of different kinds of information systems and in monitoring. We consider setting up the effective monitoring system of the highest importance so that it enables to quickly address parties involved and access information. On such bases, particular administrative and also financial measures and other aid should be planned. It is possible to make use of technologies so as to automatically contact all parties interested. Monitoring systems thus, make it possible to see the feedback of parties interested during the crisis, which enables to adjust the strategy and tactics.

The trades shut-down, there is a zero income, most of costs go on, some companies even go bankrupt. Crisis legislation is in the Czech Republic - very widely formulated -as well as the State, really cannot compensate all of the losses which occur in the fight against the Coronavirus pandemic. But, the Government should have remembered this at the beginning and legislators should have advised how to declare the Emergency state as well as how to give orders and impose bans. A special approach of public administration then, should have been adopted to entrepreneurs in tourism. This field has been significantly affected, de facto - it has stopped. Yet, the aid has been insufficient and communication with the guides has not been prompt with respect to their vulnerability on a labour market. Our results, thus, should contribute to the rapid change in this matter and to plan measures carefully either short-term or long-term.

## 7 Conclusion

The study shows that support from the state and the public administration plays a key-role in the Covid-19 pandemic. Furthermore, international organizations such as World Travel & Tourism Council or the OECD point out the importance of state support to save the different professions in tourism (tourist guides included). Furthermore, the EU is aware of this fact too. It is interesting to watch debates led on this topic – who should get helped, what is an adequate compensation for the losses, etc. (Payne, Gil-Alana and Mervar, 2021).

First of all, we have to mention certain limitations which this study brings. Mainly, it presents the quick data, the data available until 20 December 2020, which is restricted only to the tourist guide sector. This data was gathered thanks to the CR Guide Association aid from whom we had been provided with the contacts to their members. We are aware of the fact that we do not cover the whole of the tourism sector (mainly, a much broader range of professions such as hotel-owners, etc.). We deal with the selected segment – small companies and individuals. We perceive our study as a case study focused on this sector mainly. Support of this sector will still be developing as long as the Covid-19 pandemic will continue, and it will be interesting to watch the development of these events.

However, what we can conclude even today from the OECD (2020) findings is that the lessons learned from this crisis will be – to build a more sustainable and resilient tourism economy for the future.

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# Working in Public Administration During Nonwork Time During the COVID-19 Pandemic

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## ABSTRACT

With the outbreak of Covid-19, a pandemic was declared in March 2020 and countries introduced various measures to overcome it. As a result, employees worked more intensively from home with the use of information and communication technologies (ICT), which significantly affected the way of work, the length of the working day, and the time reserved for rest. The purpose of this article is to examine whether, during the pandemic, public employees in the Slovenian public administration worked during nonwork time. This is the first research of this kind in the Slovenian public administration. The research applied the quantitative method and an online questionnaire conducted in February 2021, whereby data from 1676 public administration employees were obtained. The results of the research show that at the time of the Covid-19 pandemic, 80% of the respondents performed work during nonwork time. In fact, public employees quite often worked late in the afternoon after working hours and on weekends. Interestingly, about 10% of public employees even worked during annual leave and sick leave. The results of the research contribute to theoretical and practical knowledge about work related activities during nonwork time.

*Keywords:* Covid-19, information and communication technology (ICT), public administration, public employees, work during nonwork time, work from home

*JEL:* J810

## 1 Introduction

Organizations and employees need to constantly adapt to changes that are increasingly affecting the distribution of working time and performance. Proper organization and duration of working time and rest time are essential for organizations and employees as well as their well-being and health, and in general for the development of society (Lutz et al., 2020; Thörel et al., 2020).

Following the declaration of a global pandemic, due to the outbreak of COVID-19 (SARS-CoV-2) in March 2020, measures to protect human health and prevent the spread of the virus and reduce the consequences were introduced. Organizations have changed their ways of organizing work, working conditions and processes, and many employees have started working from home (ILO, 2020). In July 2020, the European Union (EU27) had the largest number of employees working from home in the service sector, especially in the fields of education, finance and public administration, and slightly less in the fields of health, transport and agriculture (Eurofound., 2020, pp. 31-32). Public servants in public administration in Slovenia were no exception. As Buzeti (2020, p. 53) points out, employees in organizations respond differently to situations in the work environment and it is therefore not surprising that during an epidemic period (Eurofound, 2021; Eurofound, 2020; DeFilippis et al., 2020; McCulley, 2020, cited in ILO, 2020; Reisenwitz, 2020, cited in ILO, 2020) the working hours of employees in general have not only lengthened, employees also perform work during the time set aside for their rest.

The purpose of this article is to examine whether public servants in the Slovenian public administration perform work during nonwork time during the COVID-19 (SARS-CoV-2) epidemic. We are interested in how many times per week, and when exactly employees work during nonwork time. The main goal of the article is to present the results and findings of a survey conducted in February 2021 with public servants in the Slovenian public administration.

The article is structured in the following way. The initial part presents an introduction, a review of the literature on performing work during nonwork time and a hypothesis. This is followed by a presentation of the methodology, which presents the research procedures, the target group that was included in the research and the instrument we used to collect the data. Then we present the results of a survey on the performance of public servants during nonwork time during the COVID-19 (SARS-CoV-2) epidemic in public administration. The last part of the article presents the discussion aspect of the authors of the article on the content of the research results and the conclusion.

## 2 Work during Nonwork Time

Working time and rest time can be studied from different perspectives, such as sociological, legal and economic, organizational and health aspects. At the same time, working time and rest time represent one of the most important legal institutes of employment. For organizations and employees, the dura-



tion and organization of working hours as well as rest periods are essential, but they are increasingly changing due to various factors.

Article 2 of Directive 2003/88/EC stipulates that working time contains elements such as, the worker works and is available to the employer and performs his work tasks and duties. It is stipulated that the maximum weekly working time including overtime, lasts 48 hours. In Slovenia, the Employment Relationship Act (ZDR-1) stipulates in Article 142 that, on average, full-time work may not exceed 40 hours per week (European Commission, 2017, p. 25). In the event that the employer orders the employee to work after working hours, this period is assessed according to the rules for overtime work, which is counted as working time (Šenčur Peček, 2017, p. 169, Article 143 of ZDR-1). Directive 2003/88/EC<sup>1</sup> and ZDR-1<sup>2</sup> define a rest period, namely a minimum daily rest period of 11 consecutive hours between two working days and a minimum weekly rest period of 35 uninterrupted hours. The purpose of work rest is to keep workers away from the work environment for several hours and to eliminate fatigue associated with the performance of work tasks. By concluding an employment relationship, employees are also entitled to annual leave, which is intended for their relaxation and entertainment. Under Directive 2003/88/EC<sup>3</sup> and ZDR-1<sup>4</sup>, workers are entitled to annual leave for a minimum period of four weeks (European Commission, 2017, pp. 28-30).

In practice we can see that many employees perform their work tasks during the time set aside for their rest. A similar finding has been confirmed in the literature and sources (Eurofound, 2021; Eurofound, 2020; DeFilippis et al., 2020; McCulley, 2020, cited in ILO, 2020; Reisenwitz, 2020, cited in ILO, 2020; ILO and Eurofound, 2019; Gschwind and Vargas, 2019; Vayre and Vonthron, 2019; Houdmont et al., 2018), where discussions on working time focus on its expansion into employee rest time (early morning, late evening, weekends and holidays and during sick leave), for which we will use the term "nonwork time". Despite reports from Eurofound (2020) and ILO Monitor (2020) of deteriorating labor market conditions and job losses worldwide and reductions in working hours, employees are at the time of the COVID-19 pandemic working during nonwork time (Eurofound, 2021; Eurofound, 2020; DeFilippis et al., 2020; McCulley, 2020, cited in ILO, 2020, p. 5; Reisenwitz, 2020, cited in ILO, 2020, p. 6).

According to statistics, in the period April-May 2020 during the COVID-19 (SARS-CoV-2) pandemic 53.5% of employees work during nonwork time and in the period June-July 53.7% in the European Union (EU27). In Slovenia, however, slightly more employees than the EU27 average worked during nonwork time, 56.3% of surveyed employees in the period April-May 2020 and 59.1% of surveyed employees in the period June-July (Eurofound, 2021).

In Europe, North America and the Middle East, the way of work and the frequency of communication have changed among employees who worked from

1 From Article 3 to Article 5.

2 in Article 155 and in Article 156 of ZDR-1.

3 Article 7.

4 From Article 159 to Article 162.

home during the COVID-19 pandemic (DeFilippis et al., 2020). Employees had to adjust their work schedules, the length of meetings was shortened, and their number and the number of employees present at meetings increased. In their work, they also communicated more frequently via email. Employee working hours increased by an average of 48.5 minutes (8.2%) during the COVID-19 epidemic (DeFilippis et al., 2020).

The ILO report (2020) presents data that working from home, during the COVID-19 pandemic is more demanding compared to other flexible forms of working (e.g. teleworking, mobile working hours, etc.), as it is compulsory compliance, and many employees have never worked from home before. This is important for our research, as working from home is often associated with working during nonwork time, and research shows that in EU27 countries, employees worked longer (McCulley, 2020, cited in ILO, 2020). Thus, during the COVID-19 (SARS-CoV-2) pandemic in the period June-July 2020, employees in the EU27 worked on average 41.6 hours per week, and in Slovenia 51.3 hours (Eurofound, 2021). Due to the physical separation of work teams, the performance of work tasks of employees took place through information and communication technology (ICT), as a result of which employees were constantly available to superiors, co-workers and customers. Employees spent more time on virtual meetings. Because they took care of dependent family members when working, employees found it more difficult to complete tasks within normal working hours, so they worked during nonwork time, for example early in the morning or late in the evening (Reisenwitz, 2020, cited and ILO, 2020).

Overtime work is not unique to the COVID-19 pandemic, but research prior to the declared epidemic found that employees work during nonwork time (ILO and Eurofound, 2019; Gschwind and Vargas, 2019; Vayre and Vonthron, 2019; Houdmont et al., 2018). ILO and Eurofound (2019) found that employees in the European Union (EU) worked during nonwork time (including during annual leave) in order to meet work requirements. Such behavior is typical of employees in management positions and of experts in the field of education and agriculture. Research shows that more full-time employees (14%) performed part-time work tasks than part-time employees (10%). Respondents from service activities (construction, transport, commercial, agriculture) reported in the survey that their rest time was less than 11 hours at least once a month between two working days.

In their research, Vayre and Vonthron (2019) wanted to define the consequences of the use of information and communication technology (ICT) and the internet on the performance of employees' work. The survey included executives at various levels and measured their use of the web for work purposes within and out of normal working hours and the workplace. In doing so, they wanted to find out how managers perceive the impact of work on private life, work commitment and attitude towards the internet. With the results, they confirmed that the use of ICT provided by the employer and the use of the internet for private and work purposes are related to the intensity of their use and the place of work and time periods. The very intensive, extensive and po-

rous use of the internet promotes the permeability of the boundaries between the professional and private lives of leaders. Respondents confirmed that the intensive use of ICT and the internet has reduced their commitment to work and leadership power, while increasing their addiction to the internet.

What was also interesting is the analysis of research conducted by Gschwind and Vargas (2019), was that they found that teleworkers usually work longer than those who work at the location of the employer, from a database of research and national reports of European countries. In doing so, employees working remotely in research confirmed that their working hours are longer, averaging 44.5 hours per week (Hooftman et al., 2015; Trygg, 2014; Tipping et al., 2012; Ojala, 2011; INSHT, 2011; Walrave and De Bie, 2005, cited in Gschwind and Vargas, 2019, pp. 48-50). Teleworkers also reported that they were contacted during nonwork time in connection with work tasks, mostly via email and business phone calls (Sutela and Lehto 2014; Randstad, 2012, cited in Gschwind and Vargas, 2019, pp. 48-50). Employees confirmed that they are available to co-workers and clients during nonwork time every day or frequently (Unionen, 2013, cited in Gschwind and Vargas, 2019, pp. 48-50). On the other hand, teleworkers engage in private activities during breaks during working hours, such as household chores and childcare (Walrave and De Bie, 2005, cited in Gschwind and Vargas, 2019, pp. 48-50). Because most teleworkers do not follow "typical work schedules" as they start work before or after office hours, in the evenings and on weekends, their working hours are longer. This leads to so-called "time porosity", which includes the period of work during nonwork time (including location) (Genin, 2016; Hooftman et al., 2015; INSHT 2011; Anttila et al., 2009, cited in Gschwind and Vargas, 2019, pp. 48-50).

Houdmont et al. (2018) found in a study that employees of the Police Federation of England and Wales performed work during nonwork time, during annual leave and also during sick leave. Based on the results of the research, they confirmed all three dimensions of the concept of "leaveism" first mentioned in 2013 by Hesketh and Cooper. In case of health problems, the respondents used leave (dimension 1) instead of sick leave and performed work tasks during nonwork time, which they were not able to complete during working hours (dimension 2), as they were convinced that they would make up for missed work (dimension 3). Based on the results, the authors confirmed that the second and third dimensions of "leaveism" are more characteristic of employees in managerial positions.

The data from the above research undoubtedly shows that employees work during nonwork time during the COVID-19 (SARS-CoV-2) epidemic. Therefore, based on the literature, we hypothesize that:

- Hypothesis 1: During the COVID-19 (SARS-CoV-2) epidemic, more than half of the surveyed public servants in public administration work during nonwork time.
- Hypothesis 2: Work during nonwork time during the COVID-19 (SARS-CoV-2) epidemic is performed by those public servants in the public administration whose workload has increased.

### 3 Methods

#### 3.1 Procedure and Participants

In order to obtain data for our research, we conducted a survey in the Slovenian public administration in February 2021. Data were collected using an online questionnaire. In our research we included public administration bodies and organizations, namely ministries with constituent bodies, government services, administrative units, local self-government and holders of public authority. Holders of public authorisation include natural and legal persons, and those classified in public administration include public agencies, public funds and some institutions, such as the Pension and Disability Insurance Institute of Slovenia, the Employment Service of Slovenia, and the Centers for Social Work, etc. (Tičar and Rakar, 2011). Public administration is functionally part of the decision-making process on public affairs, which takes place at the executive level, and in organizational terms it is a set of bodies and organizations that provide professional bases for political decision-making and directly implement political decisions (Virant, 2009, p. 18).

According to official data, the public administration employs 40.191<sup>5</sup> public servants, who were our target group for the study. The sample of our research is represented by the data of 1676 respondents who participated in the research, which represents a 4.17% share of the entire population of public servants in the Slovenian public administration.

**Table 1: Distribution of employees by the type of organisation and number of public servants in public administration in Slovenia**

Type of public administration organisation	Participants (sample)		Number of public servants in public administration in Slovenia	
	F	%	F	%
State administration	1138	67.9%	28.958,47	72%
Local administration	258	15.3%	5.308,69	13.2%
Holders of public authorities	280	16.8%	5.923,94	14.8%
Total public administration	1676	100%	40.191	100%

Source: authors

Table 1 shows the distribution of respondents by type of organization in public administration in Slovenia. The sample of our research included 67.9% of employees in state administration, 15.3% in local self-government and 16.8% of employees in public authorities. The largest share in the sample structure of our survey is represented by officials, namely 55.4%, in addition, 14% of officials in senior positions and 2.7% of officials in senior positions, 23.7% of

<sup>5</sup> 31 August 2020. Some data could not be obtained on the OPSI portal.

professional and technical staff and 4.1% of professional and technical staff in a leading position.

Analysis of the survey sample by gender shows that 79.4% of women and 20.6% of men participated in the survey. The majority of respondents are between 45 and 54 years old (35.6%) and between 35 and 44 years old (33.2%), their average age is 46 years.

In the article, officials are treated as those public servants who perform public tasks directly related to the exercise of power or protection of public interest and professional and technical public servants who perform accompanying work in the field of personnel and material-financial operations, technical and similar work and other type of work that must be performed for the smooth implementation of public tasks of the body (Article 23 of the ZJU). According to the ZJU (Articles 80 to 83), the highest official positions are held by senior public servants, who exercise their powers in the body in accordance with the management and coordination and organization of work. These positions are Director General, Secretary General and Heads of Organizational Units in Ministries, Director and Heads of Organizational Units in Bodies within the Ministry, Head of Administrative Unit and Heads of Organizational Units in Administrative Units, Director and Heads of Organizational Units in Government Services and Director and Heads of Organizational Units as well as units in local community administrations.

### **3.2 Measures**

In order to achieve the set goals and a more detailed analysis of the research data and the defined research problem, we used a quantitative research method. For empirical research, an online survey questionnaire<sup>6</sup> was developed in the online tool 1ka. In order to collect data in the public administration on the performance of public servants during nonwork time during the COVID-19 epidemic, three sets of questions were formulated in the questionnaire:

- the first set of questions (“Socio-demographic data”); covers seven short open-ended and closed-ended questions relating to the socio-demographic characteristics of respondents such as employment organization, gender, level of education, year of birth (age), length of service in the current employment organization, working time agreement in the employment contract and work area of employees. A questionnaire by Jernej Buzeti (2020) was used to obtain relevant socio-demographic data of public servants. We added questions about employment status ourselves.
- the second set of questions (“Work during COVID-19”); includes four short open-ended and closed-ended questions on the basis of which we wanted to find out where the respondents performed their work during the COVID-19 (SARS-CoV-2) epidemic, how the working hours of the respondents were determined and formed during the epidemic and if the time of

<sup>6</sup> It is referred to as the Questionnaire on Extended Availability for Work of Public Servants during Nonwork Time with Causes at the Time of the COVID-19 epidemic.

employees during the epidemic was lengthened, shortened or remained the same and whether the amount of work that employees managed to perform increased, remained at the same level as before the epidemic or decreased. The questions were summarized from the Eurofound pandemic survey COVID-19<sup>7</sup> (2020).

- the third set of questions (“Work during nonwork time”); deals with the performance of work during nonwork time of employees. It comprises of five open-ended and closed-ended questions that check the existence, frequency and period of out-of-hours work and the number of working contacts received and the use of information and communication technology (ICT) during non-working hours during the COVID-19<sup>8</sup> epidemic. The Eurofound Survey on the COVID-19 (2020) and the 6th Eurofound Survey on Working Conditions<sup>9</sup> by Agnes Parent-Thirion et al. (2017).

We added questions about the extent of ICT use ourselves. The first two questions were closed-ended. Respondents answered the first question about the frequency of work during nonwork time (“How often do you work during nonwork time during the COVID-19 epidemic to meet work requirements?”) with “Every day”, “Every other day”, “Once or twice a week”, “Less often”, “Never”. Respondents who answered “Never” (meaning that during the COVID-19 epidemic they did not perform work tasks during nonwork time and did not respond to work requests during that time) finished with answering the online survey. The second question (“When do you usually work during nonwork time during the COVID-19 epidemic?”), respondents answered with “Early in the morning before the official start of working hours”, “Afternoon after the end of official working hours”, “Late in the evening”, “During the weekend (Saturday, Sunday)”, “During the day off (holiday)”, “During the use of annual leave”, “During sick leave”. The third question “How many out-of-hours working contacts do you receive on average per week during the COVID-19 epidemic” was designed as an open type question, as we wanted to obtain data on the number of working contacts (e-mails, business phone calls, business shortcuts), messages (e.g. text messages, mobile apps, social networks and e-meetings on Zoom, MS Teams, Cisco Webex, Skype, etc.) of respondents during nonwork time per week. To this end, respondents themselves entered the number of working contacts received during nonwork time.

The fourth question “Which information and communication technology (ICT) do you use when performing work duties during nonwork time during the COVID-19 epidemic” was formulated as an open type question, as respondents answered on a five-point Likert scale (“1 - Never to 5 - Always”) how often they use ICT in their work during nonwork time. They could also choose “Other”, where respondents were able to enter ICT themselves in addition to the answers already offered. The fifth question investigated whether it happened at least once during the COVID-19 epidemic that the respondents had

7 Living, working and COVID-19.

8 Living, working and COVID-19.

9 6th European Working Conditions Survey.

a daily rest period of less than 11 hours during two working days. Respondents answered “Yes” or “No”. If the respondents recorded “Yes”, we wanted to find out in the following sub-question, how many times a week their daily rest was not long enough.

Next, we are presenting an analysis of the obtained data from a survey on the performance of public servants during nonwork time in the Slovenian public administration during the COVID-19 epidemic (SARS-CoV-2).

## 4 Results

The survey was carried out to determine how often and when did public servants in Slovenian public administration at the time of the COVID-19 (SARS-CoV-2) epidemic perform work tasks during nonwork time and whether during this time they responded to the working requests of superiors, colleagues and clients through ICT. The quantitative data obtained was processed in the SPSS programme as we wanted to obtain adequate, reliable and objective and accurate data on the work performance of public servants during nonwork time during the COVID-19 (SARS-CoV-2) epidemic. In addition we used the statistical method of the binominal test and Pearson’s chi-square test. The binominal test verified whether public servants in the Slovenian public administration were working during nonwork time during the COVID-19 epidemic.

**Table 2: Number of public servants surveyed working during nonwork time during the COVID-19 (SARS-CoV-2) epidemic**

Public servants	Category	N	Observed Prop.	Test Prop.	Exact Sig. (2-tailed)
Group 1	Yes	1340	0.800	0.500	0.000
Group 2	No	336	0.200		
Total		1676	1.000		

Source: authors

In the statistical analysis, the respondents were divided into two groups (Table 2) into those (group 1) who work during nonwork time, regardless of the frequency of performance, and those (group 2) respondents who never work during nonwork time during the COVID-19 epidemic. We then checked the proportions of those surveyed and found that 80% (1340) of respondents were working during nonwork time during the COVID-19 epidemic. During the COVID-19 epidemic, 20% (336) of respondents never work during nonwork time.

**Table 3: Frequency of out-of-hours working hours of public servants during the COVID-19 (SARS-CoV-2) epidemic**

Frequency of work	F	%
Daily	241	14.4%
Every other day	225	13.4%
Once or twice per week	488	29.2%
Less often	386	23%
Never	336	20%
Total	1676	100%

Source: authors

During the COVID-19 epidemic, most public servants (29%) work during non-work time once or twice per week, while at least (13.4%) work during non-work time every other day (Table 3).

**Table 4: Non-working time periods of public servants during the COVID-19 (SARS-CoV-2) epidemic**

Time frames	F	%
Early in the morning before work	367	21.9%
After work	957	57.1%
Late in the evening	527	31.4%
Weekend (Saturday, Sunday)	625	37.3%
Day off (Holiday)	230	13.7%
Annual leave	232	13.8%
Sick leave	159	9.5%
Total	1339	100%

Source: authors

For those respondents (1339) who answered that during the COVID-19 epidemic they work during nonwork time, we were interested in which time period they most often work. As shown in Table 4, more than half of respondents work in the afternoons (57.1%) and on weekends (37.3%). Slightly fewer (31.4%) respondents work late in the evening. Almost a third of respondents (21.9%) work in the morning before the start of their official working hours. 13.8% of respondents confirmed that they work during the use of annual leave and during the holiday (13.7%), which is considered a day off work. 9.5% of respondents worked during the COVID-19 epidemic when they were on sick leave.



In the research, we were also interested in where public servants performed their work, how they organized their working hours and whether during the COVID-19 epidemic the amount of work increased or decreased or remained at the same level as before. In doing so, we wanted to determine whether there is a link between the volume and frequency of out-of-hours work during the COVID-19 epidemic.

The relationship between workload and frequency of out-of-hours work was verified by Pearson's chi-square test (Table 5).

**Table 5: Employees workload during the COVID-19 (SARS-CoV-2) epidemic with work during nonwork time**

The amount of work		Daily	Every other day	Once or twice per week	Less often	Never	Total
Decreased a lot	Count	133	118	141	49	37	478
	%:	27.8%	24.7%	29.5%	10.3%	7.7%	100%
Decreased a little	Count	72	78	222	168	116	656
	%	11%	11.9%	33.8%	25.6%	17.7%	100%
Stayed the same as before COVID-19 epidemic	Count	28	22	86	135	146	417
	%	6.7%	5.3%	20.6%	32.4%	35.0%	100%
Increased a little	Count	8	7	39	34	37	125
	%	6.4%	5.6%	31.2%	27.2%	29.6%	100%
Total	Count	241	225	488	386	336	1676
	%	14.4%	13.4%	29.1%	23%	20%	100%

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	318.903 <sup>a</sup>	12	.000
Likelihood Ratio	320.766	12	.000
Linear-by-Linear Association	234.922	1	.000
N of Valid Cases	1676		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 16.78.

Source: authors

Table 5 shows that the majority of respondents, whose workload remained at the same level as before the COVID-19 epidemic, never work during nonwork time during the epidemic (35%) to meet their work requirements. For those

respondents whose workload increased greatly (29.5%) or increased slightly (33.8%) or decreased slightly (31.2%), they also perform work once or twice a week during nonwork time in order to meet work requirements. The differences are statistically significant ( $x^2 = 318.903$ ;  $df = 12$ ;  $P = 0.000$ ).

During the COVID-19 epidemic, due to a number of measures taken, some public servants changed the location of their work and in this research, we were interested in where public servants performed work during the epidemic. The results of the research are presented in Table 6.

**Table 6: Location of work during the COVID-19 (SARS-CoV-2) epidemic**

Location of work	F	%
At home	453	27.0%
A space provided by the employer	502	30%
At home and in a space provided by the employer	692	41.3%
At different locations where I was sent by my employer or to whom I went at the request of clients / service users	7	0.4%
Other	22	1.3%
Total	1676	100%

Source: authors

Table 6 shows that almost half of the respondents work during the COVID-19 epidemic in combination from home and at the employer’s premises (41.3%), one third of the respondents (30%) work at the employer’s premises and slightly less than one third of the respondents works from home (27%). Other (1.3%), the majority of respondents stated that they work in the field.

We were also interested in how public servants in the Slovenian public administration distribute their working hours during the COVID-19 epidemic and whether their working hours have been lengthened or shortened.

**Table 7: Distribution of working time during the COVID-19 (SARS-CoV-2) epidemic**

	F	%
It is determined by the organization without the possibility of change	554	33.1%
You can adjust your working hours to a certain limit	995	59.4%
You determine your working hours entirely by yourself	90	5.4%
Other	37	2.2%
Total	1676	100%

Source: authors

Table 7 shows, more than half of the respondents (59.4%) adjust their working hours to a certain limit during the COVID-19 epidemic. More than a third of respondents (33.1%) stated that working hours were determined by the organization without the possibility of change. Just over 5% of respondents set their own working hours. Other, respondents stated that they adjust their working hours in accordance with the agreement regarding online meetings and upon agreement with their superior, according to the needs of the organization and the circumstances and work tasks that they have to perform. Accordingly, we wanted to determine whether there is a link between the frequency of work during nonwork time of public servants and the change in the working hours of respondents during the COVID-19 epidemic.

**Table 8: Relationship between the frequency of work during nonwork time and extending or shortening of working hours of respondents during the COVID-19 (SARS-CoV-2) epidemic**

Change of working hours		Daily	Every other day	Once or twice per week	Less often	Never	Total
Extended a lot	Count	153	123	86	4	1	367
	%	41.7%	33.5%	23.4%	1.1%	0.3%	100%
Extended a bit	Count	60	86	267	123	21	557
	%	10.8%	15.4%	47.9%	22.1%	3.8%	100%
Remained at the same level as before the COVID-19 epidemic	Count	23	14	121	236	302	696
	%	3.3%	2%	17.4%	33.9%	43.4%	100%
Shortened a bit	Count	5	1	11	19	7	43
	%	11.6%	2.3%	25.6%	44.2%	16.3%	100%
Shortened a lot	Count	0	1	3	4	5	13
	%	0%	7.7%	23.1%	30.8%	38.5%	100%
Total	Count	241	225	488	386	336	1676
	%	14.4%	13.4%	29.1%	23%	20%	100%

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	1004.002 <sup>a</sup>	16	.000
Likelihood Ratio	1078.547	16	.000
Linear-by-Linear Association	679.304	1	.000
N of Valid Cases	1676		

a. 5 cells (20.0%) have expected count less than 5. The minimum expected count is 1.75.

Source: authors

Table 8 shows that those respondents whose working hours were significantly extended during the COVID-19 epidemic (41.7%) work during non-work time every day. Those respondents whose working hours were slightly extended (47.9%) work during nonwork time two to three times per week. Those respondents whose working hours were slightly shortened during the COVID-19 epidemic (44.2%) perform work during nonwork time less often. Those respondents whose working hours remained at the same level as before the COVID-19 epidemic and those whose working hours were greatly reduced never performed work during nonwork time. The differences are statistically significant ( $\chi^2 = 1000.002$ ;  $df = 16$ ;  $P = 0.000$ ).

During the COVID-19 epidemic, public servants perform their work with the help of information and communication technology (ICT) which enables them, among other things, to work during nonwork time and to be constantly available to their superiors, colleagues and clients. In the research, we were interested in which ICT is used by public servants when working during the epidemic (Table 9).

**Table 9: Use of information and communication technology during nonwork time during the COVID-19 (SARS-CoV-2) epidemic**

	N	Minimum	Maximum	Mean	Std. Deviation
Personal computer	1339	1	5	2.68	1.78
Laptop	1339	1	5	3.68	1.65
Smartphone	1339	1	5	3.66	1.50
E-tablet	1339	1	5	1.27	0.80
Other	607	1	5	1.14	0.66

Source: authors

The results of the research show (Table 9) that in the period of the COVID-19 epidemic, respondents in the public administration use a laptop (3.68) and a smartphone (3.66) the most on average during nonwork time, slightly less, they use a personal computer (2.68) and the e-tablet (1.27).

In the survey, we were also interested in how many working contacts per week, public servants receive via ICT work during nonwork time during the COVID-19 epidemic (Table 10).

**Table 10: Number of working contacts received per week during nonwork time during the COVID-19 (SARS-CoV-2) epidemic**

	Business e-mails per week:	Business phone calls per week:	Business text messages (e.g. text messages, mobile applications, social networks) per week:	E-meetings (Zoom, MS Teams, Cisco Webex, Skype, itd.) per week:
N	1338	1338	1335	1334
Mean	32.0	10.4	8.3	1.0
Std. Deviation	83.3	25.3	124.6	3.0

Source: authors

Table 10 shows that respondents receive the majority of e-mails and business phone calls during the COVID-19 epidemic during non-working hours. On a weekly basis during nonwork time, respondents receive an average of 32.0 e-mails, 10.4 business phone calls and 8.3 business text messages (e.g. in the form of a text message or a message via a mobile application or social networks). One e-meeting per week is organized (Zoom, MS Teams, Cisco Webex, Skype, etc.) on average.

## 4 Discussion

As part of the research we wanted to determine whether public servants in public administration in Slovenia work during nonwork time and how they respond to work demands (due to the use of information and communication technology – ICT) during the COVID-19 (SARS-CoV-2) epidemic. We also wanted to find out how many public servants report that the volume of their work has increased, compared to the time period before the epidemic, and the fact that they are therefore working during nonwork time.

Based on the results of our research, we find that 80% of surveyed public servants in Slovenian public administration work during nonwork time, while 20% of respondents confirmed that they never work during nonwork time during the COVID-19 epidemic. Our findings are in line with the results of the Eurofound (2021) and McCulley (2020, cited in ILO, 2020) surveys, which confirmed that during the COVID-19 epidemic, on average more than half of the respondents worked during nonwork time in Slovenia (55%). The results of our research show that those respondents who work during nonwork time during the COVID-19 epidemic most often work in the late afternoon, after work, on weekends and late in the evening, which was also confirmed by Reisenwitz (2020, cited in ILO, 2020), Gschwind and Vargas (2019) and Houdmont et al. (2018). In accordance with the results and findings, we therefore confirm the Hypothesis 1 which states: “During the COVID-19 (SARS-CoV-2) epidemic, more than half of the surveyed public servants in public administration work during nonwork time.”

In the survey, the majority of respondents confirmed that they work in combination from home and at the employer's location, with more than half of the respondents adjusting their working hours to a certain limit during the COVID-19 epidemic. From which we conclude that the respondents meant flexible working hours, as regulated in the Decree on working hours in state administration bodies, which stipulates that public servants may schedule working hours within the prescribed daily, weekly and monthly work obligations. It is interesting to note that those respondents whose working hours increased or slightly increased during the COVID-19 epidemic or slightly decreased, also work during nonwork time. While those respondents whose working hours did not change compared to the time period before the epidemic mostly never worked during nonwork time. There is also a statistically significant correlation ( $\chi^2 = 318.903$ ;  $df = 12$ ;  $P = 0.000$ ) between the amount of work that public servants have to do during the epidemic and work during nonwork time. Based on this, we confirm Hypothesis 2: "Work during nonwork time during the COVID-19 (SARS-CoV-2) epidemic is performed by those public servants in the public administration whose workload has increased."

Based on the results of the research, we find that public servants in public administration in Slovenia work during nonwork time because they were not able to perform work tasks during working hours and because information and communication technology (ICT) allows them to do so. During non-working hours, public servants also use ICT to respond to the work requirements of their superiors, co-workers and clients and perceive them as work obligations that they must fulfill. The results of our research also show that public servants also perform work during the use of annual leave during the COVID-19 epidemic, which was confirmed by 13.8% of respondents and during their sick leave, which was confirmed by 9.5% of respondents. Similar results were found in the study by Houdmount et al. (2018).

We believe that the measures introduced during the COVID-19 epidemic affect the organization and the dynamics of work of public servants. In our research, we were interested in which ICT respondents use the most during non-working hours and how many work contacts they receive through it on average per week, as we know that the physical separation of co-workers and work teams affected work tasks and communication between employees in the public administration. The results of the survey showed that respondents use a laptop and a smartphone the most, receiving the most e-mails and business phone calls on average per week. Similar findings have been made in other studies (DeFilippis et al., 2020; Reisenwitz, 2020; cited in ILO, 2020; Gschwind and Vargas, 2019; Vayre and Vonthron, 2019). Based on this, we conclude that ICT is extremely important for public servants and enables them to work during nonwork time or their availability for work.

The results of the research conducted in the public administration on the performance of public servants during nonwork time during the COVID-19 epidemic are also important due to the theoretical and practical contribution, which we are presenting below.

An important contribution of our work to theoretical knowledge is a better understanding of the concept of so-called time during nonwork time. This means a rest period intended for relaxation, entertainment and elimination of tiredness caused by work. Non-working hours include daily and weekly rest and the right to annual leave and sick leave for the employee. The performance of work during nonwork time is mainly influenced by the use of information and communication technology (ICT), due to which employees are not only constantly available, but they also respond to work demands. With the results of our research, we will further contribute to the theoretical knowledge and literature, as this research confirmed that more than half of public servants in the Slovenian public administration work during nonwork time during the COVID-19 epidemic. Compared to the time before the COVID-19 epidemic, the volume of work of most public servants increased during the epidemic, and their working hours also increased. As a result, public servants work and respond to work demands during nonwork time, which ICT allows them to do. This is important both for theoretical knowledge and for future research of work during nonwork time of public servants in relation to their extended availability. Our work is important for theory (and practice) also because our research found that there is a certain share of public servants in public administration who perform work during the use of annual leave and during sick leave.

The results of our research have several practical implications. The findings are crucial for public administration bodies and organizations in terms of the organization and duration of working hours and the organization and manner of performing the work of public servants. The results are essential for understanding the issue of work during nonwork time in the Slovenian public administration. Awareness of senior staff about the increase in the amount of work to be done by public servants during the COVID-19 epidemic and the findings of a survey on the large proportion of public servants who are constantly accessible through information and communication technology (ICT) or available for work requirements are important for introduction of measures and changes regarding the organization and duration of working hours and rest periods. The rest period is intended for public servants to engage in private activities aimed at their relaxation, and not to perform work tasks during this time and respond to work requests. Rest time is essential for every individual, as it affects their well-being and health. Our research is also important for practice from the perspective of acquainting the state as an employer and policy makers with the results, with the aim of limiting or reducing the problem of working during nonwork time. Senior public administration staff also gain insight into the duration of working hours and rest periods of their employees and the manner in which they work. In this way it will be necessary to consider both senior staff and other public servants regarding the organization of working hours and work. In addition, the results of the research are important for the introduction of practical measures in order to improve the well-being and health of public servants.

## **5 Conclusion**

The organization and duration of working time and rest time are essential for every individual. When employees work during nonwork time, they extend their availability, which has the effect of deteriorating the well-being and health of employees. Especially from the point of view of well-being and health of employees, it is important that they relax, rest and leave work during non-working hours and stay away from work for a certain period of time, which contributes to their recovery. Global changes, such as the outbreak of the COVID-19 (SARS-CoV-2) pandemic and the widespread use of information and communication technology (ICT), are affecting public servants. The results of our research show that 80% public servants in public administration work during nonwork time, and this information should be worrying, as employees work during rest periods. Based on the results of our research we suggest that further research of extended availability on nonwork time of public servants make sense.



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# Urban Immunity Against the Pandemic within the Framework of Public Administration, City and Citizens<sup>1</sup>

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## ABSTRACT

The circumstances arising in connection with the Covid-19 pandemic indicate that outbreaks are inevitable and that new pandemics are quite likely. Cities, just like people, need to protect themselves from pandemics. Therefore, the existing urban and spatial practices should be reconsidered. The aim of the study is to explore, by observation and literature review, the cities' readiness for possible pandemics or emergencies within the framework of the concept of urban immunity. Based on the elements necessary for the provision of immunity in humans, the requirements for urban immunity, the health of the infrastructure and superstructure of the soil, the resources and sustainability of a city, its resilience and growth control are discussed within the framework of urban management. In addition, the study identifies three indispensable actors for urban immunity: i) central governments, ii) local governments, and iii) citizens. Immunized cities can be defined as cities with healthy infrastructure and superstructure factors of urban soil aiming at economic and ecological sustainability that have achieved a planned and controlled growth momentum, governed by public policies created with the understanding of local welfare and democracy in cooperation with local governments, citizens, and the central government. The study is purely theoretical and focuses on universal urban immunity rather than on any country example, which constitutes the strength of the study.

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## 1 Introduction

Throughout the last five centuries, humanity has established close ties between continents and cities. While these ties stimulate trade, relationships have been established and the groundwork has been laid for the spread of contagion. If all countries do not invest enough to prevent future pandemics, it is inevitable that the drawbacks will become too severe. This situation would cause less innovation in the world, less growth and much more suffering for the disadvantaged groups. Cities will be much less attractive to people if the threat of a possible future pandemic (s) is to be a permanent part of our existence (Glaeser, 2020). The cities need to be immune and be prepared like humans to be ready for future pandemics.

Epidemics are one of biological disasters. It is known that new infectious agents or controlled ones may cause outbreaks again due to many factors such as increasing anti-microbial resistance, ecological changes, chronic diseases, increasing poverty, malnutrition and weakening of the immune system due to infections such as HIV, climate change, rapid population movements, accessibility, coverage, and acceptability of basic health services (Şimşek, 2020, p.104). This situation forces countries to be prepared and resilient against these disasters. The ways to become immunized cities and countries by ensuring resilience and health should be discussed.

This research is based on the idea that the Covid-19 Pandemic chooses urban areas, and this study aimed to reveal how cities can become immune with the "Urban Immunity", "Immunized Cities" concepts both theoretically in the context of the physical and functional characteristics of the city and in the context of the assessments of the actors and citizens who manage these areas in order for the cities to be more prepared in the processes such as possible epidemic (s) and pandemic (s) that are experienced and may be experienced. In determining the health status of individuals living in a city, the physical, social, cultural, and economic conditions of the place they live are also important besides biological factors. For this reason, the health of the city is interdependent in terms of those living in the city, and the health of the city dweller in terms of the future of the city. In this context, by looking at the subject in terms of the city and the pandemic, the fundamental problematic of the pandemic "immunity" will be defined through the immunity of cities and discussed with its elements.

## 2 Urban Immunity

Immunity is defined as "resistance to disease, especially to infectious diseases". *"The immune system is a collection of molecules-cells and tissues that*

*provide resistance to infections. The coordinated reaction of this system against foreign molecules, such as microorganisms, is defined as the immune response.”* (Ankara Universitesi, 2020). Covid-19, a “new type” alien to human immunity, is a virus with a high level of destruction. The course of the disease, which results in death especially in individuals with weak immunity, has revealed the importance of the immune system of people. The main long-term struggle with the problem lies in reviewing our life and settlement forms and habits, and creating more resistant, safe, and “immune” living spaces and service processes against such viruses.

The Covid-19 pandemic has revealed the need for residential areas where people live to be immune to viral problems. There are opinions that accept cities as organisms that are born and develop and disappear over time, just like living beings. Among the urbanization theories, the Chicago School was inspired by the science of ecology and Darwin, while treating the city as a living organism and trying to define it (Wahl-Jorgensen, 2015; Serter, 2013, p.74). In this sense, the healthy functioning of all the structures that make up the city (this organism) is important for the development of the city (organism) and its survival. The basic element of the city is human. People living in healthy environments are related to the city, and the shaping of the city in a healthy structure is related to human health and resistant urban life with “high immunity”. Cities and their health are on the agenda of the World Health Organization (WHO). “Healthy Cities Project” was developed in 1987. Almost every country of Europe and 53 countries from all over the world participated in this project.

The healthy city is a city that constantly creates and develops these physical and social environments and expands community resources that enable people to mutually support each other in fulfilling all the functions of life and developing their maximum potential. The aim of a healthy city is to create a health-supportive environment, to achieve a good quality of life, to provide basic sanitation and hygiene needs and to provide access to health services (WHO, 2020a). A healthy and active city is a city that constantly creates and develops opportunities in settled and social settings and expands community resources to ensure that all its citizens are physically active in their daily life (Belli, 2019, p.1938). In this study, urban immunity is defined by taking inspiration from the WHO’s definition of a healthy city. Health is not just about the absence of a disease. It should also be carried out in cities in the context of general well-being, disease prevention-based service provision and living environment. Based on the relationship between human, health and immunity; *urban immunity can be defined as the resistance of cities to diseases*. If the basic components of immunity for humans are the community of cells and tissues, then the actors of its immunity for cities are the main functions of the city and their management system. The predictions that the epidemic will change the planning and design, energy use, mobility models, housing preferences, green areas, and transportation systems in cities around the world (Üzümlüoğlu, 2020) reveal the importance of the sub-themes mentioned for the immunized city.

Each author trying to define urban immunity with different factors. Chen and Hsu (2015, pp. 652-661) discuss urban immunity in terms of the response of the physical urban environment to external antigens. They list these antigens as follows: i) disasters caused by human or nature, ii) inappropriate urban plan/design, iii) new human activities created by new technology. They have undertaken the scrutiny of the urban landscape in different scales with a morphological approach. As a result of research: If a balanced urban system disrupted by a significant event, the physical urban form would be impacted directly, and thus will transform to response to the change. After a series of transformation, the urban system can be steadied again. They regard immunity-based procedure, which can help an urban system evolve and therefore survive.

Bristow and Mohareb (2020, pp. 300-312)'s article examining the relationship between urban immunity system and climate change, identifying those attributes of the system that are expected to be of increasing importance under climate change. When discussing urban immunity against climate change, they question three factors for urban immunity. These are i) resistance of the built environment, ii) resistance to the cascade effects of failure, iii) recoverability. Dursun (2020), who made the proposition of urbanities that strengthen immunity with the approach of "cities are as strong as their individuals" based on the perspective of the citizens, set out from the necessity of constructing the immune system within the framework of stress management and active life (in terms of making exercise) apart from eating habits. Dursun has proposed an urban model, which has a positive effect on stress management and unwittingly exercising, both to strengthen the immune system of the urbanities and to facilitate the fight against the epidemic. The ideal starting point for this urban life form is at the neighborhood level and a walkable neighborhood design is offered. Neighborhoods are ideal areas for a healthy life with their parks, playgrounds, bicycle paths and all these functions designed for exercise. Healthier urban environments will be obtained when more space is allocated for uses such as pedestrian and bicycle paths and green areas. Another important urban regulation move is density balancing. For this purpose, solutions such as decentralizing the city and reducing the density are suggested.

## **2.1 Elements of an immunized city**

The elements of immunity envisaged for human beings were considered within the context of the city, and the requirements that would make the city healthy and immune were adapted to the city. Each of the elements involved in human immunity is fictionalized for the city and arranged in a relational context. For the city, the organs of the body are matched to the upper and lower structure actors of the settlement. The sustainability of the body is matched to the sustainability of the city. Body resistance is matched to the elements that will make the city resilient. The nutrition of the body is matched to the city's resources. External factors that can harm the body are matched to the city's environment and growth. Finally, the self-management of the person (will), which will coordinate all these components, is matched to the management of the city and it is aimed to identify the sub-elements of urban immunity.

### 2.1.1 Health of the lower and upper structure of the soil

The infrastructure of the city includes steps directly related to the planning of the city. Good planning is a major element of the city's health. In addition to the opening of a settlement for housing, it is an important urban component that is necessary for the healthy development and control of the housing after the settlement (Erdin, 2011, p.2). While aesthetics and functionality were established in harmony with nature, this understanding deteriorated after the industrial revolution. While the problems such as crowding, epidemics, air pollution and congestion caused by the increase in population and density in the industrialized western cities at the end of the 1800's caused misery in the cities, infrastructure investments also came to the fore in overcoming these problems. A healthy infrastructure has started to be emphasized with systems such as urban transportation, directing the settlement out of the center, electricity, sewerage, clean water and storing rainwater. The effort to overcome the negative effects of the industrial revolution in cities has formed the scientific theoretical basis of urban planning. Especially Ebenezer Howard's (1902) "Garden City" and Daniel Burnham's (Burgess, 1997) "City Beautiful" (movements appeared in these theories as the 19th century's solution proposals as urban life being intertwined with nature and the implementation of a series of physical arrangement tools.

Environmental problems have brought applications in harmony with nature in the theme of infrastructure in cities. Green infrastructure is a design that stands out in this sense. Green infrastructure is "a developing planning and design concept based on the idea of establishing a link between green areas and built infrastructure, which is especially based on hydrological networks, whose number is decreasing, but important in terms of fulfilling ecological functions" (Benedict and McMahon, 2006). The concept of urban green infrastructure expresses the whole of multi-functional natural, semi-natural and artificial ecological systems inside and outside the city (Yılmaz and Şahin, 2020, p. 328). Considering the ecological crises as well as the correct planning in the infrastructure elements of the city, we should act with a "green field" approach that is compatible with nature rather than aesthetics or profit.

Another important element in the city is the areas located on the ground; these areas are residences, public spaces, avenues, streets, squares, and green fields. *The famous saying "Urban air frees people – Stadt luft macht frei" emphasizes the importance of cities in social life.* The effects of cities on people's social life are extremely important. Streets, squares, parks, open spaces are areas of reconciliation where city dwellers can gather, meet, express themselves individually and together, and create urban culture. Urban spaces and the meanings attributed to these spaces are among the most important elements of communication between society and individuals.

These areas, which we define as the functions of the city on the ground and in the urban growth system, are as follows: central business and commercial zone, transition zone with trade and light industry establishments, low-quality housing spaces, high-quality housing spaces, suburbs, heavy industrial areas,

and green areas (Keleş, 2016, p.126). In this context, the design of residential areas, public spaces and spaces is important. As the cities grow, the need for more housing and more residential areas arises with the crowding. With the increasing population, the most important problem area is the urban density and the rise of housing supply. Residential areas and high-rise buildings that are far from green between building blocks should be redesigned for our near future, which requires a distant life. The need to stay away from the indoor spaces that come together obliges outdoor spaces to stand out in urban design. For this reason, reconsidering social areas and residential areas, which are on the ground as well as infrastructure and offered to the use of citizens, for a healthy and immunized city should be included in plans.

### 2.1.2 Resources of the city and sustainability of the city

The local reflection of the concept of economy, which refers to activities carried out to meet human needs, is "local economy" and operates in cooperation between socio-economic actors such as labor and employer organizations and local governments (Zengin et al., 2014, p.108). Development, which we can call as the developments in the general economic structure of the country, is expressed as national development. Subcomponents of national development are regional and local development. Local development is an understanding that offers the local area / region / district the opportunity to shape its own economic future. Planning and supporting the local economy, considering the needs and potential of the region, is possible with strong national economy and strategies. The relationship between the economy and development cycle in the course from micro scale to macro scale has been constructed with a bond that supports and nurtures each other. The first step will also be taken to ensure total development when the existing resources and potentials of the local population turn into good economic indicators (income, employment, etc.). In the steps to be taken for the development move, the extent to which the local resources are used sustainably is the main problem for the future of the city, the health and immunity of the city.

Cities are areas that contain natural structures and systems and where natural structures interact with each other. The natural resources of cities and their potential to generate income and employment by transferring them to the economy damage the ecosystem of the city. The mines and marble quarries, gold exploration studies, thermal power plants are the first applications that come to mind in this sense especially in developing countries.

The concept of "sustainable urban development", as it is most mentioned in the sustainability and urbanization literature, was first defined in 1996 in the final declaration of the United Nations Istanbul Habitat II Summit. Sustainable human settlements are defined as follows: *"As we enter the twenty-first century, we encourage a positive vision for sustainable human settlements, a sense of hope for our common future, and a fully beneficial and engaging challenge where everyone can live in a safe home that promises a decent life full of dignity, health, safety, happiness and hope"* (Birleşmiş Milletler, 1996). The aim of sustainable urban development has emerged and spawned numerous urban settlement



theories, including the “Healthy City”, “Sustainable City”, “Low-Carbon City”, “Transit-Oriented City”, “Compact City”, “Smart City”, “Green City”, and “Liveable City”. The concept of the “Healthy City” is used in the field of public sanitation and city design. A Healthy City will bring many benefits, such as “a clean, safe physical environment of high quality”, “the meeting of basic needs for all the city’s people”, and “an ecosystem that is stable now and sustainable in the long term” (Tang and Lee, 2016, p. 3).

Rapid growth threatens the sustainability of cities and the quality of urban life. Mass urbanization leads to social instability, undermining the capacity of cities to be environmentally sustainable and economically successful. A new sustainability model is needed, with more incentives to save energy, reduce consumption and protect the environment. The cities of the future should be socially different environments where economic and social activities overlap, and communities are concentrated around neighborhoods. The cities of the future should be developed or adapted to ensure that their citizens are socio-economically creative and productive (Riffat et al., 2016, p.1; Nijkamp and Perrels, 1994, p. 28).

### 2.1.3 Urban resilience and strengthening of the city

Urban immunity can be attributed to the fact that the city is resilient in the face of big global issues that it is not used to. The concept of “urban resilience” is a common concept used in the implementation of global policies including Agenda 2030 (Sustainable Development Goals), Paris Agreement and New Urban Agenda as a response to major global issues such as urbanization, development, climate change and sustainability. Urban resilience is *‘the capacity of urban systems, communities, individuals, organisations and businesses to recover maintain their function and thrive in the aftermath of a shock or a stress, regardless its impact, frequency or magnitude’* (Resilient Europe, 2016, p. 6). The Covid-19 pandemic caught all the countries of the world off guard as a global issue in this sense. Countries that have taken early and drastic measures in this process, which Wuhan is one of them, have worked more effectively to combat the epidemic. The focus of urban resilience is managing disaster risk and the effects of climate change. Economic crises, pandemics and uncontrolled urbanization have shown how a city can affect its ability to sustain growth and provide services to its citizens and have increased the need for Resilient Cities. In the face of the challenges faced by cities with urban resistance, it is aimed to maintain the old state of cities as well as to adapt and change to the new situation.

For humans, resilience refers to support and lifestyle, such as regular sleep, good nutrition, regular exercise, and vaccination, while for the city, resilience refers to strengthening its existing functions and environmental factors holistically. With this sense, the capacity to adapt to new formations should be considered both in new physical formations for the city and in the sense of improving existing ones.

Strengthening the city is possible by renewing the functions of the city, keeping them healthy and supporting them. The existence of building groups or

spaces that have deteriorated or lost their function in the urban living space can cause urban diseases and harm the citizens. For this reason, just as healthy nutrition and vitamin or drug support are required to strengthen the body, it is necessary to improve the health and strengthen the immunity of places or environments that become dysfunctional at regular intervals for cities.

#### 2.1.4 Control of growth

Rapid urbanization and urban sprawl are a worldwide phenomenon. Such a growth brings along many problems such as congestion in cities, increase in the use of fossil fuels, an understanding of consumption dependent on non-renewable resources, unconscious use of resources, air pollution, water pollution, soil pollution, noise pollution and above all, climatic anomalies. Naturally, ecosystems in and around urban settlements are directly affected by this growth. The process of urbanization and growth of cities that started after the industrial revolution in the world continues.

Until the early 1980s, a single-center city model was used to explain the spatial structure of cities. This model explains a growth approach that explains that all social and economic activities are concentrated in the “central business area”, which is the only focus area, and that most residential areas are located in the city periphery. After the 1980s, new growth areas were formed in cities because of the spread of functions based on economic activity and skilled labor due to the changes in the spatial structure of metropolitan cities, the differentiation in lifestyles and the increasing number of immigrants (Sat et al., 2017, pp. 99–100). Thus, multi-centered cities, where several new centers were formed on the line extending from a single center to the periphery of the city, began to take shape as a new city form. At this point, 21st century cities are in the form of multicentric cities that show the characteristics of decentralization of economic activities, increasing mobility, mutual commuting, and spatial fragmentation of complex activities (Sat et al., 2017, pp. 99–101).

Urban growth must be controlled through development plans appropriate for the city’s immunity. This requires reflection on urban growth management models. It is stated that the growth of the city is directed without adversely affecting the welfare of the individual and society by providing sustainable and efficient land use, sufficient green areas per person, effective access and transportation network, and sufficient equipment area (Seydanlioğlu and Turgut, 2017, p. 437). In addition to determining the growth locations and quantities of the city and preparing appropriate urban development plans in the future, the control of growth is also beneficial in environmental and socio-economic terms. Therefore, forecasting urban growth reveals the necessity of preparing urban growth management plans for all cities.

#### 2.1.5 Administration of the city

While local governments are complementary to the central administration in unitary structured states; they have political and financial autonomy in states with a federative nature. The fact that the city is governed by elected local

representatives ensures the functioning of democracy at the city level. The relationship between central administration and city administration can be examined as administrative, financial, and political relations. When regulating central-local relations, the authority of administrative guardianship must be limited to legal supervision in central governments. It is expected that local governments, as the closest service units to the citizen, will better identify and present the needs of the city.

The design of the urban area and the activation of all the sub-factors mentioned are based on the city administration in terms of ensuring urban immunity. Municipalities are the stakeholders of the local development of the city for employment and economic prosperity, the actor of the urban design with the responsibilities of the plan and implementation of the infrastructure and superstructure of the city, the stakeholder of the resilient city with the responsibility to renew the old and deteriorated areas and the spatial coordinators of this growth in the growth of the city. With all these responsibilities, local governments play an important role in viral epidemics such as Covid-19, as the closest management units to the city dwellers.

Special approaches are needed as each city has certain sustainability characteristics resulting from its geographical location as well as its political, social, physical, economic, and cultural conditions (Jones, 2010, p. 12). For this reason, the point that should not be forgotten when discussing the Covid pandemic over health is the fact that Covid chose cities. With this reality, city and urban policies should be re-evaluated in this process.

### **3 Indispensable Actors for Providing Urban Immunity**

Urban immunity was defined in this study to adapt immunity, which is the basic concept of health science, to the city. A correct definition and discussion from the human-health relationship to the city-health relationship has been attempted to be made through the concept of "immunity". Based on what happened during the pandemic process, the issue has been addressed in the national framework within the following actors: i) central government, ii) local governments and iii) citizens.

#### **3.1 Central government**

Public policy is everything the state intends to do or chooses not to do (Dye, 1998, p. 3). All transactions and activities carried out by public institutions should be carried out within the scope of a certain public policy. Therefore, the extraordinary periods and crises caused by epidemics also lead states to question their capacities and public policy making processes again. As a result of the interrogations, it is seen that strong state capacity is the decisive factor in the success of crisis management. In order to talk about strong state capacity, many elements such as reliable political leadership, health, economy, supply chain, education, scientific research, transportation, effective management, digitalization, a well-functioning bureaucracy, properly and reliably

executed communication skills should be carried out successfully (Yıldız and Uzun, 2020). The government leaders need to develop a common understanding of the crisis through effective communication during crisis process.

States should design and implement both short (first phase) and medium and long term (second phase) public policies against earthquakes and epidemics. With reactive crisis management, it is aimed to solve the daily problems caused by the crisis in the short term before they grow. With proactive measures, efforts are made to eliminate the situation that caused the crisis in the medium and long term and to prevent it from happening again. With the Covid-19 pandemic, which is a global crisis, many countries had to implement reactive public policies in order to slow the spread of the disease, to gain time to improve health sector capacity, to reduce the number of deaths, to increase the morale of the society in the fight against the epidemic, and not to disrupt the functioning of the economy and the provision of basic public services (Yıldız and Uzun, 2020, p.10). In the proactive approach stage, it is necessary to get to the root of the epidemic problem. As of February 2021, the second stage has not yet been passed. The timing, scope and impact of the measures taken by each country in the face of global situations differ from each other.

WHO encourages all countries to establish national epidemic prevention strategic plans and establish pandemic control committees. WHO has listed first emergency preparedness policies in combating the epidemic to reduce the risk and be prepared against such extraordinary periods that countries may encounter (WHO, 2018a, 2018b, 2020a, 2020b). Coordination and control of healthcare management is important after evaluating the risk and severity during the epidemic process. In this process, the central government should plan the inter-agency communication processes well and execute them effectively. There are the following stages in combating the epidemic: controlling the spread of the disease, ensuring sustainability in other public services, informing the public and finally post-epidemic assessment.

It is extremely important to guide the community and health workers to manage such an epidemic correctly on a global scale. In epidemics, societies are in a state of panic and they want to get information as quickly as possible. Therefore, it is important to provide reliable sources of information. In addition, proper management of health workers and knowledge of the basic principles of infection control will reduce the burden of both infection control teams and infectious disease doctors (Kutlu, 2020, p. 331). The central government should regularly and transparently share all data from the center to protect the public from information pollution during times of emergency. Communication must be carried out effectively to promote public understanding, trust, and compliance with the measures.

### **3.2 Local governments**

Cities and urban services are one of the most important elements in ensuring urban immunity. Cities are the application areas of public policies. Cities are undoubtedly the most important actors of the locality with their legal person-

ality and partial autonomy, in cooperation with the central government. After the public policies determined by the central administration gain identity through laws, they show a flow from the center to the local within the administrative system. The importance of public policies in the city during the pandemic period is based on the close relationship between public policies and people's behavior. The pandemic has required policy implementations that include fast, sharp, and tough decisions in the context of public policy. When the relationship between public health and land use is well coordinated, the suggestion can be put forward that pandemics can be better prepared (Özürü, 2020, p. 12).

City plans are important for an immunized city. Problems that appear in the context of both spatial and urban life in which cities are located today can be associated with errors arising from the planning of the city's future. For the services carried out in cities to be carried out effectively and efficiently, cities are the subject of planning activities taking into account various factors such as economic, social, cultural, environmental and health. In the past, cities where fewer people lived in terms of population were settlements established to meet their basic needs such as protection and shelter. Today, cities have turned into social spaces where people live densely and where economic, political, cultural, and social needs are met, beyond just being physical structures that meet the need for shelter and security. Therefore, planning action for cities today appears as a complex and difficult process (Keleş, 2016, p.110). While physical, social, and economic factors were an important factor in the planning of a city for urban planners in the beginning, the creation of healthy cities has become an important agenda item in the last century, especially in the face of increasing environmental and ecological problems in urban space (Kenzer, 1999, p. 202).

The most effective activities in the pandemic process are conducted by local administrations as the closest service units to the citizen. Based on this, within the framework of the "Health in All Policies" approach of WHO (2020b), local governments, primarily responsible for cities, should plan their service processes with this understanding. In some countries, including Italy, because of the spread of the virus from one province to another, it was decided to give health, police, and emergency services to local governments.

For the pandemic that requires both short- and long-term policy responses, governments and development partners need to invest in strengthening local governments. (Rajadhyaksa, 2020). While municipalities performed routine services with their current budgets, more frequent cleaning and disinfection works and social assistance expenditures increased significantly during the pandemic period. In this process, there was a need to support municipalities in a financial sense.

In order to ensure urban immunity, i) local governments need to eliminate institutional overlaps, ii) local governments should encourage emergency preparedness, iii) local governments should develop cross-coordination and communication platforms and enhance integration to rapidly deploy citizens

and resources where they are needed most; iv) experience in the SARS and Ebola outbreaks has shown that public actions lessened the impact of the crisis. Therefore, local governments should inform citizens, especially strong reliable people from among the population, such as clergymen, about this struggle and empower citizens v) local governments must have permanent resilience, a regular system, practices, and resource flow established in good times to work effectively in times of crisis (Rajadhyaksa, 2020). According to Sennet (2020), the pandemic is the time to fear the opportunity it offers for the ruling powers, to reject the panic theater staged in the media, to find ways to overcome the widening gap between a safe middle class and the emerging working class, and to explore forms of diversity. Local authorities should be able to use technology to connect the green city with the healthy city and validate the power of the community in the city.

Local governments need to develop preventive health services aimed at making people immune and resistant to diseases to create immunized cities. Investments should be made in infrastructure, education, awareness activities and public health. Alternative service models should be developed for possible crisis periods by prioritizing the duties and responsibilities of the institution included in the municipal laws. For instance, alternative transportation options should be created to be used in times of crisis against situations such as road infrastructure, bridges, and viaducts so that transportation services are not interrupted. To address the possible climate crisis in the coming years, investments should be made in environmentally friendly transportation models, pedestrian and bicycle priority roads should be designed.

During the pandemic period, the municipalities intensely carried out precaution and hygiene activities. Within the framework of becoming an immune city, there is a serious need for technology-facility investments especially in the collection, separation, disposal, and recovery of wastes. For the collection of medical waste such as masks and gloves, whose use is increasing with the pandemic, different garbage bins should be placed in every point of the city, and medical waste sterilization facilities should be established for their disposal.

In times of crisis, communication and power outage radios, mobile generators, mobile hospitals, and tents should be kept. Measures for other urban services (such as security) should be taken in coordination with other public actors in the province. In preparation for disasters, the public should be informed, and awareness should be raised about disasters and public health. Basic first aid courses can be an example of this. Municipalities can also establish call centers to provide psychological counseling.

In the face of the possibility of repeat epidemics, the ability and economic power of city managers and cities to adapt to the situation should be increased. In the pandemic process, it is vital to take measures to reduce the effects of the epidemic and to ensure the effective use of resources. For example, it is important to be able to easily create temporary housing and health centers and to have areas and spaces to build them.

The Covid-19 pandemic has shown that the virus is spreading faster in large and well-connected cities if rapid and effective health measures are not taken. The city of New York in the USA and the city of Wuhan in China are examples of this with their crowded population (Constable, 2020). Taking strength from both technology and organizational structure, local governments should create a combination of healthy, resilient, smart, calm urban examples and even more prepared immune urban elements in their cities.

### **3.3 Citizens**

The citizens, who are the main owners of the city partly directly, partly through elected organizations (local governments), form another pillar of the immunized city. Public policies established by the central government involving local citizens and urban services provided by local governments are entirely for citizens. Every citizen deserves a quality life. The expectations of each person living in the city from a quality life and the issues that are considered rights in this direction were determined by the European Urban Rights Charter at the European Conference of Local and Regional Governments. This charter is a recommendation for member countries. Urban rights included in the charter are rules that reflect the ideal conditions to be achieved. It cannot be said that all urban dwellers in many countries of the world, including the industrialized and wealthy countries, benefit from most of these rights adequately.

There is no agreed international text on what Urban rights are. The European Urban Charter, adopted by the European Commission in 1992, is considered as a starting point in this regard (Tekeli, 2011, p. 186). According to the European Urban Charter, the ideal city is defined as follows: "The ideal city is a place of residence that protects the rights of the city dwellers, offers the people a good life style by providing the best living conditions, and accommodates many sectors and activities (traffic, life, work, recreation needs) in harmony taking its value from those who live, visit, work and trade in this city, and meet their entertainment, culture and knowledge and education needs in this city ". It is primarily the duty of local administrations and the central government to ensure the urban rights of every segment of society. Strong and autonomous local governments that are aware of the responsibility of delivering the quality service that all people deserve are required for the protection and good functioning of the rights of the city in the urban system.

Urban rights are also important in terms of being a healthy and resilient city. Even if the city where a society is made up of people who do not have the rights specified in the Urban Condition has all the other components, the quality of being resistant or healthy is open to discussion. For cities to become immune to possible pandemics or disasters, human-oriented, human-glorifying urban models should be established, as well as smart cities that glorify technology, the network. In the face of threats such as the Fair City, which emphasizes social inequalities, the focus of the struggling city should also be on people. According to Lefebvre (2018, pp. 122–123), individuals with business lines such as architects, economists, sociologists do not have the power to create

very meaningful, multi-sensory, transparent relations with their environment and themselves in the provision of urban rights. Only social life itself has this power. From this point of view, social life is important for the immunized city.

The problem concerns not only individuals but also the inability to control the capitalist order. However, the experienced disasters, crisis periods and pandemics have shown that the current urban situation is problematic for individuals. The concept that brings the citizens and urban space closer is the urban consciousness defined at the intersection point of urbanization, urbanity, and urban culture. Urbanity awareness means that the people living in the city know that they are a part of the city they live in and are aware of their responsibilities towards the city. Urbanity awareness is very important for the city to gain resistance or immunity. So much so that the citizen must fulfill his debts to the city as well as demand the rights of the urbanite. City dwellers should embrace the city and feel belonging to the city, participate in the decisions made and take part in the project development phase. To fulfill these, local administrations can organize activities, seminars, and trainings in coordination with non-governmental organizations and educational institutions in order to raise awareness of the public. By using social media effectively, local governments should inform the public of the projects they are pursuing and ensure they are involved in the process. Cultural policies and socio-cultural activities created considering the traditional and cultural characteristics of the city and the cultural character of the population increase the citizen's sense of belonging to the city. Awareness of urbanism or what needs to be done in extraordinary situations should be taught in the family and educational institutions starting from childhood.

#### **4 Conclusion**

Cities that have undergone changes and transformations under the influence of different variables for centuries are now undergoing extensive changes due to epidemics. The Covid-19 pandemic has led to a global crisis (s) in health, society, economy and many more areas. The prerequisite for the existence of cities today depends on their readiness and resilience in the face of future shocks. In this sense, it is important that cities are healthy, resistant, and immune. To ensure all these elements, all stakeholders, primarily public institutions, central administration and local governments, citizens, non-governmental organizations, and private sector, should work for the future of the globe, the future of the cities and the future of humanity.

The most important problem of city administrations in ensuring and maintaining urban immunity is urban growth. As emphasized in the urban-human immunity fiction, while the pests in the physical environment (virus, bacteria, etc.) that will harm the immune system of the people and enter the system from the outside, the biggest damage for the city is uncontrolled growth above what it should be. The density of cities is also the cause of many urban diseases. To change the existing urban density and settlement perception, it is necessary to focus on practices such as turning to horizontal architecture



and increasing green spaces and public open spaces. Therefore, central, and local administrations should immediately put this issue on their agenda for the growth of cities and the solution of the problems experienced in the control and management of this growth.

In the face of extraordinary periods or disasters such as a pandemic, the strategies to be followed by the central administration before, during and after it, the institutions in charge, the resources to be provided, and the implementation regulation should be determined in detail. An interdisciplinary and integrated approach to the situation must be followed to make countries and cities immunized at national or urban level.

In this process, local governments should acquire qualifications that are participatory, embracing all segments of the society, democratic in decision making, using technology well, being a member of international city networks, benefiting from good experience sharing, and following the latest developments. To strengthen their capacity, municipalities should strengthen their institutional structures and invest in their stakeholders, personnel, movable and immovable equipment.

Arrangements to be made in urban spaces can be listed as follows: First of all, the public spaces, which are decreasing day by day, should be arranged for the use of the citizens in an easy and accessible way not for commercial and touristic rent purposes, but for the public benefit; pedestrianization in the city, that is, planning car-free zones, determining meeting places in times of crisis, street improvement and rehabilitation, arranging parks and sports areas, providing areas for local producers and establishing producer markets, promoting the local economy, arranging alternative transportation routes (such as bicycle paths), restoring historical buildings to the public and facilitating the access of disabled people to public spaces.

The urban dweller who has reached the awareness of urbanity must trust the public administration for the immunized city. If the public believes that the public administration is competent, fair, and honest in the face of emergencies and takes its side in its struggle, city immunity increases. In the public policies regarding the city to be created from the bottom up, the society should also demand and participate in the decisions taken.

In the face of possible pandemics, epidemics, disasters and crises, all actors in the global sense need to make efforts for urban immunity. The whole world needs to believe in this and work for healthier and more resilient cities, especially public administration actors. A livable world for everyone should be created, starting from the local against global inequalities.

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# Centralization and Reduced Financial Resources: A Worrying Picture for Hungarian Municipalities<sup>1</sup>

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## ABSTRACT

The article provides an overview of governmental regulations affecting the operation and economic situation of local self-governments in Hungary during the pandemic crisis. The research covers the period from the declaration of the state of emergency in March 2020 until the end of the year. The study aims to explore the implementation of the European Charter of Local Self-Government's special provisions related to local democracy concerns in times of crisis. The article analyses the relationship between the pandemic and governmental measures that affected the economic position of local self-governments. It does not provide an objective assessment, but rather presents and analyses the relevant resources. The article is primarily based on the review of the legal framework and the relevant Constitutional Court's decisions. The analysis demonstrates that the Constitutional Court did not or only partially defended the legal interests of local self-governments. The governmental measures 'stood the test of constitutionality'. The study confirms the initial assumption that the excessive centralization process was significantly reinforced, while the position of local self-governments in the state organs system weakened. However, some measures cause concern as they highlight deeper problems in the Hungarian legal system, irrespective of the pandemic.

*Keywords:* constitutional requirements, Covid-19 pandemic crisis, European Charter of Local Self-Government, exceptional legal order, local self-government, municipal finance facilities

*JEL:* K23

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## 1 Introduction and research question

The Covid19 pandemic has put the States in an exceptionally difficult situation and notably has changed the system of traditional exercise of powers. The direct leading role and influence of governmental authorities will become much more significant, protection of human life and maintenance of the functionality of the economy requires extraordinary and coordinated measures by the government. Therefore it should be made clear, that an emergency is not favourable for autonomous structures, may arise an imbalance between vertical structures involved in the exercise of public powers at the national, regional and local level.

The paper considers those governmental measures that affect the local government system. It is fact, that the pandemic crisis has a spatial dimension as well, it may differ also across regions and municipalities within countries, both in terms of confirmed cases and related deaths.<sup>2</sup> All countries suffer the consequences of the global pandemic in a various form but there are significant differences even among different regions and districts of the same country. There is no uniformity in the effects, not even in a single unity. Different economic, employment and financial impacts could occur, the treatment of these severe problems posed a serious challenge for local self-government both from health care and economic aspects.

Operation of local self-governments especially appreciated in times of crisis, knowledge of and familiarity with local social spheres, the ability of rapid, responsive and efficient reaction for local population needs are of paramount importance during the elimination of crisis, mitigating social and economic consequences. Fundamental institutions of local democracy, the institutional and legal guarantees of democratic operation will not be treated with the same priority as previously.

However, it is important to emphasise, that the centralization of financial resources and suspension of the operation of democratically elected local self-government bodies must not jeopardize the performance of local self-governments' tasks, must not lead to deprivation of core content of the local public affairs.

Different bodies of the Council of Europe, such as the Monitoring Committee and the Congress Group of Independent Expert on European Charter of Local Self-Government have expressed concerns that the upsetting of the delicate balance between organizations exercising public powers have changed in times of crisis and the local democracy may be threatened. The effectiveness of fundamental principles of local self-government laid down in the European Charter of Local Self-Government (hereinafter: Charter) are subject of ongoing debates during the pandemic, nevertheless the situation requires tight cooperation between central governmental a local self-government organs.

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<sup>2</sup> The territorial impact of Covid-19: managing crisis across levels of government. OECD 2020. pp. 3–4.

This research aims to examine especially on one hand effectiveness of constitutional requirements, like necessity and temporality of those governmental measures, which are affecting local self-governments and on the other hand, the application of fundamental principles and values of European local democracy in times of crisis, in Hungary. The main question is, whether the governmental measures adopted in time of crisis but integrated to 'normal' legal order are conducive to mitigate the effects of pandemic crisis or deprive the main content of local public affairs. As to assess the governmental measurements correctly, it is essential, to fit these steps of the Hungarian Government to the fundamental constitutional requirements and European values of the Charter.

## **2 Methods**

The focus of the research underlying this paper is the impact of the exceptional legal order regulation on the functionality and economic position of Hungarian local self-governments. The study analyses the governmental decrees and the decisions of the Hungarian Constitutional Court through the prism of general constitutional requirements, the principles of rule of law and respect of European values of local democracy, principles of local self-governments.

The analysis exposes the governmental measures mainly from a legal aspect. It also attempts to give a short glimpse of the economic effects, as the data of final balance of last year's budget is not yet available. Therefore only assumptions can be made based on the reports.

## **3 Results of the analysis**

Hungarian Government declared the state of danger for the first time on 11 of March 2020, from this time the exceptional legal regime was applied.<sup>3</sup> Under the special legal order, the Government is authorized to issue governmental decrees. The Government made use this authorization and issued a lot of decrees to mitigate the consequences of the epidemic crisis, on one hand, to defend human lives and to ensure the health care possibilities and on the other hand to handle the economic consequences of the crisis. The study demonstrates the theoretical and constitutional background of the state of danger, nevertheless examines at least three major areas of the local self-government, like (1) the specific way in which local government operates in the state of danger, (2) the governmental measures affected the management of local public affairs and (3) the case of 'special economic zone'.

The exercise of public power at the local level, the manner of self-governance takes a particular form in the state of danger. The mayors of the municipalities are given a prominent role, therefore the operating mechanism of local self-governments deserves attention. The cases examined showed that may-

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<sup>3</sup> Government Decree 40/2020. (III.11.) on the declaration of the state of danger.

ors have acted in accordance with the local self-government law actually, except for few cases.

Local self-governments in Hungary –based on the provision of the Charter and the Fundamental Law – should enjoy wide-ranging financial autonomy. In this respect, this research concerned two elements, local taxes and ownership rights. The governmental measures related to local taxes resulted was a serious intervention into the local financial management, especially they concerned the resources of the fulfilment of voluntary tasks. Major cities were particularly hard hit by these governmental decrees. As a consequence, the vast majority of local self-governments reduced the operating costs. The population of municipalities was also adversely affected by the suspension of applications for projects and the ongoing investments.

Through the designation of the special economic zone, the Government withdrew the right to development decision-making on the economic environment of the municipality and along with it the surplus resources from local self-government.

On several occasions, the unconstitutionality and the violation of the principle of rule of law related to governmental measures there have been suspected. They were examined by the Hungarian Constitutional Court, despite all this, the infringement of the Fundamental Law was not established on any occasion. This fact could lead to the question of whether the Constitutional Court can perform its constitutional protection function, but the answer is not the subject of this paper.

## **4 Discussion: exceptional legal order and the governmental measures in the heart of the analysis**

### **4.1 Theoretical and constitutional approach of the exceptional legal order**

The hypothetical starting point of such special legal order's regulation is that the State may not handle the highly vulnerable situation with tools by their nature used in the time of peace (Till, 2019, [11]). There is no rule of law standard on the deepness and differentiation of special legal order's regulation, notwithstanding the Government is obliged to reason the introduction of derogations, permanently (Till, 2019 [14]).

However, it is also common, that in the situation of exceptional legal order the principle of separation of powers is not or only partially applied. In addition, the regulation of exceptional legal order shall provide the possibility of swift action and defence of safety and human life, nonetheless, limitations should not cause the infringement of fundamental rights and constitutional democracy. The concentration of powers shall be limited to what is necessary to handle the crisis, if the principle of rule of law is prevailing. The Government's role becomes much more decisive in times of crisis, expanding gov-



ernmental executive powers is emblematic, Parliament does not exercise any control over the activity of the Government, and therefore the ex-post norm control function of Constitutional Court is appreciated (Kiss, 2018, p. 556).

Most European constitutions contain provisions on emergencies.<sup>4</sup> Ordinarily, Constitutions of Central and Eastern European States contain rigorous and detailed rules on emergencies, as a result of previous, before the political transition authoritarian characters of States (Drinóczi, 2020, p. 3). These rules generally cover competent bodies authorised for the handling of a crisis, the framework of their competences and the time restrictions.

Hungarian constitutional level regulation also follows this regulatory method, as it could be traced in Fundamental Law of Hungary (hereinafter: Fundamental Law),<sup>5</sup> entered into force 1 January 2012. Different types of emergencies are classified and the subject of the detailed ruling. In this way, Fundamental Law contains a separate chapter on crises, entitled special legal order. The term of special legal order can be considered an umbrella term, diverse types of state of danger are constituted, as follows, (1) state of national crisis, (2) state of emergency, (3) state of preventive defence, (4) emergency response to terrorism, (5) unforeseen intrusion and (6) state of danger. The latter type, state of danger is the only stage, which shall be highlighted from the special legal order, in accordance with the topic of the study. The state of danger is the sole emergency, which is not intended the armed defence of the State. The scope of this provision is broader than the other types of special legal order, it could develop a serious constitutional concern because the basic regulation of the state of danger is laid down in Fundamental Law, but detailed rules covered in Act on catastrophes.<sup>6</sup> Due to the Fundamental Law, the main elements of the state of danger are as follows, (1) this period when the lives of citizens, their material possessions and the territory and the sovereignty of the country requires special protection, that (2) may need temporary derogation of the normal legal system and governance by regulation may be legitimized, which (3) may prioritize obligations over certain fundamental rights. According to Article 53 of Fundamental Law, the Government shall declare the state of danger and empowered to introduce emergency measures. This disposal specifies the kinds of emergency in case of state of danger, natural or industrial disaster endangering lives and property to mitigate consequences. Only the parliamentary act provides the human epidemic causing a mass disease, precisely, for this reason, the unconstitutionality of the governmental decree, and the state of danger was suspected because the human pandemic is not involved in the list of Fundamental Law (Drinóczi, 2020, p. 17; Mészáros, 2019, pp. 68-71., Mészáros, 2020, pp. 7-8; Szente, 2020, pp. 15-18).

Provisions introduced by the Government may be the adoption of decrees, suspension of the application of certain provisions or derogate provisions of law and taking the other necessary steps. The principle of temporality shall

4 European Commission for Democracy through Law (Venice Commission) CDL-STD (1995) 012, Emergency Powers. 3.

5 Fundamental Law of Hungary (25 April 2011) Special Legal Order Art. 48-54.

6 Act CXXVIII of 2011 on catastrophes.

prevail, given the decree of Government shall remain in force only for 15 days, except if the Government extends the effect of the decree – based on the authorization from Parliament.

In the case of the state of danger, the principle of *rule of law* requirements shall be applied. Public and private interests deserve protection, and therefore emergency may lead only to a temporary derogation from certain human rights and to an extraordinary division of powers.<sup>7</sup>

Special attention should be paid to principles of necessity and temporality, for the reason, that any kind of emergency measure shall be maintained as long as it is necessary and only for a certain, limited period.

A state of emergency is by definition a state which must be exceptional and temporary. So, it must also be provisional. The emergency rule must be – as it was referred to – strictly limited in time. It must last no longer than the emergency itself and cannot become permanent.<sup>8</sup>

The exceptional authorization, like the state of emergency, requires guarantees, ensured the temporary nature of the situation. These guarantees may be procedural rules, the expansion of emergency desire empowerment derived from the legislator. The most important principle is, that the special legal order must be only maintained as long as causes exist which justify the application of such measures.

Examination of effective application of the principles of necessity and temporality are particularly relevant in governmental actions affected local self-governments of Hungary. Insufficient enforcement of these principles in process of legislation would undermine local self-governments' interests and such legislation may also conflict with the European fundamental values of local democracy, local self-governance.

## 4.2 First and second 'wave' – declarations of the state of danger

Hungarian Government declared the state of danger for the first time on 11 of March 2020.<sup>9</sup> The Government issued a lot of governmental decrees, aimed to mitigate the consequences of the epidemic crisis, on one hand to defend the human lives and to ensure the health care possibilities for the involved population and on the other hand to handle the economic consequences of the crisis. In the context of the expiry review, the Government submitted the so-called authorization Bill, which was adopted on 30 March, became the Coronavirus Act 2020.<sup>10</sup> The presumption of unconstitutionality of this Act also emerged for the following reasons; the Act granted the power to the Government to extend the terms of governmental decrees until the state of

7 European Commission for Democracy through Law (Venice Commission): Rule of Law Checklist CDL-AD(2016)007-e II. A. 6. Exceptions in emergency situations. pp. 13-14.

8 Compilation of Venice Commission Opinions and Reports on States of Emergency CDL-PI(2020)003 The Compilation serves as a frame of reference. VII. Duration of the state of emergency p. 21.

9 Government Decree 40/2020. (III.11.) on the declaration of the state of danger.

10 Act XII of 2020 on Measures for the Control of Coronavirus.

danger is declared ended. It meant that the term of state of danger was undetermined and unpredictable, the authorization of Government was unlimited, as provided in the before-mentioned act, it also contained more general authorization to suspend the application of specific law provisions, derogate statutory provisions and introduces extraordinary measures, including those measures, which are affecting local self-governments. The termination of the state of danger was declared by the authorization of the parliamentary act,<sup>11</sup> with the governmental decree.<sup>12</sup> Secondly the state of danger was declared on 4 of November 2020,<sup>13</sup> this period is not over even at the closure of the study. The governmental measures in details are examined in the following chapters.

### **4.3 Exercising of public powers during pandemic at the local level – the entitled person is the mayor**

According to the Fundamental Law (Art. 31. sec. 1) in Hungary municipal governments are set up for the administration of public affairs locally and for exercising local public authority. During the pandemic, the territorial decentralization units so as local self-governments are also operating in a particular manner. The fundamental rules of this special local self-governmental operation appears in the Act on catastrophes.<sup>14</sup>

Analysing subject matters of these types of government regulations, two main groups can be separated, on one hand those provisions authorizing the mayors of local self-governments to issue decrees on detailed rules on local social relationship, and on the other hand ensuring intervention for the Government into local matters, to stabilize the economy and to prevent property damages. Especially in the spring of 2020 additional tasks were established by the Government for local self-governments concerning the handling of the pandemic crisis. Certain financial sources of local communities, such as vehicle tax, business tax, tourism tax were diminished; other liabilities, like the solidarity contribution become severe. These measures may adversely affect the compliance of mandatory and voluntary tasks.

Moreover, uniquely, the Government adopted regulation on establishing special economic zones, which is one real case that has already resulted in the withdrawal of competence, decision making power on the development of industrial issues and tax revenues from the municipality, and thus from the population of the settlement. The example illustrates the fact that requirements of the special legal order, like purpose limitation, proportionality, and temporality would be put in doubt. The question arises whether local governments deprived of important part of an local public affairs, especially own resources are necessary to comply with local responsibilities.

11 Act LVII of 2020 on Termination of State of Danger.

12 Government Decree 282/2020. (VI.17) on termination of state of danger declared on 11 March 2020.

13 Government Decree 479/2020. (XI.3.) on additional protection measures applied in time of state of danger.

14 Act CXXVIII of 2011 on catastrophes.

The first issue is the method of exercising local public powers in a crisis, when the meeting of representative bodies may be a source of risk. Local self-governments regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population. Following the provision of the Charter (Art. 3.), local self-government right is exercised by the representative body or assembly. From the view of the state of danger, two aspects deserve particular attention, the organizational questions and the subject of mayoral decisions, related to the scope of local public affairs.

According to Hungarian Local Government Law,<sup>15</sup> implementation of municipal duties shall be provided by the representative body and its entities. Municipal decisions may be made generally by the representative body, exceptionally by local referendum. The representative body may authorise the committee, the mayor, the notary or the association of local governments to make decisions on behalf of the representative body.<sup>16</sup>

During the period of the state of danger, responsibilities of municipal councils, the assembly of the city with county rights, of Capital and the county shall be exercised by the mayor, Lord Mayor and the president of county assembly (hereinafter: mayor).<sup>17</sup> This method of the exercising of local self-government powers fundamentally alters the decision-making procedures and the competences of organs (Balázs–Hoffman 2020, p. 12, Balázs – Hoffman 2021, p. 113). The role of the mayor became outstanding in this period; local tasks are performed by the mayor. In this context, the mayor is entitled to decide on the subject of local decrees or decisions. This decision-making power generally derives from government decrees; however, the mayor entitled to exercise the competence of the representative body, with the exceptions, laid down in the Act on catastrophes. The Government has issued the regulation on the rules followed if the post of mayor is vacant or the mayor is permanently prevented from performing her/his duties and the vice-mayor does not exercise mayoral functions defined by the Act on catastrophes.<sup>18</sup> The member of the representative body designated by the local decree of organization and operation or by the county government office is entitled to exercise the duties of the mayor. The resignation of the mayor and the vice-mayor and the rules applicable in this case are also determined by the Government Decree.

Having examined the mayoral decrees that the subject of these types of regulation it seems to be related to the annual budget of local self-governments: reductions on expenditures, cut of salary of local representatives, sale of certain local assets, establishing donation fund, etc.<sup>19</sup> Besides the financial rules, several city mayors ruled the fundamental provisions of community living,

15 Act CLXXIX of 2011 on Local Governments of Hungary.

16 Local Government Law Art. 41. par. (2) – (3).

17 Art. 46. par. (4) Act on catastrophes. Under this provision she/he is not empowered to adopt an opinion on reorganisation or closure of operation, supply and service districts of local government institution, if the municipality is concerned by the supply of services.

18 Government Decree 15/2021. (I.22.) on performing the mayor's duties during the state of danger.

19 Source: Nemzeti Jogszabálytár. [www.njt.hu](http://www.njt.hu) (Author's collection)

modified the organizational and operational rules of representative bodies, as well. Issuing measures, the mayor shall respect fundamental principles of rule of law, like necessity and proportionality, the prohibition of abuse of rights principle, principles of sincere cooperation, etc. Legislative authorization of the mayor shall be exercised by its social purpose; the aim of these measures shall be only to ensure the normal, smooth operation of municipalities.

Government Decrees entitled to rule the local social relations in several cases, in accordance with local public affairs.

#### **4.4 How the epidemiological measures affected the sources and responsibilities of local self-governments?**

According to the Fundamental Law and the requirements of financial autonomy, local self-governments in connection with local public affairs the municipal government may (1) exercise ownership rights concerning the property of the municipal government; (2) determine its budget and autonomously manage its financial affairs on the basis thereof; (3) have the option to engage in business activities using its assets and revenues; and (4) decide on the types and rates of local taxes, within the limit of the law.<sup>20</sup>

The budget items and authorisations of local self-government own revenues are determined in Local Government Law.<sup>21</sup> Details of regulation, such as revenues of local governments from the central budget, division of certain resources between the state and local governments are laid down in the annual budgetary acts.<sup>22</sup> In Hungary, the task financing system is effective, as a very tough accounting system. The state finances only the mandatory tasks of local self-governments established by statutory acts, and on the other side, local self-governments shall expend sources transferred from the state only for these tasks, and shall account with them. But there are some own revenues, serving the additional sources for mandatory tasks and voluntary tasks. To illustrate the reduction of local self-government sources, that affected local governments as a result of the Government measures, only a few items of local own revenues, such as (1) vehicle tax, (2) local business tax, (3) tax on tourism and (4) the car parking fees, have to be highlighted. (Balázs – Hoffman, 2021, p. 113–115)

ad. 1. The vehicle tax is a divided financial resource between the state and local government; 40 % of the collected vehicle tax belongs to the local government.<sup>23</sup> This type of revenue does not represent a significant source in the municipal budget, it is under 2 %, despite that, it is considered a freely usable source, serves the correction of sources for mandatory tasks, or may be the source of voluntary tasks.

<sup>20</sup> Fundamental Law Art. 32. par. (1), points e) – h).

<sup>21</sup> Art. 106. par. (1). local taxes, revenue, profit, dividend, interest and rent arising from own activity, undertaking and utilisation of the local government property, monetary assets received, duties, penalties, fees payable on the basis of law to the local government, other peculiar revenues of the local government and its institutes.

<sup>22</sup> Act LXXI of 2019 on Central Budget of 2020 Hungary.

<sup>23</sup> Art. 37. par (1) point a) Budgetary Act 2020

The Government adopted exceptional regulation on different rules of the 2020 central budget of Hungary in the period of state of danger.<sup>24</sup> The government decree established three different funds to serve the defence against the pandemic, the Fund against the Epidemics, the Fund of Economy Defence, and the Fund against the Epidemics from the EU. All three funds are centrally managed financial appropriation, they ensure resources against the epidemics and restarting the economy. According to the Decree of Government, the vehicle tax entirely will be the part of the Fund against the Epidemics revenues in 2020. In addition, the Parliament enacted the Act on 2021 Budgetary Act, and has not changed the rule adopted for the state of danger, the vehicle tax remains entirely the revenue of the state in next year also.

The Government Decree raised the question of unconstitutionality, therefore 54 MP-s submitted a claim to the Hungarian Constitutional Court as to establish the infringement of Hungarian Fundamental Law by the Government Decree. Their posterior norm control aimed at establishing the lack of conformity with the Fundamental Law and annulling the provision of Government Decree laying down derogations applicable to the central budget of Hungary for the year 2020 during the period of the state of danger, the distraction of vehicle tax from local governments, and the limitation of the local governments' property rights in a state of danger. Proposers invoked that the Government Decree, besides the infringement of Fundamental Law, conflicts with the international contract, namely the European Charter of Local Self-Government.<sup>25</sup>

It should be pointed out, that the Constitutional Court has limited competence in the field of reviewing public finance acts<sup>26</sup> since 2010 (Chronowski, s.a., pp. 1-11; Chronowski, 2014, pp. 3-4).<sup>27</sup> Therefore the Constitutional Court rejected the motion aimed the establishing of the infringement of international contract in its decision,<sup>28</sup> and rebuffed the motion aimed at the establishing the infringement of Fundamental Law and annulling on the following grounds. It follows from the restricted competence of the Constitutional Court, that there is no competence for the Constitutional Court to review on the substance the motion related to the distraction of tax vehicle

24 Government Decree 92/2020. (IV.6.) on different rules of 2020 central budget of Hungary in the period of state of danger.

25 Charter Art. 3. point (1), Art. 9. par. (1), (2), (4).

26 Fundamental Law Art. 37. par (4). According to the Fundamental Law insofar as the level of government debt exceeds half of the gross domestic product, the Constitutional Court shall have powers to review laws on the central budget, the implementation of the central budget, central tax revenues, duties and contributions, customs duties, and on the central government conditions for local taxes for conformity with the Fundamental Law solely as pertaining to inherent rights to life and human dignity, the right to the protection of personal data, the right to freedom of thought, freedom of conscience and freedom of religion, or the rights in connection with Hungarian citizenship, and may annul such laws only in the case of any infringement of these rights. The Constitutional Court shall have powers to annul the aforementioned laws unconditionally, if the formalities and procedures laid down by the Fundamental Law concerning the adoption and publication of those laws are not satisfied.

27 Provision on the limited power of Constitutional Court in the subject of public finance acts has been incorporated to the Former Constitution of Hungarian Republic. The purpose of the amendment of the Constitution presumably was to eliminate those constitutional reviews, could obstruct the achievement of the government's then economic policy goals.

28 Constitutional Court Decision 3234/2020. (VII. 1.) CC

from the local self-governments. In connection with the infringement of the European Charter of Local Self-Governments, the Constitutional Court stated that there is no constitutionally assessed relationship between the general fiscal and budgetary provisions of the Charter and that provisions, according to the vehicle tax shall be the source of the Fund against the Epidemics.

The Constitutional Court Decision may be of concern from several points of view, but the main question is whether the Constitutional Court is capable to comply with its function in a state of danger.

The Parliament adopted the budgetary act of 2021 in July of 2020, after the termination of the state of danger, but the regulation on vehicle tax has not changed, revenues from the vehicle tax shall be the revenue of the state, the Fund against the Epidemics.

ad. 2. Local self-governments – within the limit of the law – may impose the local business tax. All business activities pursued in the territory of a local self-government shall be subject to taxation.<sup>29</sup> It is evident, that the economic conditions of local self-government are different, therefore only certain local self-government may impose the local business tax. The so-called ‘solidarity contribution’ as a smoothing mechanism aims to compensate the differences between local self-governments’ revenues. Looking at the annual budget act of 2020 and 2021, it is clear, that the budgetary revenue on this item in 2020 was 40 billion HUF, and in 2021 cc. almost four times higher, 160 billion HUF.<sup>30</sup> Thus, the threshold of the payment obligation has been lowered; the range of contributors will be broadened considerably. This measurement may worsen the financial and economic capacity of local self-governments.

ad 3. The Government Decree related to tax on tourism laid down, that after the spent guest night the tax does not have to be paid by the taxpayer, the person obliged to collect the tax does not have to collect or pay, in the period from 26 April 2020 to 31 December 2020.<sup>31</sup>

ad 4. Ensuring the car parking free of charge from 6 April, the Government affected adversely the financial conditions of larger cities, the Capital and its districts. The vast majority of municipalities have not imposed parking fees, therefore the revenue forgone is significant only in those municipalities, which operate paying parking systems.<sup>32</sup> After that the state of danger was declared in autumn also, the car parking has become free of charge, resulting in loss of income for local self-governments concerned.

<sup>29</sup> Act C of 1990 on Local Taxes Art. 35.

<sup>30</sup> Act LXXI of 2019 on Central Budget of Hungary 2020 Appendix 2. V. Solidarity Contribution, Act XC of 2020 on Central Budget of Hungary 2021 Appendix 2. II. 56. 42.5.5. According to this provision, the certain part of local business tax enters to the financing of mandatory tasks, and the State withdraws the remaining part and recycles to the financing sources for other local self-government. The significant difference is the amount of the deduction between the two-year budget requirements, namely the amount of deduction is much the largest.

<sup>31</sup> Government Decree 140/2020 (IV.21.) on tax facilitations.

<sup>32</sup> 49 municipalities operate this type of parking system. Source: [http://njt.hu/njt.php?onkor-manyzati\\_rendeletek](http://njt.hu/njt.php?onkor-manyzati_rendeletek)

The Association of Municipalities (Települési Önkormányzatok Országos Szövetsége: TÖOSZ, hereinafter: Association), as a municipal interest association regrouping and represents the interests of more than half of Hungarian municipalities, conducted a series of surveys among its members on Government's measures. The experience of these surveys in May 2020<sup>33</sup> could be summarized, on the ground of cc. 400 responses, as follows. Measures of the Government crucially affected the financial, budgetary conditions of the local self-governments; they are not able to correct with their measures the situation. The vast majority of local self-governments reduced the operational expenditure, which could lead to staff cut, dismissals. They decided on the suspension of applications for projects and the ongoing investments. It is a sad fact, that the local self-government does not possess sufficient financial resources.

The paper attempts to demonstrate negative trends in municipalities' budgets through the examples of the Capital of Hungary and five major cities. It emphasises only those resources, like the local business tax and vehicle tax, which were fundamentally affected by the government measures. The change of revenue sources is illustrated by the initial budget headings for 2020 and 2021. It can be seen that, except in one case, the local self-governments expect a reduction in resources. Although it is also notable that the initial total budgetary data cover not only the operational but the development resources.

**Figure 1: Total Budget of the Capital and Five Major Cities 2020-2021.**  
(Sources: annual budget decrees of municipals)

municipalities	population (2021)	total budget (2020) (thousand HUF)	total budget (2021) (thousand HUF)	reduction
Budapest (capital)	1 662 996	415 004 833	388 745 291	-6%
Szeged	160 927	91 426 738	84 392 410	-8%
Debrecen	199 856	160 996 869	69 546 672	-57%
Pécs	145 468	63 815 342	49 247 066	-23%
Miskolc	155 476	40 105 474	38 062 740	-5%
Győr	123 475	53 483 093	67 058 289	25%

Source: Author's editing<sup>34</sup>

33 See results: <http://xn--tosz-5qa.hu/news/594/73/A-ToOSZ-felmereseben-resztvevo-onkormanyzatok-tobb-mint-felenek-legfeljebb-kethonapnyi-tartaleka-van/>

34 Sources: Belügyminisztérium <https://www.nyilvantarto.hu/hu/statisztikak?stat=kozerdeku>; *Local Government Decrees*: Local Government Decree 9/2020 (II. 29.) On the Annual Budget of Budapest, 2020 <https://or.njt.hu/onkormanyzati-rendelet/5494>; Local Government Decree 69/2020 (XII. 29.) on the Annual Budget of Budapest, 2021 <https://or.njt.hu/onkormanyzati-rendelet/5601>; Local Government Decree 1/2020 (II.25.) on the Annual Budget of Szeged, 2020 [https://or.njt.hu/onkormanyzati-archiv-csatolmany/cfd9bd07a-2030c61811ac52404f02443\\_903961](https://or.njt.hu/onkormanyzati-archiv-csatolmany/cfd9bd07a-2030c61811ac52404f02443_903961); Local Government Decree 1/2021 (II.01.) on the Annual Budget of Szeged, 2021 [https://or.njt.hu/onkormanyzati-archiv-csatolmany/bbcd2c66075412a445168772e236d40d\\_903770](https://or.njt.hu/onkormanyzati-archiv-csatolmany/bbcd2c66075412a445168772e236d40d_903770); Local Government Decree 4/2020 (II.13.) on the Annual Budget of Debrecen, 2020 <https://or.njt.hu/onkormanyzati-rendelet/415085>; Local Government Decree 6/2021 (II.26.) Annual Budget of Debrecen, 2021 <https://or.njt.hu/onkormanyzati-rendelet/412787>; Local Government Decree 6/2020. (III.12.) on the Annual Budget of Pécs, 2020 <https://or.njt.hu/onkormanyzati-rendelet/391741>; Local Government Decree 10/2021. (III.12.) on the Annual Budget of Pécs, 2021 <https://or.njt.hu/onkormanyzati-rendelet/392378>; Local



Examining the change of local business tax sources, at least two types of effects can be visible. Reduction in resources derived on one hand from the government measures concerning local business tax, freezing of revenues and the introduction of a non-normative balancing mechanism, but on the other hand it is resulted from the decline of economic downturn. The impact of the latter case is still difficult to quantify, during the period of budgetary planning.

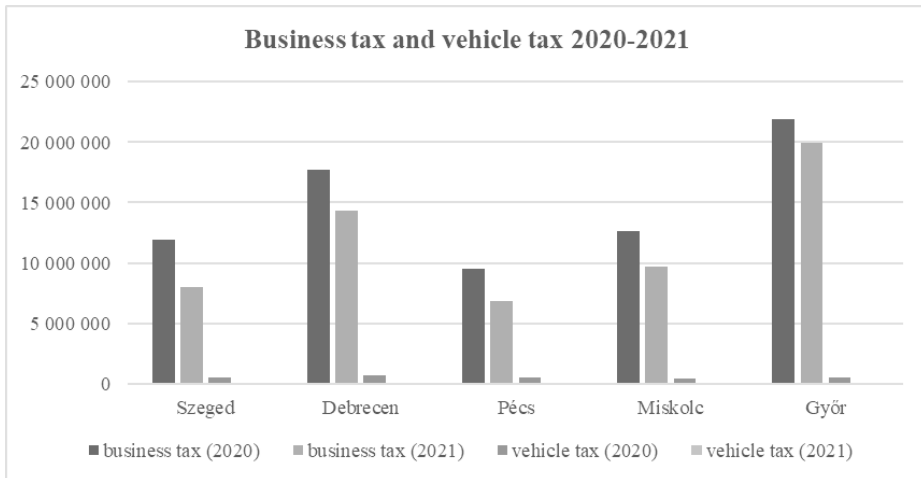
Figure 2: Business Tax and Vehicle Tax 2020-2021 (Sources: annual budget decrees of municipals)

municipalities	population (2021)	initial local business tax revenue (2020) (thousand HUF)	initial local business tax revenue (2021) (thousand HUF)	reduction	initial vehicle tax revenue (2020) (thousand HUF)	initial vehicle tax revenue (2021) (thousand HUF)	reduction
Budapest (capital)	1 662 996	174 420 000	139 320 000	-20%	no such resource	no such resource	no such resource
Szeged	160 927	11 920 000	8 000 000	-33%	500 000	0	-100%
Debrecen	199 856	17 700 000	14 350 000	-19%	720 000	0	-100%
Pécs	145 468	9 500 000	6 800 000	-28%	480 000	0	-100%
Miskolc	155 476	12 680 000	9 668 000	-24%	450 000	0	-100%
Győr	123 475	21 902 951	19 905 607	-9%	550 000	0	-100%

Source: Author's editing<sup>35</sup>

The figure below does not contain the data of Capital, because of the amount of local business tax revenue and the Capital has not resources from vehicle tax.

Figure 3: Business Tax and Vehicle Tax in Five Major Cities 2020-2021



Government Decree 5/2020 (II.27.) on the Annual Budget of Miskolc, 2020 <https://or.njt.hu/onkormanyzati-rendelet/115226>; Local Government Decree 8/2021 (III.5.) on the Annual Budget of Miskolc, 2021 <https://or.njt.hu/onkormanyzati-rendelet/111923>; Local Government Decree 3/2020. (II.28.) on the Annual Budget of Győr, 2020 <https://or.njt.hu/onkormanyzati-rendelet/275362>; Local Government Decree 10/2021. (II.23.) on the Annual Budget of Győr, 2021 <https://or.njt.hu/onkormanyzati-rendelet/277235>.

35 See the sources in footnote 35.

#### 4.5 Special economic zones: the case of Göd

This case is a particular sample of that tendency, how an exceptional government decree becomes a universal ruling on the economics of local self-government. This example suffices to illustrate, that a governmental measure does not necessarily serve the mitigating of the pandemic.

In the context of the state of danger, the Governmental Decree<sup>36</sup> authorized the Government to declare a territory or a part of the territory of the municipality as a so-called 'special economic zone'. (See also Balázs – Hoffman 2021, p. 115) Taking into account the most important conditions of such qualification, (1) the Government shall declare the investment of major importance from national economic aspect, (2) the cost of the investment may exceed 100 billion HUF and (3) the investment affects the significant part of the county. The link between the declaration and the state of danger was that this measure (4) shall be suitable to avoid mass loss of jobs and (5) established a new investment or expansion. The first zone, according to the Governmental Decree<sup>37</sup> was the city of Göd. Under the regulation, Governmental Decree aimed to defend more than 1.500 jobs threatened by the state of danger and to establish more than 2.500 new jobs.

What may be the consequences of the abovementioned Governmental Decrees on the competences of the municipality? The ownership of assets (public open spaces, public parks and public roads are non-marketable), belonging to the common property located on the territory of the special economic zone, is acquired by the county government, Pest. The decision making and regulatory competence related to the special economic zone shall belong to the county government in the following areas, (1) urban planning and building rules, (2) requirements of forming plots, (3) requirements of the settlement image, (4) heritage protection rules, (5) using and maintaining the public open spaces, regulation of traffic law, (6) fundamental rules of self-support, the fulfilment of public duties and community living.

The tasks and competences of the municipality, specified by the law, shall be performed by the county government. The state administrative functions of the mayor and the notary shall comply with the president of the county assembly and the notary of the county. Why it is a huge loss for the municipality from an economic point of view? Every local tax is imposed by the county government decree, and the income belongs to the county government as well. The most important local tax from this aspect is the local tax on operation on economic activity. The tasks of tax authorities belong to the state tax authorities. This type of revenue is not entirely a freely disposable source for the county government, because it shall be used for the support of developments of the settlements. Only 5 % may be the source of operation of the county government.

36 Governmental Decree 135/2020. (IV.17.) on necessary measures for the stability of national economic in the context of state of danger.

37 Governmental Decree 136/2020. (IV.17.) on designation a special economic zone in the administrative territory of the town of Göd. Göd is a town in Pest County, located in the agglomeration of the Capital of Hungary, Budapest. The population is approximately 18,000.

The Preamble of the Bill contained a populist motive from the general policy of the Government according to the Article XII of Fundamental Law, by which all those who can work, and who want to work, have an opportunity to work. The general objectives of the proposal are set out in the explanatory memorandum. The general reasons given for the proposal points out that the designation of special economic zones contributes to restarting the economy. Besides, the effects of these special economic zones are wider than the municipalities of location, allows more proportionate distribution of the sources within the county. The county self-government supports the development and operation of the local municipalities, based on knowledge of the economic and employment position of the county. The law on special economic zones empowers the county self-government to impose the local tax and the tax revenue-raising from this business tax is the income of the county government.

The main deficiencies of the proposal should be considered, that proposal did not contain any impact assessment on fulfilment of the mandatory and voluntary tasks, providing of public services of concerned municipalities. The insufficiency and inconsistency of the proposal could be detected in the infringement of subsidiarity and decentralization and result in further centralization as well. The decision-making competency on the designation of special economic zones, on their territory, concerned municipalities, and competent county governments belongs to the Government, which decides on investments eventually. Considering this provision, it can be concluded, that the lack of normativity and predictability is causing the serious breach of financial, economic and functional autonomy of the municipalities.

The Hungarian Parliament adopted the proposal and enacted the Act LIX of 2020 on special economic zones. The special economic zones law entered into force on 18 June 2020. The Act altered related acts on local taxes in two main ways, on one hand the local government decree of the county self-government shall be sent to the Government, and on the other hand, the tax authority who is responsible for the collection of the business tax is the state tax authority.

This ruling poses also legal problems. According to the Fundamental Law (Art. 34. par. (4)), the Government shall supervise the legality of municipal governments through the Budapest and county government offices. The Government's task in connection with this decree does not reveal from the text of the Act, however the relevant provision of Local Government Law (Art.132.) on regulatory supervision has not been modified. The empowerment with the local tax collection function the state tax authority makes clear, that the territorial, county self-government unable to perform tax administration tasks (Art. 27. par. (1)). The Local Government Law is conferring only four, defined function to county self-government; territorial development, rural development, territorial planning and coordination tasks. The competences and functionality of county self-governments located at the territorial level of public administration have not been satisfactorily arranged, especially since 2012.

The case of special economic zones was also examined by the Hungarian Constitutional Court. 59 Member of Parliament submitted a constitutional

complaint to the Constitutional Court to establish the infringement of Fundamental Law and to annul the Governmental Decree. The posterior norm control aimed at establishing the lack of conformity with Fundamental Law, principles of rule of law, prohibition of retroactive legislation, right to legal remedy, breach of the principle of hierarchy of norms and the conflict with the international treaty, the Charter. The Constitutional Court examined only the Governmental Decree on special economic zones. Given the fact, that this governmental decree has been expired, the motion was rejected for reasons of mere formalism.<sup>38</sup>

The Constitutional Court on a consequent constitutional complaint, submitted by the local self-government of Göd concerned, examined the Act LIX of 2020 on the designation of special economic zones, for a second time. The constitutional court decision was rejected as well, nevertheless a constitutional requirement was established *ex officio*.<sup>39</sup> According to the constitutional requirement established by the Constitutional Court, the Parliament must ensure budgetary and financial support proportionally for local self-governments to mandatory tasks performed by them. During the state of danger, Parliament may reduce these resources from public interest, but it must not render to exercise their function impossible and must not deprive them of their constitutionally protected powers.

This latter decision may be considered of great importance, the Constitutional Court established a paramount constitutional requirement.<sup>40</sup>

#### **4.6. How to fit governmental measures to the framework of European values of local self-governance?**

Local authorities are in the frontline of the Covid 19 emergency, as those organs are the closest to citizens and their needs. The Monitoring Committee of Council of Europe<sup>41</sup> – as a responsible body for the implementation of the European Charter of Local Self-Government – highlighted, that the competences of local self-governments were centralized during the pandemic crisis in several European states, the control of the exercise of powers by the central government has become very extensive. Local self-governments were often forced to take actions against the pandemic without adequate financial resources. These facts may establish the infringement of the Charter, therefore it was highlighted, that “Member States must apply the European Charter of Local Self-Government under any circumstances”.

The Hungarian local self-government law is traditionally based on the principles and values of European local democracy, for this reason the compatibility with the European mainstream is worth for mention. The Congress of

38 Number of the decision: 3388/2020. (X. 22.) CC.

39 Number of the case: IV/839/2020.

40 Number of the Decision 8/2021 (III.2.) CC.

41 “Member States must apply the European Charter of Local Self-Government under any circumstances”, underline Congress Co-Rapporteurs at COVID-19 event <https://www.coe.int/en/web/congress/-/-member-states-must-apply-the-european-charter-of-local-self-government-under-any-circumstances->

Local and Regional Authorities of the Council of Europe adopted the Resolution 466 (2021) and the Recommendation 453 (2021) considered the Covid-19 pandemic as a 'major crisis situation which has put the exercise of local democracy'.<sup>42</sup>

The explanatory memorandum could serve as an overview on the handling of crisis, the best practices on the local level. The Congress adopted the Recommendation considered that in the affected areas (public health, social services and economic activities) the crisis accelerated the trend towards centralisation. However, the centralization trend should be only crisis-related and temporary, during the time of emergency. The centralization should not violate principles of necessity proportionality and temporariness. The crisis management and the recovery policies should be consulted with local self-governments.

As regards the financial autonomy of local self-governments, the Recommendation emphasised to support local authorities in their efforts to tackle the public health, societal and economic challenges caused by pandemic, allocating adequate resources and ensuring coordination on measures.

The Hungarian Government faces a major challenge in complying with the Recommendation, since the trend of measures is a tough centralization, at least, until now, there is no trace of temporariness.

## **5 Conclusion**

The study attempted to give a short overview of the measures of the Hungarian Government concerned with local self-governments during the pandemic. The examination of economic decisions specified how the measures are taken have served the interests of local self-governments and their population and assessing whether the principles of rule of law and basic values of European local self-governance were respected. Another issue was the presentation of decisions related to the governmental measures of the Hungarian Constitutional Court, so that an assessment may be outlined concerning the fulfilment of constitutional requirements.

The analysis on local self-governments' revenues has confirmed, that the Government has not given any specific role for the decentralized local communities either in defence, or in the protection of economic life, excessive centralization process has taken place. The short overview of the budgets of the Capital and the five major cities showed, that the reduction of sources deeply affected their fulfilment of obligations, especially the voluntary tasks. The governmental measures do not adversely affect local authorities per se, but the population of municipalities. It is clear, that the centralisation measures and the reduction of resources could only be temporary.

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<sup>42</sup> Ensuring the respect of the European Charter of Local Self-Government in major crisis situations. <https://rm.coe.int/0900001680a19f64>

At the time of the state of danger the Government defined the development site of Samsung-factory as a special economic zone, this measure shown, that an exceptional measure has become an increasingly common practice, restricted economic conditions of concerned local self-government. The discretionary power of the Government, the lack of normativity and predictability may cause a serious breach of financial, economic and functional autonomy of local self-governments.

The analysis demonstrated that the Constitutional Court did not or only partially defended the legal interests of local self-governments. The governmental measures 'have stood the test of constitutionality, only a constitutional requirement was established related to them.

Considering the measures of Hungarian Government affected local self-governments in the light of the Recommendation 453 (2021) of the Congress, it must also be specified, that an end has to be put to further centralisation and reduction of financial resources, without infringement of the principles and values of European local democracy, especially of the Charter.

## References

- Act XII of 2020 on Measures for the Control of Coronavirus.
- Act LVII of 2020 on Termination of State of Danger.
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# Povzetki (*Summaries in Slovenian Language*)

## 1. Razlike med spoloma pri izvajanju organizacijskih sprememb v romunski javni upravi

Constantin M. Profiroiu, Alina G. Profiroiu, Corina C. Nastacă

Članek analizira razlike med spoloma pri izvajanju organizacijskih sprememb v romunski javni upravi iz vidika podrejenih in skuša ugotoviti, ali so ženske na vodstvenih položajih bolj naklonjene spremembam kot njihovi moški kolegi. Študija temelji na raziskavi mnenja, izvedeni v okviru romunske javne uprave s pomočjo vprašalnika. Rezultati kažejo, da podrejeni ženske na vodstvenih položajih dojemajo pozitivno, ne pa tudi bolje kot moške. Ženske vsekakor veljajo za naklonjene spremembam in predvsem sposobne prispevati k organizacijskim spremembam v javnih inštitucijah. Med podrejenimi ni zaznati pomembnejših razlik glede tega, kako dojemajo vodje enega ali drugega spola, so pa razlike običajno v prid moškim. Študija kaže močno povezavo med transformacijskim vodenjem in sposobnostjo za izvedbo sprememb, ki je med ženskami še bolj očitna. Slednje bi zato morale še naprej krepiti transformacijsko vedenje.

*Ključne besede:* ženske na vodstvenih položajih, prednost žensk na vodstvenih položajih, organizacijske spremembe, transformacijsko vodenje

## 2. Predvidevanja državnih in okrožnih javnih uslužbencev na vodstvenih položajih glede ukinitve okrožnih uradov državne uprave: dve strani istega kovanca?

Iva Lopižić, Romea Manojlović Toman

Januarja 2020 je Hrvaška ukinila okrožne urade državne uprave, njihove pristojnosti pa prenesla na okrožne enote lokalne samouprave. Ta organizacijska sprememba pomeni upravno decentralizacijo. Namen članka je ugotoviti, ali so različni javni uslužbenci različno predvideli učinek omenjene organizacijske spremembe in kateri dejavniki so na to vplivali. Raziskava je bila izvedena med uslužbenci državne uprave (vodje okrožnih uradov državne uprave in vodje njihovih notranjih organizacijskih enot) in uslužbenci okrožne uprave (vodje okrožnih organizacijskih enot) na podlagi vprašalnika, ki je bil sodelujočim poslan junija 2019. Statistična analiza podatkov (52-odstotna stopnja odzivnosti) kaže na statistično pomembno razliko med predvidevanji omenjenih dveh skupin glede vseh štirih kategorij učinka organizacijske spremembe (vložki, postopki, izložki in rezultati). Razlike ni bilo zgolj v enem primeru: obe skupini sta menili, da se bo vloga predstojnikov okrožij povečala. Razliko v predvidevanjih lahko pojasnimo z dvema dejavnikoma kognitivne pristranskosti: interes organizacije za preživetje in povečanje svoje moči ter negotovost (strateška,

strukturna, zaposlitvena). Z analizo predvidevanj različnih akterjev glede učinka organizacijske spremembe še pred njeno izvedbo ter z uvedbo dejavnikov kognitivne pristranskosti za razlago razlik med predvidevanji članek predstavlja akademski prispevek na področju upravne decentralizacije.

*Ključne besede:* predvidevanja javnih uslužbencev, ukinitvev okrožnih uradov državne uprave, upravna decentralizacija, dejavniki kognitivne pristranskosti

### **3. Pravna varnost – zaščitene vrednote in parcialni cilji: primer Češke**

Jana Janderová, Petra Hubálková

Pravna varnost je bistven predpogoj za avtonomijo posameznika, saj pomanjkanje pravne varnosti onemogoča načrtovanje nadaljnjih dejavnosti in sprejemanje racionalnih odločitev. Tako kot druga ključna pravna načela vsebuje aksiološko razsežnost, ki vpliva na razlago pravnih norm in uporabo zakonov, zato jo morajo spoštovati vse veje oblasti. Njen namen je spodbujati vrednote, pomembne za zaščito človekovih pravic: pravna država, varovanje legitimnih pričakovanj, splošno zaupanje v pravo, preprečevanje arbitrarnega odločanja, nedopustnost retroaktivnosti. Vendar pa se v nekaterih pravnih sistemih pojem pravne varnosti nekoliko razlikuje. Te razlike vplivajo na obseg in omejitve pravne varnosti, saj ne pomeni nujno popolne togosti in preprečuje potrebne spremembe zakonov in postopkov odločanja. Na razumno ravnovesje vpliva njena aksiološka vsebina. Članek analizira prakso razlaganja zakonov na češkem ustavnem sodišču ter opredeljuje in razvršča parcialne vrednote tega načela glede na njihov pomen. S kvalitativno analizo so bili določeni številni parcialni cilji, kvantitativna analiza pa je pokazala, da so ključni predvsem zaščita vrednot, vključno s splošnim zaupanjem v pravo, legitimnimi pričakovanji posameznikov in določeno stopnjo predvidljivosti prava, upravne prakse in sodnih odločitev (enotnost, transparentnost, notranja skladnost in stabilnost). Opredelitev omenjenih vrednot odpira prostor za nadaljnje raziskave o tem, kako in v kolikšni meri velja pričakovanja podpreti.

*Ključne besede:* dobro upravljanje, pravna varnost, legitimna pričakovanja, zloraba oblasti, javna uprava, pravna država

### **4. Izzivi pandemije covid-19 za sodelovalno upravljanje: Češka in Slovaška**

Daniel Klimovský, Ivan Malý, Juraj Nemeč

Namen članka je ugotoviti, kako sta češka in slovaška vlada zaščitili svoje države, ter presoditi, zakaj sta v prvem in drugem valu pandemije covid-19 dosegli različne rezultate. Tovrstna presoja temelji na konceptu sodelovalnega upravljanja, uporabljena pa je bila kvalitativna raziskovalna metoda. Na podlagi obsežnih študij primera in analize avtorji ugotavljajo, da so v državah z omejeno kakovostjo sodelovalnega upravljanja in brez izkušenj s podobnimi

pandemijami kratkoročna »ultra-mobilizacija« in pozitivni rezultati sicer mogoči, vendar na daljši rok niso izključeni neuspehi. V drugem valu pandemije je namreč oslabiljeno upravljanje privedlo do množičnih neuspehov. Posledično so rezultati vladnih odzivov na razširjenost covid-19 precej omejeni.

*Ključne besede:* sodelovalno upravljanje, covid-19, Češka, Slovaška

## **5. Psihološki vpliv ukrepov romunske vlade na prebivalstvo v času pandemije covid-19**

Androniceanu Armenia, Marton Doina-Mihaela

Pandemija covid-19 je povzročila globalno krizo, ki je zajela večino držav sveta. Vlade po vsem svetu so bile prisiljene sprejeti ustrezne ukrepe na različnih področjih. Romunska vlada in lokalne oblasti so oblikovale posebne ukrepe za zajezitev širjenja virusa SARS-COV-2 v Romuniji na splošno in posebej v njenem glavnem mestu Bukarešti. Namen raziskave je bil opredeliti družbeni in psihološki vpliv vladnih ukrepov na prebivalce Bukarešte. Raziskava je potekala med 28. novembrom in 25. decembrom 2020, nanaša pa se na ukrepe, ki so jih državne in lokalne oblasti sprejele od začetka pandemije covid-19 do danes. Vzorec je zajemal 421 prebivalcev Bukarešte, starih med 19 in 40 let. Podatki so bili zbrani s pomočjo spletnega vprašalnika. Druge metode za analiziranje rezultatov in preverjanje hipoteze so vključevale večkratno regresijsko analizo in določene Excelove aplikacije. Rezultati so potrdili, da imajo vladni ukrepi na prebivalce močan družbeni in psihološki vpliv, spreminjajo njihovo družbeno vedenje in vodijo do psiholoških motenj, npr. depresije in anksioznosti. Rezultati raziskave so lahko v pomoč romunskim oblastem pri preprečevanju težav med prebivalstvom in prilagajanju ukrepov za boljše odzivanje na njihove psihosocialne potrebe v času krize, povezane s pandemijo covid-19, ki je še zdaleč ni konec.

*Ključne besede:* covid-19, vladna politika, družbeni vpliv, pandemija, psihološki vpliv

## **6. Prilagoditev javne uprave pandemiji covid-19 – izkušnje Češke, Madžarske, Poljske in Slovaške**

Matej Horvat, Wojciech Piątek, Lukáš Potěšil, Krisztina F. Rozsnyai

Pandemija nalezljive bolezni covid-19 je korenito posegla v vsakdanje življenje, vključno z javno upravo. Da bi lahko še naprej opravljala svoje naloge, se je morala javna uprava tem novim izjemnim razmeram posebej prilagoditi. Glavni cilj članka je oceniti, kako so se pandemiji covid-19 prilagodili javni organi, zlasti iz vidika načela hitrosti postopka v smislu pravice do poštenega sojenja v razumnem roku. S tem namenom se članek osredotoča na prilagajanje javne uprave pandemiji v okviru držav Višegradske skupine (V4). Članek analizira digitalizacijo javne uprave iz vidika opravljanja storitev, hitrosti postopka, uporabe novih tehnologij in številnih drugih področij javnega življenja, ki jih je prizadela

pandemija. Podana je primerjava konkretnih primerov iz vseh držav V4, da bi opredelili pristope, ki so jih uporabile tamkajšnje javne uprave, ter ugotovili, kako so ti spremenili način izvajanja upravnih postopkov v javni upravi in katere vrednote so bile odločilne za te spremembe. Na podlagi omenjenih primerov članek zaključuje, da je pristop posameznih zakonodajnih organov in javnih uprav v regiji V4 sicer skladen z zakonom, vendar vključuje precej izjem.

*Ključne besede:* covid-19, elektronske komunikacije, digitalizacija javne uprave, nove tehnologije, načelo hitrosti postopka, javna uprava v državah V4

## 7. Uspešnost in učinkovitost e-uprave v EU-28 in covid-19

Sabina Hodžić, Dejan Ravšelj, Dubravka Jurlina Alibegović

Naloga vlad, zlasti v času pandemije covid-19, je zagotavljati storitve in blago za državljane ter vzdrževati gospodarski red. Pri tem je kombinacija zakonodaje, sodstva in uprave neizogibna. Poleg tega morajo javne uprave, če želijo ostati odzivne in učinkovite, prilagajati svoje delovanje in uporabljati več informacijskih in komunikacijskih tehnologij. Ta izziv se je pokazal zlasti med zaustavitvijo javnega življenja v posameznih državah, ki je vplivala na njihov družbeni in gospodarski razvoj. Rešitev za učinkovito spopadanjem s tem izzivom predstavlja uporaba e-uprave v javnem sektorju. Ta povečuje inovativnost upravljaljskih procesov, pa tudi njihovo uspešnost in učinkovitost, saj državljanom ponuja več možnosti sodelovanja. S tem razvoj e-uprave doseže tudi zrelejšo raven. Kljub navedenemu pa še vedno obstajajo velike razlike med stopnjami razvoja e-uprave v EU-28. Cilj tega članka je oceniti vpliv zrelosti e-uprave na učinkovitost in uspešnost upravljanja v EU-28. Za pridobitev empiričnih rezultatov je bila uporabljena dvostopenjska regresijska analiza najmanjših kvadratov (2SLS). Empirični rezultati kažejo, da zrelost e-uprave pozitivno in pomembno prispeva k povečanju uspešnosti in učinkovitosti upravljanja v EU-28. V regresijskem modelu posamezne stopnje ima pomembno vlogo tudi načelo pravne države. Na podlagi empiričnih rezultatov lahko ugotovimo, da je e-uprava neizogibna in bi morala med pandemijo covid-19 zagotavljati pravilno delovanje javne uprave.

*Ključne besede:* e-uprava, ukrepi, povezani s covidom-19, uspešnost upravljanja, učinkovitost upravljanja, regresijska analiza 2SLS

## 8. Pomisleki v zvezi z utemeljitvijo madžarske odločitve o izgonu v času pandemije

Erzsébet Csatlós

Zaradi (domnevnega) nezakonitega vedenja v času prestajanja karantene in ogrožanja javne politike in javne varnosti je Madžarska na začetku pandemije covid-19 iz države izgnala skupino iranskih študentov. Primer kaže na zaskrbljujoče prakse utemeljevanja odločb o izgonu ne glede na pandemijo. Z

analizo sodb o presoji upravnih odločb o izgonu članek preučuje normative okoliščine pravnih institutov, veljavnih v omenjenem primeru. S primerjavo mednarodne, evropske in madžarske ustavnosodne prakse raziskava kaže na sporno pravno prakso, pri tem pa ne presoja zgolj primera, ampak opozarja na vlogo, kakovost in pravni pomen obrazložitve upravnih aktov, na katero se v hitro spreminjajoči se zakonodaji prepogosto pozablja.

*Ključne besede:* izgon, obrazložitev odločb, pošten postopek, učinkovita pravna sredstva, procesna jamstva

## 9. Vpliv krize covid-19 na ureditev turizma na Češkem

Lukáš Novotný, Pavlína Pellešová

Članek obravnava vprašanja urejanja turizma v času krize covid-19 na Češkem. Turizem je ena od gospodarskih panog, ki jih je pandemija najbolj prizadela. Med pandemijo je država finančne izgube turističnih vodnikov sicer krila z različnimi nadomestili, vendar slednja – po mnenju vodnikov samih – niso bila zadostna. Cilj raziskave je bil ugotoviti, kako turistični vodniki gledajo na češko interventno zakonodajo na področju turizma in zakonodajne ukrepe, ki sta jih vlada in ministrstvo za regionalni razvoj sprejela v podporo turizmu. Da bi preučili njihov odnos do področne zakonodaje v povezavi s pandemijo in javno upravo, so bili turističnim delavcem, zlasti vodnikom, razdeljeni vprašalniki.

Vprašalnikom so sledili poglobljeni intervjuji. Raziskava je pokazala veliko zanimanje turističnih vodnikov za zakonodajo in trenutne razmere na Češkem, obenem pa tudi negativno mnenje o sprejetih zakonodajnih ukrepih in interventni zakonodaji. Na podlagi raziskave so bili opredeljene tudi najpomembnejše oblike pomoči: finančna pomoč, večja podpora države in občin, oprostitev plačil prispevkov socialne varnosti in zdravstvenega zavarovanja, promocija turizma in vodniških storitev, podpora v obliki nadgradnje veščin in prekvalifikacije. Empirični del raziskave, v katerem je bil uporabljen hi kvadrat test, je opozoril na povezavo med spolom in odnosom do poznavanja zakonodaje, med spolom in spremljanjem trenutnega stanja v evropski zakonodaji glede turizma in turističnih vodnikov ter med spolom in odnosom do ocenjevanja zakonodajnih ukrepov, ki sta jih sprejela češka vlada in ministrstvo za regionalni razvoj v podporo turizmu. Na koncu članka so podana tudi priporočila za izboljšanje trenutnega stanja.

*Ključne besede:* turistični vodnik, javna uprava, covid-19, turizem, Češka, upravljanje

## 10. Delo v javni upravi izven rednega delovnega časa med pandemijo covid-19

Špela Mar, Jernej Buzeti

Z izbruhom covid-19 je bila marca 2020 razglašena pandemija in države so uvedle različne ukrepe za njeno premagovanje. Posledično so zaposleni inten-

zivneje delali od doma s pomočjo informacijskih in komunikacijskih tehnologij (IKT), kar je pomembno vplivalo na način dela, dolžino delovnika in čas, namenjen počitku. Namen tega članka je ugotoviti, ali so v obdobju pandemije javni uslužbenci v slovenski javni upravi delali izven rednega delovnega časa. To je prva tovrstna raziskava v slovenski javni upravi. Uporabljena sta bila kvantitativna metoda in spletni vprašalnik, izveden februarja 2021, s katerim so bili pridobljeni podatki 1676 zaposlenih v javni upravi. Rezultati raziskave kažejo, da je v času pandemije 80 odstotkov anketirancev opravljalo svoje delo izven rednega delovnega časa. Javni uslužbenci so precej pogosto delali pozno popoldne, torej po koncu delovnika, pa tudi ob koncih tedna. Zanimivo je tudi dejstvo, da je približno 10 odstotkov javnih uslužbencev delalo celo v času letnega dopusta in bolniškega staleža. Rezultati raziskave prispevajo k teoretičnemu in praktičnemu znanju o delovni dejavnosti izven rednega delovnega časa.

*Ključne besede:* covid-19, informacijska in komunikacijska tehnologija (IKT), javna uprava, javni uslužbenci, delo izven rednega delovnega časa, delo od doma

## **11. Urbana imunost proti pandemiji v okviru javne uprave, mest in državljanov**

**Nilüfer Negiz, Pınar Savaş-Yavuzçehre**

Okoliščine v zvezi s pandemijo covid-19 kažejo, da so izbruhi neizogibni in da so nove pandemije zelo verjetne. Pred njimi se morajo tako kot ljudje zaščititi tudi mesta, zato velja ponovno pretehtati obstoječe mestne in prostorske prakse. Cilj študije je raziskati pripravljenost mest na morebitne pandemije ali izredne razmere v okviru koncepta t. i. urbane imunosti. Na podlagi elementov, potrebnih za zagotavljanje imunosti pri ljudeh, članek v okviru upravljanja mest preučuje pogoje za urbano imunost, stanje infrastrukture, vire in trajnost mesta, njegovo odpornost in nadzorovano rast. Poleg tega opredeljuje tri nujne deležnike za doseganje urbane imunosti: i) državne oblasti, ii) lokalne oblasti in iii) državljanje. Imunizirana mesta lahko opredelimo kot mesta z zdravo infrastrukturo, ki stremijo k ekonomski in ekološki trajnosti, dosegajo načrtovan in nadzorovan zagon rasti, urejajo javne politike, oblikovane z razumevanjem za lokalno blaginjo in demokracijo v sodelovanju z lokalnimi oblastmi, državljanji in državo. Študija je zgolj teoretična in se osredotoča na zagotavljanje univerzalne urbane imunosti in ne na katero koli državo, kar je vsekakor njena prednost.

*Ključne besede:* urbana imunost, imunizirano mesto, pandemija, covid-19, lokalna samouprava, državna uprava



## 12. Centralizacija in zmanjšanje finančnih sredstev: zaskrbljujoči obeti za madžarske občine

Judit Siket

Članek podaja pregled vladnih predpisov, ki so vplivali na delovanje in ekonomski položaj lokalnih samouprav na Madžarskem med pandemijo covid-19. Raziskava zajema obdobje od razglasitve izrednega stanja marca 2020 do konca leta. Cilj študije je bil raziskati izvajanje posebnih določb Evropske listine lokalne samouprave, povezanih z vprašanji lokalne demokracije v kriznih časih. Članek analizira razmerje med pandemijo in vladnimi ukrepi, ki so vplivali na ekonomski položaj lokalnih samouprav. Članek ne podaja objektivne ocene, temveč predstavlja in analizira ustrezne vire. Temelji predvsem na pregledu pravnega okvira in ustreznih odločb ustavnega sodišča. Analiza tako kaže, da ustavno sodišče ni podprlo ali pa je le delno podprlo pravne interese lokalnih samouprav, vladni ukrepi pa so »prestali preizkus ustavnosti«. Študija potrjuje prvotno domnevo, da se je pretirana centralizacija dodatno okrepila, medtem ko je položaj lokalnih samouprav v sistemu državne uprave oslabel. Nekateri ukrepi še posebej vzbujajo skrb, saj kažejo na globlje težave v madžarskem pravnem sistemu, ne glede na pandemijo.

*Ključne besede:* ustavne zahteve, pandemija covid-19, Evropska listina lokalne samouprave, izredni pravni red, lokalna samouprava, financiranje občin



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In March 2020, CEPAR started to cooperate in the pilot project organised by Research Data Alliance Node Slovenia (RDA Node). The project aims to support scientific publishers and journals based in Slovenia in introducing research data citations in scientific publications and the open access to primary data in their policies. In this context, RDA Node has developed draft Guidelines for the implementation of scientific publishing policies, based on existing international frameworks and recommendations.<sup>1</sup>

Consequently, the guidelines for CEPAR authors have been extended in order to comply to FAIR Guiding Principles for scientific data management and stewardship (2016), in force since May 2020. FAIR data are data that fulfills principles of *findability*, *accessibility*, *interoperability*, and *reusability*. Data that articles use as the base of their findings should be easy to find for both humans and computers. Once the user finds the required data, she needs to know how they can be accessed, possibly including authentication and authorisation. The data usually need to be integrated with other data; in addition, the data need to interoperate with applications or workflows for analysis, storage, and processing. The ultimate goal of FAIR is to optimise the reuse of data; to achieve this, data should be well-described so that they can be replicated and/or combined in different settings. The principles refer to three types of entities: data, metadata (information about the digital object), and data repository infrastructure.

Access to research data meets interests of various stakeholders in scientific publishing. Among others, such an approach enhances sound research in submitted manuscripts since data are transparent and can be reviewed and further referred to. In addition, it increases citations of published articles, and enables easier and broader knowledge dissemination, particularly when research is publicly co-financed. Hence, European Union and national research agencies enforce these principles through Open Science initiatives and assessments; however, also taking into account necessary exceptions.

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<sup>1</sup> <https://zenodo.org/record/3757282#.XrLHLGj7SM8>

The main improvements in CEPAR guidelines are therefore the following:

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