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**10th CONFERENCE OF INTERDISCIPLINARY
RESEARCH ON REAL ESTATE**

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RESEARCH ON REAL ESTATE
LJUBLJANA, SLOVENIA**

October, 2025

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The impact of digital transformation on healthcare real estate

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Introduction

The impact of ageing on public health will only increase. More new forms of housing are needed in which older people can live together, help each other and receive attention. Many older people are still active after retirement age. It is therefore important that older people can continue to participate in society. In 2050, there will be approximately 4.8 million people aged 65 and over, of whom 1.94 million will be aged 80 or older. Currently, there are 3.6 million people aged 65 and over, including almost 900,000 people aged 80 and over (RIVM 2024).

Due to the ageing population, the related increase in demand for care and a declining number of professionals, more and more complex care will be provided in the home. This can only be achieved by investing in technology and aids that facilitate self-reliance and “living at home for longer”. This is changing elderly care and, with it, care real estate must also change. There is a need for new, but also different, housing concepts.

Financial pressure

In terms of policy, a lot of attention is being paid to expanding clustered housing for elderly care. The question is whether this will put pressure on the inclusivity of the elderly. In addition, elderly care within the local domain will have to deal with what is being called the “ravine year” of 2026. Innovation that does not generate money but costs money is therefore also coming under pressure (Stolper 2024)..

Expenditure trends

The number of vulnerable elderly people will increase significantly in the future. Elderly care already relies heavily on care provided by partners, family members and volunteers. In the future, the burden of disease will increasingly consist of age-related diseases, (chronic) conditions that mainly occur in old age. This calls for new approaches in health policy and society. In addition to disease prevention and care, more attention needs to be paid to health promotion.

In the future, healthcare expenditure will increase by 30 billion euros to a level of 150 billion euros in 2050, solely due to demographic developments (ageing and population growth). If the trend in healthcare expenditure continues, we will see an even greater increase, to more than 200 billion euros in 2050. Forty percent of future growth is due to demographic developments and 60% to other developments.

In elderly care, for example, a sharp increase in healthcare expenditure is expected, which will be entirely attributable to ageing. In the case of dementia, for example, the increase in the care required is entirely due to demographic developments, namely ageing. This will be even more the case in the future (RIVM 2024).

Connecting housing and care

The desired innovative forms of housing (real estate transition) are lagging behind. There are hardly any alternatives between completely independent living and nursing homes. It is precisely the connection between care and differentiated forms of housing (within existing buildings) that makes innovation possible. This involves the use of technology and AI.

Housing and care are becoming increasingly connected. The availability of care, services and facilities adds value for the elderly, which in turn increases the value of real estate. Essential in this perspective is that careful consideration is given to how social cohesion should be achieved. A lack of social cohesion in neighborhoods and communities makes it difficult to optimize the functioning of existing facilities. It is not about creating new clustered housing forms, but rather about the livability of existing and future neighborhoods. A modern senior citizen policy is both flexible and makes use of standardized solutions. These solutions lead to optimal cost-effectiveness while taking into account the wishes of senior citizens (Architecten Cie 2024).

Life expectancy

Life expectancy is expected to rise to 86.5 years by 2050. In 2022, life expectancy was 81.6 years. Women live longer than men on average, both now and in the future. The difference in life expectancy between men and women is expected to remain at just over 3 years. The increase in life expectancy is also accompanied by an increase in healthy life expectancy. This means that the extra years we gain are also healthy years. However, healthy life expectancy is still 10 to 18 years lower than life expectancy. A higher healthy life expectancy enables us to continue contributing to society into old age. For example, four in ten 65- to 75-year-olds now do voluntary work.

Chronic conditions

The less positive news is that between now and 2050, the number of people with a chronic condition will rise from 10.5 to 12 million. Age-related diseases in particular will occupy a more prominent place in the top ten conditions. Multimorbidity will also become more common in the future. This means that people will more often have several diseases at the same time. Of the 12 million people with a condition in 2050, a larger proportion than is currently the case will have three or more conditions. This group with three or more conditions will increase by approximately 1 million people to a total of 4.3 million. The increase is mainly among older people (RIVM 2024).

Informal care

The number of elderly people requiring informal care will double between now and 2050. The increase in demand will be particularly noticeable among the over-75s. The number of informal carers will lag behind. 16% of the 65 to 75 age group provide informal care. However, the number of people who need informal care will increase significantly compared to the number of people who can provide that care. The bottlenecks that this creates are exacerbated by the fact that people often have to combine informal care with work.

Elderly care already relies heavily on care provided by partners, family members and volunteers. This will be even more the case in the future. Two groups are likely to provide a lot of informal care. Firstly, working informal carers. In addition, people in the third stage of life who are in good health will be able to help people in the fourth stage of life. They can do this by caring for their own partner, but also as volunteers in care or by participating in care cooperatives or group living.

Independent at home

In addition to older people who need intensive care due to dementia and other seriously limiting health problems, there will also be a growing group of older people who continue to live independently. This group will have to deal with all kinds of chronic conditions, loneliness and limitations in hearing, vision

and mobility. For this group, it is important to have strong basic care close to where people live (Jeninga en Woldendorp 2021).

This involves primary care, including general practitioner care, paramedical care and nursing care. It also involves the presence of a broad social base, which is crucial for people's well-being. This includes opportunities to meet and mutual assistance from neighbors. In order to be able to provide care close to people, it is therefore important to pay more attention to the physical and social aspects of a neighborhood or district (Woldendorp 2021).

Because people will continue to live independently for longer, this will place demands on the homes themselves. This development calls for more lifetime homes and other forms of housing, in which several generations live together (our SprengheerParc concept) or groups of the same age. When planning spatial developments, such as large-scale housing construction and urban densification, it is important to take into account the consequences for the health of residents. The same applies to the energy transition.

Personal control

Older people often know best what they need in this regard. It is therefore important to identify their needs and priorities so that they can retain more control. It goes without saying that these needs are not the same for everyone in a diverse society. That is why a balance is needed between personal wishes and customization on the one hand, and what can be done in the same way for everyone on the other.

Personal control is also important in the fourth stage of life. Before the fourth stage of life, it is necessary to pay attention to the final period of life, in which people become more vulnerable and often face more problems. Here too, attention must be paid to matters outside the realm of care, such as social networks, housing and leisure. Quality of life must be paramount in order to ensure a dignified end of life.

It is gradually becoming clear that the current healthcare system is no longer future-proof (Jeninga en Woldendorp 2022). We are searching for solutions. Two directions are often mentioned in this regard:

- Redefining professional roles: emphasis on prevention; strengthening self-reliance; more room for informal care; strengthening social cohesion
- Redefining housing, care and technology: use of digitization, deployment of technology; new housing concepts

How do you integrate housing and technology with care models? We are trying to work out a number of principles for this. It starts with a user-oriented approach. When (re)designing, the emphasis is on comfort and user satisfaction. The built environment is accessible to different target groups and flexible in use and adaptation.

In the current context, this naturally involves sustainable design: working with sustainable materials and techniques. There is a strong focus on energy saving and CO₂ reduction. There is a good balance between cost and quality. Technology is used to ensure a healthy indoor climate. The impact of process digitization on “smart homes” is growing (Woldendorp 2018; 2021). The integration process requires chain cooperation aimed at process optimization.

This translates, for example, into the use of sensors for real-time data collection on energy consumption, air quality, etc. From both an efficiency and effectiveness perspective, it is desirable to work with standards for the use of sensor technology. This way of thinking (and acting) results in a more liveable environment for different generations (Ferdous and Bell 2020).

Urban Facility Management

Urban Facility Management (UFM) plays a crucial role in the management of infrastructure and buildings. Smart cities use data and real-time monitoring to optimize the management of energy, safety and infrastructure. Sensor technology and artificial intelligence (AI) make it possible to manage buildings and facilities in cities more efficiently.

UFM focuses strongly on optimizing the costs of managing urban facilities. This can be achieved through better maintenance planning, reducing waste and improving the lifespan of buildings and infrastructure.

From a user experience perspective, attention is paid to the well-being of residents and visitors, for example by providing clean, safe and well-maintained public spaces and buildings. UFM plays an

important role in senior housing by organizing the management of buildings and facilities in such a way that the comfort, safety and well-being of the elderly are guaranteed. This requires a systemic approach, with a focus on technology, sustainability, health and care. Systems are implemented to monitor safety. Senior housing often has a constant demand for energy for heating, lighting and air conditioning. UFM can implement energy-saving measures, such as solar panels, insulation and energy-efficient appliances, to optimize energy consumption while reducing costs.

Seniors must have easy access to other necessary services, such as supermarkets, pharmacies, and medical facilities. Creating new neighborhoods requires not only the construction of housing, but also the implementation of facilities to support the needs of the new residents. UFM takes into account the planning of the environment to ensure good transport connections and proximity to these services. This means that the built environment is designed to meet the specific needs of older people, with an emphasis on safety, comfort, health, sustainability, and cost management.

2. Digital transformation

Everywhere, people are trying to achieve a successful digital transformation (Leewrick and Hatamleh 2024). However, this is proving to be quite difficult. What are the key success factors?

- Ownership among managers and employees: creating a sense of ownership that goes beyond mere support, so that those involved actively contribute to the change.
- Trusting relationships within the organization: building trust between different organizational levels to promote cooperation and open communication.
- Effective two-way communication: facilitating dialogue between the designers of the technological change and the implementing staff, creating mutual understanding and alignment.

The main pitfalls are: (too) early involvement of end users, having a clear vision: an inspiring vision alone is insufficient without concrete implementation strategies, rigid plans can limit flexibility and are not always effective in dynamic transformation environments (Liebowitz 2025).

What should we do? People are more inclined to change their behavior when they feel they have autonomy and influence. Bottom-up commitment ensures practical solutions and better adaptation to the local context. Trust increases the willingness to share, learn and experiment. Trust between departments, layers and roles is crucial in this regard to prevent misunderstandings, resistance and noise.

Information, ideas and concerns must be able to flow both top-down and bottom-up. Communication is therefore not just about “explaining”, but above all about “understanding how it really works” on the work floor (Djavanshir 2023). The design of the transformation is therefore iteratively tuned with practical feedback. A successful digital transformation has a design with room for meaning, emotion, resistance and ownership.

What should we avoid? Involving end users in the early design phase without clarity about their role or influence. This can lead to confusion, frustration or token participation: input is requested but not seriously processed. A vision that is not translated into behavior, processes and choices remains abstract. Often, the vision is then not believed or is perceived as vague (Blok 2024).

In complex digital transformation, the context is constantly changing. Overly rigid planning excludes experimentation, adjustment and feedback. It is about achieving goals that provide direction, without overly strict planning agreements (Budzier 2024).

In summary, an effective change strategy is based on behavioral change, ownership, collaboration and trust.

We will now outline a step-by-step plan for developing an AI strategy (Jeninga en Woldendorp 2022; Oudi and Karami 2025).

- Phase 1: Explore the strategic value of AI. The goal is to understand what AI can do for your organization. Activities: gain insight into the basic principles of (generative) AI, how competitors use AI, assess your current business model for AI potential (production, service, customer relations, etc.).
- Phase 2: Identify areas of application. This involves identifying where AI can really make a difference. Activities: focus on processes with repetitive tasks, large amounts of data, or customer interaction. Develop a value matrix to prioritize ideas (impact versus feasibility).

- Phase 3: Develop AI capabilities. The organization is prepared for AI adoption. Activities: put together a multidisciplinary AI team, invest in data literacy and AI training for employees, select suppliers.
- Phase 4: Start of experiments and prototypes. This involves testing AI in practice with limited risks. Activities: select use cases and develop MVPs (Minimum Viable Products).
- Phase 5: Integrating ethics and governance. This involves fulfilling preconditions that ensure the responsible use of AI. Activities: drawing up AI principles (transparency, bias avoidance), ensuring compliance with regulations (such as AVG/GDPR, EU AI Act).
- Phase 6: Scaling up and embedding in the organization. This involves making AI a structural part of the organization. Activities: reviewing your mission, structure and value chain in light of AI opportunities, successful pilots are implemented organization-wide.

If we take a closer look at AI, it is not so much a new technology as a new form of intelligence—unpredictable, sometimes opaque and prone to bias (Gibson and Healy 2025). It therefore requires us to adopt an approach similar to that of working with a complex human colleague.

In our usual view of technology (think: software, machines), behavior is predictable, controllable and transparent. You know what will happen when you press a button. With AI, however, especially with systems such as machine learning and large language models, behavior is often unpredictable (you don't know exactly what decision or output the system will generate), the logic is sometimes opaque (think of 'black box' algorithms) and it contains human biases (because it trains on human data).

AI processes information and makes decisions in ways that resemble human thought patterns. AI learns from data, just as humans learn from experience. AI can function independently, such as performing tasks or generating answers without direct human control. This does not mean, however, that we are dealing with an entity with consciousness. In practice, this means, among other things, that it is necessary to check whether the work has been done properly and that new ethical questions arise (who is responsible if things go wrong?).

3. Profitability of healthcare real estate

Traditional real estate transactions are slow, bureaucratic and expensive due to the need for various intermediaries, such as:

- Notaries (for property verification and contracts)
- Estate agents (for mediation between buyer and seller)
- Banks (for financing and payments)
- Government agencies (for registration of property transfers)

Regulations (still lacking)

While blockchain offers a solution to these problems by decentralizing, securing and automating property registration and transaction processing, the government and legal authorities still need to develop blockchain legislation to make property transfers via blockchain legally valid (Veuger and Woldendorp 2021).

Added value

What is the added value of working with Blockchain? Blockchain records property titles in an immutable, cryptographically secured ledger. The ownership history is always accessible and cannot be manipulated. Smart contracts automatically execute property transfers once the conditions are met (e.g. payment received). This eliminates the need for notaries or legal intermediaries, reducing transaction time and costs. Buyers and investors can verify the ownership history directly via a blockchain register. Land registry data is automatically updated, reducing errors and fraud. Every transaction is visible to authorized parties.

Tokenization

Real estate is capital-intensive, meaning that only a small portion of the population can invest in it. Tokenization makes it possible to split real estate into digital tokens that investors can purchase, making

real estate more accessible. Tokenization means that ownership rights are converted into digital tokens on a blockchain. This allows investors to purchase small portions of a property, similar to shares. These tokens can be traded on blockchain marketplaces.

Foreign examples

There are already examples abroad:

- RealT (<https://realt.co/>) is a platform where investors can purchase real estate based on tokenization and earn returns based on rental income.
- The Rentberry platform (<https://rentberry.com/>) uses blockchain technology to manage rental transactions and security deposits securely and transparently.
- Propy (<https://propy.com/home/>) is a blockchain-based real estate marketplace where properties are traded worldwide without notaries or estate agents.
- In Dubai's Smart City project (<https://www.digitaldubai.ae/initiatives>), smart contracts are used for property registration and rental management, making transactions 60% faster and cheaper.

Making healthcare real estate more profitable is a complex challenge. InfraVitaal works with Loxone technology. Our IVO Smart Box can be used with security systems such as cameras, door locks and fire or gas detectors. We work with sensors that detect movement and falls. In the event of a fall, the system can immediately send an alert to care staff or family members. We can set it up to remind seniors of important tasks, such as taking medication, through visual or auditory alerts. The lighting turns on and off automatically, depending on the presence of residents in a room. This is useful for seniors with limited mobility, so they never have to move around in the dark.

Our system also regulates the heating and cooling of the home. This ensures an optimal indoor climate without residents having to manually adjust the thermostat. The system uses sensors that measure the temperature and humidity in different rooms and automatically adjust the heating or cooling so that it is always comfortable. In addition, our system helps to save energy by only heating or cooling when necessary.

Sensors allow us to monitor residents' sleep by tracking movement. This information can be shared with healthcare professionals to identify health problems at an early stage. Seniors can easily stay in touch with their family members or caregivers, for example through video calls, voice-activated messages or notifications.

InfraVitaal's approach enables seniors to live independently for longer in a safe and comfortable environment, with support available when needed.

Investing in our energy-efficient technology (Smartbox) reduces operating costs. This can reduce annual energy costs, which increases the profitability of healthcare real estate. By monitoring and optimizing energy consumption, energy costs can be significantly reduced.

By focusing on sustainability, healthcare real estate can qualify for various subsidies and tax benefits, which increases profitability. We have a lot of experience with this.

The Smartbox (smart hardware and software that controls lighting, heating and other services, for example) can improve the resident experience and reduce costs through more efficient energy consumption. Seniors can benefit from personalized environments (e.g. via voice control).

By working with data analysis, healthcare property managers can predict maintenance needs before they arise. This is done by analyzing data from sensors. The ability to customize specific elements of buildings makes it easier to adapt healthcare properties to the needs of residents. We help healthcare institutions, housing associations and healthcare property managers to optimize their buildings through:

- Smart sensors for temperature, air quality and other environmental factors.
- Digital transformation of buildings, focused on energy regulation and cost savings.

InfraVitaal's focus is on making healthcare real estate more sustainable and developing new, profitable healthcare models. Our technology offers the following benefits for healthcare real estate:

- Energy efficiency: Real-time monitoring of energy consumption and optimization and control of heating, cooling and lighting.
- Healthy indoor climate: Sensors allow us to measure and adjust air quality, temperature and humidity in real time for a healthy and comfortable indoor climate.

Our sensor technology not only helps to reduce operational costs, but also increases the quality of care and resident satisfaction.

At InfraVitaal, we offer tailor-made solutions that precisely meet the needs of healthcare real estate. There are various technologies that can help make healthcare real estate more profitable, both by reducing operational costs and by improving the efficiency and quality of care.

Healthcare real estate can be more profitable when it is part of a larger neighborhood-oriented healthcare model, in which healthcare institutions collaborate with other local healthcare providers to share common services and facilities. Redeveloping or renovating old healthcare real estate can increase functionality, improve energy efficiency and make it more attractive to healthcare providers and residents. This can significantly increase the value of the property.

Making real estate in the healthcare sector profitable requires a strategic approach that balances both financial feasibility and the healthcare needs of residents and patients. Healthcare real estate (such as nursing homes, hospitals, health centers or senior housing) is often a capital-intensive sector. Healthcare real estate can become more profitable by designing spaces to be multifunctional, so that they can be used for different purposes. For example, a space used for physiotherapy during the day can be used for other healthcare activities or even community meetings in the evening.

Integrating technology can reduce healthcare costs in the long term through more efficient management and better care provision. This can also contribute to the attractiveness of the healthcare institution for both residents and investors (Lamarra 2023) .

In the field of project development in construction, Generative AI can quickly generate dozens of design variants based on input such as plot size, zoning plan, sunlight exposure, parking standards and ESG objectives. AI models automatically analyses zoning plans and nitrogen regulations and indicate what is or is not feasible at a location.

Predictive AI uses data from previous projects (rental prices, sales speed, demographic development, mobility) to score locations on development potential. AI models simulate construction phases and identify risks of delays or failure costs due to weather conditions, delivery problems or mutual planning conflicts. In collaboration with subcontractors and municipalities, AI can help to automatically check contract documents and technical specifications for inconsistencies or legal pitfalls.

The status quo of healthcare real estate is characterized by: healthcare institutions working with existing buildings that are often outdated, models that are mostly based on traditional intramural care, land positions, ownership structures and financing that are long-term and relatively rigid, and stakeholders (care providers, municipalities, residents) who are accustomed to the status quo.

Disruption

Change begins to emerge by introducing the future of assisted living (Bateman 2023). Disruption arises because waiting lists are growing and staff are becoming increasingly scarce. There is a need for new forms of assisted living (e.g. clustered assisted living, lifetime living). The energy transition is placing new demands on buildings.

Adoption

In the adoption phase, parties explore new avenues. Projects are launched with innovative residential care concepts (e.g. care neighborhoods, senior cooperatives, modular construction). Support is gained among stakeholders: residents, municipalities, architects, care organizations. Experiments are set up: how can we combine care and living differently?

Innovation

In the innovation phase, new models become leading. Integrated residential care concepts become the norm. Real estate is developed based on the living environment, not just the building itself. An ecosystem emerges around living, care, well-being and technology ('The neighborhood as an ecosystem').

4. Developing inclusive neighborhoods

Knowledge is not just about analytical thinking or hard data, but also about involving intuition, experience, body language, emotions, and even collective wisdom in how you perceive situations and respond to them. Instead of jumping in immediately, you can also try to experience what is (really) going on. It also helps to have a group with different backgrounds reflect on a specific situation.

- **Neighbourhood**

An example is striving for an inclusive neighborhood in which attempts are made to connect with different target groups. You can start by asking why certain groups do not really feel involved. You can find out by simply walking through the neighborhood without a clear agenda. The trick is to write down your impressions without analyzing them.

- **Home**

Asking different people questions such as ‘When did you feel at home here? And when did you not?’ provides insights. Avoid analysis and just collect stories. Based on those stories, you can, for example, create a metaphor for the neighborhood: the neighborhood is like an orchestra – everyone plays their own instrument, and when they are well attuned to each other, harmony is created.

- **Harmony**

Bring the neighborhood further into focus by exploring the metaphor in small groups. Where is rhythm lacking and harmony missing? What do you feel in certain streets? Which harmony is surprising? Which of these insights can lead to action? The point is always to test your knowledge of the model of an inclusive neighborhood against your understanding of such a neighborhood.

An innovative approach is the design-oriented approach, in which leaders see the future as a design problem: an opportunity that can be clearly defined, studied and addressed (Baldwin 2024). By approaching challenges as design problems, you can identify core issues, define goals and select appropriate strategies to drive transformative change.

Design-driven leadership means thinking like a designer when tackling challenges (Woldendorp, De Groot, Woldendorp and Boven 2022). Instead of sticking to fixed structures and linear decision-making, design-driven professionals and leaders take a holistic, experimental and iterative approach. Experiments are quickly tested and adapted. Processes and products are refined step by step.

Decisions are made based on the needs and experiences of people (users, employees, customers, stakeholders). Ideas are quickly tested and improved rather than immediately implementing a detailed plan. Professionals and leaders remain flexible and can revise strategies based on feedback and changing circumstances. Change is designed together with others, not imposed from above.

This design-oriented approach is combined with systems thinking. Problems and solutions are interconnected (Giudice and Ireland 2023). A change in one place affects the whole. To gain insight into your environment, you talk to customers and stakeholders to understand their challenges and needs. Design thinking methods such as personas and customer journeys are used to gain insights.

Characteristics of a vibrant neighborhood include the presence of greenery and water, social cohesion, suitable employment opportunities and accessible facilities (healthcare, shops, schools, public transport). When designing neighborhoods and districts, it is important to take the perspectives of residents into account.

A design approach that fits well with this is biophilic architecture. This form of architecture aims to strengthen the connection between people and nature in our built environment (nature by design). It results in living buildings in which people feel vital and comfortable. This is achieved through plenty of daylight, plants, fresh air, scents, sounds and views of greenery and water.

Features of the design include the use of natural materials, the integration of plants, trees, garden architecture and green walls (green architecture), maximum use of natural light through large windows, skylights or light domes, views of gardens, parks or natural landscapes, and the addition of water features. The design aims to create an environment that reduces stress and improves air quality.

It is always about integrating natural elements into the built environment. This is done by bringing elements such as plants, water features, natural light and natural materials together in the design

structure. Other characteristic features are ecological principles, such as promoting energy efficiency, sustainable materials and renewable energy sources.

The design is inspired by nature. The spaces try to create calming and organic environments by using colors and shapes that remind us of the natural world.

We do it ourselves

We want citizens to participate in policy development (and preferably to do what is suggested in policy) (Driessen 2024). It turns out that citizens are perfectly capable of developing initiatives themselves. Citizen initiatives are groups of people who take action together for something they consider important enough to do something about. A well-known example is 'Austerlitz Zorgt'. We are also seeing increasing interest in energy cooperatives (<https://energiesamen.nu/alles-over-energiecooperaties>).

We like to keep it exclusive

Citizen initiatives are well established in policy (Dutch Participatory Society, Action Democracy, etc.). After all, it is good when citizens solve social issues themselves. What are Blok's conclusions (Blok 2024)?

- Citizen initiatives tend to be more exclusive than inclusive. This is expressed in position rules (which positions are available to participants?) and authority rules (what are the rights and obligations of these positions?).
- Citizen initiatives focus strongly on finding and retaining the 'right participants' and on keeping the initiative 'organizable'. This translates into a strong focus on structure, for example working with a core group that determines the rules for other participants and directs the activities.

However, this may hinder the support base and continuity of a citizens' initiative. Citizens' initiatives also have to deal with differing values regarding the goal to be achieved and the path to get there.

When designing neighborhoods and districts, it is therefore important to take residents' perspectives into account. Architects and project developers should share information with (future) residents from the start of certain developments. It is about combining expert knowledge (top-down) and the practical experiences of residents (bottom-up).

Senior housing is strongly influenced by demographic changes, technological innovations and a changing healthcare landscape. Due to the ageing population, the demand for suitable housing and care solutions for the elderly is growing. The future of senior housing will therefore focus on providing solutions that not only meet the physical needs of the elderly, but also their emotional and social needs. In the future, senior housing will increasingly offer customized solutions. There will not be one solution for all older people, but instead a diversity of housing types tailored to the different care needs and lifestyles of older people. Technology will play a crucial role in the future of senior housing. Smart homes that use technology will enable older people to live independently for longer while receiving support.

Many policy principles in the field of senior policy are based on age categories. However, it is more sensible to base them on lifestyle categories. This does more justice to seniors, also known as 'boomers'. They are used to having decision-making power over their lifestyle. This also means that urban designs are based on the 'I perspective': putting yourself in someone's lifestyle and built environment, where 'form follows me' applies. This does justice to the uniqueness of those involved (Woldendorp, Jeninga en Eliens 2025).

Connecting domains

This concerns the interaction between the environment, social cohesion, facilities and individual care needs. Such a model is hampered by factors such as suitable locations, the complexity of cooperation between the domains of housing, care and technology, and insufficient citizen input in policy development.

In addition to older people who need intensive care due to dementia and other severely limiting health problems, there will also be a growing group of older people who continue to live independently. This group will face all kinds of chronic conditions, loneliness and limitations in hearing, vision and mobility.

For this group, it is important to have strong basic care close to where people live. This includes primary care, such as general practitioner care, paramedical care and nursing care. In addition, it also includes the presence of a broad social base, which is crucial for people's well-being.

In order to provide care close to where people live, it is important to pay more attention to the physical and social aspects of a neighborhood or district. In strong neighborhoods and districts, where people look out for each other, escalations of care problems can potentially be prevented.

Senior citizens must remain part of a vibrant community, where facilities such as healthcare, public transport, shops and recreational opportunities are close by and accessible. This also involves a connection between housing and care functions (and related technology). The separation between the different domains complicates new forms of housing and care.

Future-proof

This not only promotes the social participation of seniors, but also ensures that they remain active in society. It is therefore important to design homes that are suitable for all stages of life. This means that homes must be adaptable to changing needs as people age, for example through flexible layouts, barrier-free access, and the ability to easily integrate care and other services.

This can be achieved by creating space for meeting places where older people can get together. Communal gardens, community centres or flexible spaces where activities can take place are supportive in promoting well-being.

5. Conclusion

The development of inclusive and future-proof neighborhoods necessitates a redefinition of how knowledge is conceptualized and applied in urban planning. Beyond empirical data and analytical reasoning, effective neighborhood design must also incorporate experiential knowledge, intuition, and collective sense-making. An inclusive neighborhood emerges not solely from policy directives or architectural plans, but from a deep understanding of how individuals and groups experience their environment. This involves engaging with residents through observation, dialogue, and narrative collection, thereby gaining insights into their sense of belonging, exclusion, and aspiration. Such qualitative methods—ranging from metaphorical framing to story-driven analysis—help illuminate the lived realities that quantitative metrics often overlook.

A critical methodological shift is the adoption of a design-oriented approach in addressing urban challenges. Framing social and spatial issues as design problems fosters a mindset rooted in experimentation, iteration, and user-centered thinking. Rather than adhering to linear, top-down planning processes, design-driven leadership encourages a participatory, flexible approach that continuously refines solutions based on feedback and changing conditions. This perspective aligns with systems thinking, which recognizes that urban phenomena are interdependent, with changes in one domain inevitably affecting others. Accordingly, planning efforts must engage multiple stakeholders—residents, service providers, policymakers—early and often, ensuring that interventions reflect the complexity of real-life urban systems.

Biophilic and sustainable design principles further contribute to the development of vibrant and inclusive neighborhoods. Integrating natural elements such as greenery, daylight, water, and natural materials into the built environment has been shown to enhance mental well-being, reduce stress, and foster a stronger sense of place. These elements not only support ecological sustainability but also reinforce the social and emotional health of communities. As such, biophilic design should be considered a core component of inclusive urban development strategies.

The role of citizen initiatives in shaping inclusive neighborhoods is both promising and problematic. While public policy increasingly embraces participatory governance models, many citizen-led initiatives remain exclusive in practice. Participation is often limited to those with the social capital and organizational capacity to engage, resulting in structural imbalances in representation and influence. To truly democratize urban development, there must be greater attention to inclusivity within participatory processes themselves—ensuring that diverse perspectives inform both the goals and governance of such initiatives.

The discussion on senior housing exemplifies the need for integration across domains—housing, care, technology, and community. As the demographic landscape evolves, so too must the design of living environments that accommodate diverse lifestyles, support independence, and foster social connection. Future-oriented housing solutions must be adaptable, allowing for shifts in physical ability, healthcare needs, and social participation over time. This requires a planning ethos that is not only responsive to demographic trends but also rooted in the lived experiences of older adults.

In sum, the creation of inclusive neighborhoods is a multifaceted endeavor requiring the integration of design thinking, systems awareness, participatory governance, and ecological sensitivity. It demands a collaborative and iterative approach, where professional expertise and resident experience coalesce to produce environments that are equitable, sustainable, and conducive to well-being across all stages of life.

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Unlocking Rehabilitation: Stakeholder Perspectives on Incentives, Barriers, and Policy Needs

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Abstract

This study examines how building rehabilitation in Norway can be made more attractive and feasible through targeted regulatory and financial measures, with particular emphasis on commercial and preserved buildings. Motivated by the urgent need to reduce emissions and energy use in the building sector to meet national and international climate targets, the study employs a triangulated methodology consisting of a scoping literature review, sixteen semi-structured interviews, and document analysis.

Findings reveal that large-scale rehabilitation is constrained by interrelated barriers. Economic challenges, particularly high costs and uncertain returns on investment, emerged as dominant obstacles. Preserved buildings were frequently described as financially unviable despite their societal value. Physical and technical constraints, including inefficient layouts and unforeseen structural issues, further hinder projects. Regulatory frameworks, particularly TEK17, were consistently perceived as poorly adapted to rehabilitation practices, despite ongoing consultations for revision.

Financial and policy incentives were found to be decisive in influencing project viability. Direct grants were regarded as the most effective support mechanism, especially for small-scale owners, while tax-related incentives and predictable administrative processes were also emphasized. Stakeholders highlighted a lack of targeted schemes and expressed a need for systemic adjustments to reduce risk and improve project feasibility.

Based on stakeholder input and document analysis, the study proposes several measures: (1) introducing explicit exemption criteria for rehabilitation projects within TEK17 or developing a dedicated rehabilitation regulation; (2) assigning designated case officers with expertise in rehabilitation to improve processing efficiency and predictability; (3) expanding and restructuring Enova's funding schemes, including separate categories for large companies and small-scale owners, and allocating support based on documented climate savings relative to reference buildings; and (4) exempting rehabilitated preserved buildings from property tax to incentivize cultural heritage preservation.

Without such interventions, Norway risks missing its 2030 climate and energy efficiency targets and losing valuable opportunities for sustainable transformation of its building stock.

Type of paper: Empirical Research Paper

Keywords: Building rehabilitation, Norwegian Real Estate Sector, Norwegian Building Policy, Policy Instruments and Incentives, Decision-Making Processes, TEK17, Rehab-TEK, Heritage Preservation

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1 Introduction

Buildings in Norway account for roughly 40% of national energy consumption, while the construction sector contributes around 16% of total greenhouse gas (GHG) emissions (Energifakta Norge, 2024; Enova, 2023). To meet national and international climate commitments, Norway has legally committed to reducing emissions by at least 55% by 2030 compared to 1990 levels (Klimaloven, 2023, §3). However, by 2023, emissions had only decreased by 9.1%, with projections indicating a 26.3% reduction by 2030 (Larsen & Lønrusten, 2024).

In the building sector, energy use and emissions remain high. The government aims to reduce electricity consumption by 10 TWh by 2030 relative to 2015 levels (NOVAP, 2025), yet current policies are expected to achieve only 3.4 TWh of savings (Boye, 2024). Although technically feasible, the Norwegian Water Resources and Energy Directorate (NVE) warns that existing measures are insufficient (Hagemoen & Baardsen, 2024).

Norway has adopted the EU's Energy Performance of Buildings Directive (EPBD), requiring a long-term renovation strategy prioritizing the least energy-efficient buildings (Energidepartementet, 2025). A revised EPBD, currently under EEA consideration, introduces stricter standards, mandating minimum energy classes of E by 2030 and D by 2033 for commercial buildings (MonitorEE, 2024).

Non-residential buildings form a significant part of the challenge. As of 2025, Norway had over 264,000 such buildings, including offices, industrial facilities, and educational institutions (SSB, 2025). In 2022, commercial buildings consumed 30.2 TWh of energy, two-thirds of the consumption from households despite being fewer in number (NVE, 2024). Energy labeling data from 2015–2025 further indicates that approximately 38% of issued certificates fall into the lowest energy classes (E, F, or G), underlining the need for upgrades (Enova, 2025).

Across Europe, buildings account for 34% of energy-related emissions (EEA, 2024). The EU's Renovation Wave initiative targets the renovation of 35 million buildings by 2030 (European Commission, n.d.), but financial, regulatory, and expertise-related barriers hinder progress (Fjellheim et al., 2020). This often results in demolition and new construction, which undermines climate objectives.

Rehabilitation offers a more environmentally sustainable alternative. It significantly reduces emissions from material production, waste handling, and construction activities. Studies estimate an average 50–57% reduction in emissions compared to constructing new reference buildings, highlighting its potential role in achieving energy and climate targets (Fuglseth et al., 2020; Fufa et al., 2020).

1.1 Purpose and research questions

Improving energy performance in existing buildings has become increasingly urgent as the 2018 EPBD is incorporated into the EEA Agreement and a stricter 2024 directive is under review. Public debate has largely focused on homeowners, overlooking large commercial buildings despite their significant share of energy use and GHG emissions. Accelerating rehabilitation in this sector is therefore essential for meeting climate targets.

Existing research has identified economic and regulatory barriers to rehabilitation, suggesting measures like faster permitting, increased utilization allowances, reduced property tax, and Enova subsidies (Nakstad & Engebakken, 2019; Sørland & Klungerbo, 2021). However, little is known about which financial and policy incentives stakeholders themselves find most effective.

This study addresses this gap by combining qualitative interviews and document analysis to examine stakeholder perceptions of current and proposed instruments. Unlike earlier studies, it also considers preserved buildings and incorporates heritage value into the analysis. Findings will be compared with policy documents and prior research to support the development of targeted incentives that enhance the feasibility of large-scale rehabilitation projects.

Norway's 2030 goals of reducing building-related electricity use by 10 TWh and emissions by 55% remain far from reach, with current projections indicating reductions of only 3.4 TWh and 26.3%. To explore effective measures, the following research questions are posed:

1. What are the primary barriers to large-scale building rehabilitation, and how well do current regulatory frameworks and technical standards in Norway support sustainable rehabilitation practices?
2. Which financial incentives and policy measures are currently perceived by stakeholders as most effective in promoting building rehabilitation in Norway, and how are these measures addressed in relevant policy documents?
 - *What specific new or revised incentive structures do stakeholders believe are necessary to enhance the attractiveness and feasibility of rehabilitation projects?*
3. How is the societal and cultural value of preserved buildings framed across stakeholder perspectives and documents in the context of building rehabilitation?

1.2 Terminology clarification

This study includes Norwegian terms that do not directly translate into English, and the following definitions clarify their meaning:

- **Rehabilitation:** A broad term covering renovation, refurbishment, and retrofitting. It refers to upgrading or adapting a building while maintaining its cultural or historical value. Sometimes used interchangeably with renovation (Grecchi, 2022).
- **Preserved buildings:** A collective term for *vernet*, *fredet*, and *verneverdig* buildings. The first two have legal protection under the Planning and Building Act or the Cultural Heritage Act, while the third includes culturally valuable but unprotected buildings listed locally (Riksantikvaren, 2025)
- **Building application processing:** refers to the Norwegian term *byggesaksbehandling*.
- **Case officer:** Translation of the Norwegian term *saksbehandler*, referring to the person handling cases related to building application processing.

2 Methods

This study applies qualitative methods, which focus on depth, context, and individuals' subjective experiences to understand complex social phenomena. Techniques like open-ended questions and in-depth interviews provide flexibility and help build a detailed understanding. Qualitative research follows standards for credibility, reliability, confirmability, and transferability to ensure meaningful results (Lim, 2024).

To answer the research questions, three approaches are used: qualitative interviews, a scoping literature review, and document analysis (see Figure 1). This combination, known as triangulation, analyzes data from multiple sources to identify convergence, complementarity, or divergence (Nightingale, 2009). Convergence, the most common form, occurs when different methods yield similar findings. Using triangulation helps verify results and reduces the risk of bias from relying on a single method (Bowen, 2009).

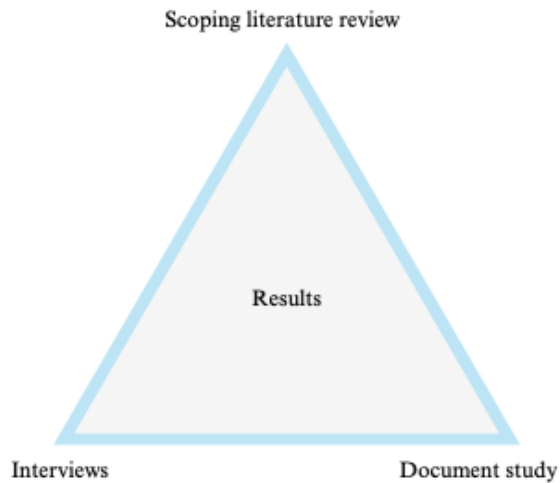


Figure 1: Triangulation of applied research method.

2.1 *Scoping literature review*

The scoping literature review primarily seeks to uncover the barriers that hinder rehabilitation on a broader scale, and does not directly address research questions two and three. To ensure a structured and comprehensive search, the five stages of scoping literature reviews explained by Arksey and O'Malley in 2005, were followed. In stage one, the research questions are defined. Stage two involves identifying relevant studies, followed by selecting those that meet the inclusion criteria in stage three. Stage four focuses on charting and organizing the data, while stage five summarizes and reports the findings of the literature review (Arksey & O'Malley, 2005).

After defining the research questions, relevant studies were found through the trusted databases ScienceDirect and Scopus, which contain peer-reviewed sources. Elicit, an AI tool that streamlines literature review processes, was also used to identify relevant sources used in this study. Arksey and O'Malley (2005) emphasize the importance of establishing guidelines to ensure a systematic review. Therefore, searches in all three databases excluded sources published before 2019, as well as non-English sources. The searches did not exclude any keywords but were limited to results within the following subject areas: Engineering, Environmental Science, Social Sciences, Economics, Econometrics and Finance, Business, Management and Accounting, and Energy.

In Scopus and ScienceDirect, exclusion criteria included title screening, abstract review, conclusion screening, in-depth review, and final selection. Duplicate removal was applied in ScienceDirect searches, as these were conducted after Scopus.

Elicit automatically retrieves eight sources relevant to the research question, with the option to load additional sets of eight. However, the relevance typically decreases with each additional set.

A total of 29 sources were identified as relevant for this study. The search strings, exclusion criteria for each database, and the number of included sources are presented in Figure 2.

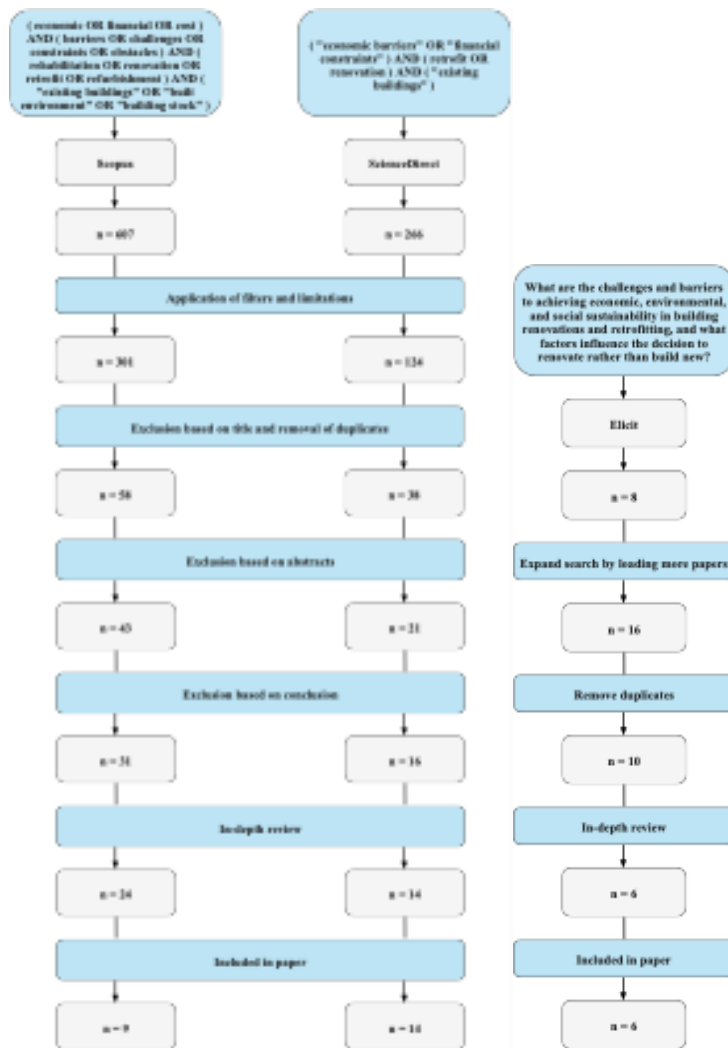


Figure 2: Flow chart from Scopus, ScienceDirect, and Elicit.

2.2 Document analysis

In this study, document analysis was used to complement the literature review and interview data.

The word “document” includes various sources such as books, newspaper articles, academic journals, as well as visual sources such as photographs, videos, and films (Morgan, 2022). This method enables the evaluation of policies, initiatives, and action plans using publicly available documents, allowing cost-efficient and reliable data collection. Documents remain unaffected by the research process and can be revisited, making this method particularly useful for examining policies and stakeholder perspectives (Bowen, 2009).

Document selection followed the principles of Morgan (2022), using four assessment criteria: authenticity, credibility, representativeness, and meaning. These criteria are illustrated and further explained in Figure 3.

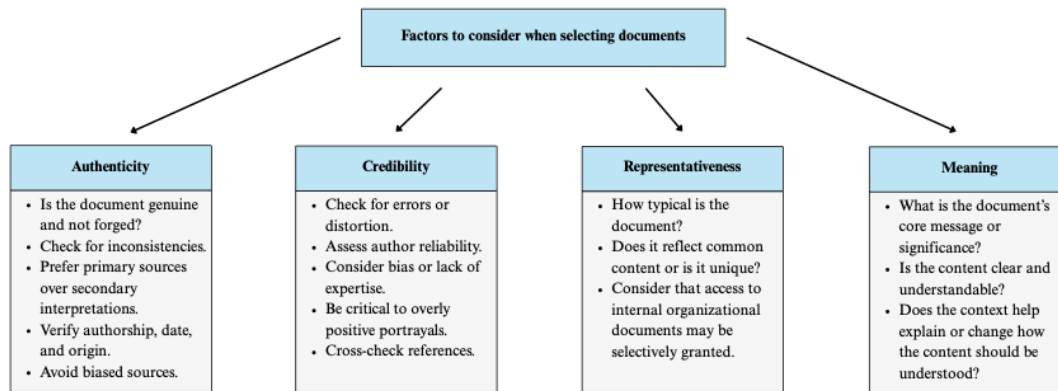


Figure 3: Factors to consider when selecting documents. Self-composed with inspiration from Morgan (2022).

The documents were identified from various sources, primarily through Google searches using relevant keywords. Additional sources were found using a snowballing approach, where references and citations in previously identified documents led to further relevant materials (Wohlin, 2014). An overview of the identified documents and how they were found is presented in table 1.

Table 1: Overview of search terms, identified documents, and access methods.

Source type	Number of documents	Access method
Google search	26	Search engine
Snowballing	7	References/citations
Direct website search	3	Organization websites
Email correspondence	1	Direct communication

2.3 Interviews

Qualitative interviews were used to collect in-depth insights from stakeholders in the real estate and construction sectors. This method is well-suited for exploratory research as it captures participants' perspectives and experiences directly (Doody & Noonan, 2013; Nathan et al., 2019). Open-ended questions allowed for rich and detailed responses, supporting findings from the literature review and revealing new insights into rehabilitation practices.

Interviews followed a semi-structured approach with predefined themes and flexible question sequencing (Doody & Noonan, 2013; Nathan et al., 2019). This ensured consistency while allowing participants to elaborate on their expertise. Semi-structured interviews are particularly useful for exploring under-researched topics and collecting narratives that enhance analytical depth (Nathan et al., 2019).

Interview guides were based on earlier findings and refined after initial sessions. Two guides were used: one for real estate stakeholders, and another for contractors involved in rehabilitation projects. Both covered key topics such as decision-making for rehabilitation, policy and market conditions, financial incentives, and social aspects of building rehabilitation.

Participants were chosen based on their roles in their respective companies, experience, and relevance to the research questions. Snowball sampling was used to identify additional contacts (Nathan et al., 2019). Candidates were primarily located via company websites, while some were found on LinkedIn, as well as referrals. Initial contact was made by email or LinkedIn, with follow-ups as needed by text message or phone calls. An overview of the participants and the corresponding reference key for each interview session is provided in Table 2.

Table 2: Overview of the conducted interview, along with the specific key used to refer to each session.

Interview number	Participants	Job title(s)	Key	Meeting type	Date
1	1	Director of project development	RE1	Digital	21.02.2025
2	1	Project director	RE2	Digital	24.02.2025
3	1	Executive Vice President, asset management and advisory	RE3	Digital	24.02.2025
4	1	Project manager	RE4	Digital	25.02.2025
5	2	Project manager & Director of investments	RE5	Digital	26.02.2025
6	1	Director of development	RE6	Digital	28.02.2025
7	1	Director of project development and building technology	RE7	Digital	03.03.2025
8	1	Director of development	RE8	Digital	03.03.2025
9	1	Project director	RE9	Digital	06.03.2025
10	1	Head of projects	RE10	Digital	12.03.2025
11	1	Project developer	RE11	Digital	19.03.2025
12	1	Head of department Sustainability	RE12	Digital	10.04.2025
13	2	Chief executive officer & Project manager	C1	Digital	02.04.2025
14	1	Project manager	C2	Digital	03.04.2025
15	1	Project manager	C3	Digital	09.04.2025
16	1	Construction manager	C4	Digital	10.04.2025

In total, 16 interviews were held with 18 participants (12 from the real estate sector, and 4 contractors). Sessions were conducted digitally via Microsoft Teams and recorded using Voice Memos on iPhone for accuracy. Reflections were noted during and after each session to improve subsequent interviews.

After the interviews were conducted, transcriptions were produced using NTNU Speech to Text, a programme based on Whisper AI (NTNU, n.d.). Notes and transcriptions were organized by themes from the interview guides, where the most important findings were put in tables. This enabled systematic comparison and identification of patterns and contradictions.

2.4 AI

ChatGPT-4o has been used in this paper to support the writing process by improving language, readability, and academic tone. Sentences were rephrased and sections refined to enhance flow and clarity. It is important to state that all content is independently developed, with findings based on credible sources and primary data.

3 Results

This part of the paper presents the results from the scoping literature review, the interviews, and the document analysis.

3.1 Scoping literature review

Across the three databases, several recurring challenges and barriers were identified, with many appearing in multiple sources, underscoring their significance. Table 3 summarizes the challenges found in ScienceDirect sources, including brief descriptions and the frequency of their occurrence.

Table 3: Challenges to building rehabilitation identified in ScienceDirect sources.

Description of barrier	Reference(s) mentioning the barrier
High costs: Rehabilitation measures often require significant investments, often hindering project initiation.	(Alabid et al., 2022; Azizi et al., 2019; Fahlstedt et al., 2024; Franco et al., 2021; Imran Khan et al., 2024; Maghsoudi Nia et al., 2024; Mikulić et al., 2021; Ohene et al., 2022, 2023; Prabatha et al., 2020; Shi et al., 2023; Villalba Muñoz et al., 2024; Weerasinghe et al., 2024)
Uncertainty in return on investment (ROI): Unclear whether rehabilitation investments will yield sufficient returns through increased rental income or reduced operating costs.	(Alabid et al., 2022; Imran Khan et al., 2024; Ohene et al., 2022, 2023; Prabatha et al., 2020; Shi et al., 2023; Villalba Muñoz et al., 2024)
Access to financing: Affordable loans or funding can pose a challenge.	(Alabid et al., 2022; Azizi et al., 2019; Franco et al., 2021; Maghsoudi Nia et al., 2024; Mikulić et al., 2021; Nägeli et al., 2019; Ohene et al., 2023; Prabatha et al., 2020)
Subsidy schemes: Subsidy schemes are perceived as difficult to access and poorly structured, often failing to incentivize rehabilitation measures.	(Alabid et al., 2022; Franco et al., 2021; Maghsoudi Nia et al., 2024; Ohene et al., 2023; Prabatha et al., 2020; Weerasinghe et al., 2024)
Uncertainty in energy savings: Energy savings can vary substantially depending on location, user behavior, and building conditions, creating uncertainty about whether the investment will ultimately deliver the expected savings.	(Maghsoudi Nia et al., 2024; Mikulić et al., 2021; Prabatha et al., 2020)
Life cycle conflicts: Rehabilitation may be inefficient if functional materials are replaced too early, causing unnecessary waste.	(Franco et al., 2021; Villalba Muñoz et al., 2024)
Embodied carbon: The process of retrofitting materials can emit carbon emissions, undermining the environmental benefits.	(Alabid et al., 2022; Ohene et al., 2023; Prabatha et al., 2020; Weerasinghe et al., 2024)
Relocation of tenants: Occupants may not have a place to move and can disrupt their lives.	(Azizi et al., 2019; Fahlstedt et al., 2024; Nägeli et al., 2019; Prabatha et al., 2020)
Limited focus on social sustainability: Life cycle assessments (LCA) often overlook social impacts, creating gaps in understanding occupant well-being and broader societal effects.	(Fahlstedt et al., 2024)
Quality of life and health benefits: Health impacts and other quality-of-life factors are rarely measured and quantified.	(Mikulić et al., 2021)
Resistance to rehabilitation: Limited awareness, disruption during projects, and cost concerns often lead to rejection of rehabilitation efforts.	(Alabid et al., 2022; Imran Khan et al., 2024; Maghsoudi Nia et al., 2024; Ohene et al., 2022; Prabatha et al., 2020; Weerasinghe et al., 2024)

From Scopus, nine sources were included in the study to provide new insights or offer more detailed descriptions of the challenges. Table 4 summarizes these sources, indicating the barriers identified and their corresponding descriptions.

Table 4: Overview of the barriers identified from Scopus.

Key source(s)	Challenge type	Challenge description
(Medal & Kim, 2020)	Economic	A survey mapping barriers related to energy-efficient renovation found that 67% of the 769 identified barriers were related to costs.
(Azcarate-Aguerre et al., 2022; Lai et al., 2022)	Economic	Split incentives occur when building users benefit from energy upgrades, while investors cover the costs without adequate returns, creating a financial imbalance.
(Azcarate-Aguerre et al., 2022)	Economic/knowledge	Carbon-neutral rehabilitation requires additional effort and cost, yet few building professionals recognize its added value. Consequently, sustainable upgrades often lack financial rewards.
(Amini Toosi et al., 2021; Khadra et al., 2020; Soust-Verdaguer et al., 2023)	Trade-offs between the different dimensions of sustainability	Decision-makers often prioritize economic factors in rehabilitation projects, as stronger environmental or social considerations can increase costs. This leads to environmental aspects receiving secondary focus and social sustainability being frequently overlooked.
(Lassandro et al., 2023)	Processual	Unclear rehabilitation procedures and lengthy processes are perceived as barriers, discouraging project initiation.
(Lassandro et al., 2023)	Processual	Bureaucratic hurdles, lengthy procedures, and a lack of standardized processes hinder rehabilitation efforts, making projects less appealing.
(Lassandro et al., 2023)	Competence	A shortage of skilled workers and professionals is a significant barrier. Research indicates that 67% of cultural barriers on the supply side stem from these shortages.
(Alam et al., 2019)	Competence	A lack of skilled consultants was identified as the third most common barrier to assessing building efficiency in a 2019 survey.
(Dauda & Ajayi, 2022)	Lack of engagement in communities	Limited involvement of host communities restricts participation in decision-making and raises concerns about health, safety, and building use in rehabilitation projects. Equal consideration of social, technical, and economic aspects has been recommended.

Six sources from Elicit were included in this study. These sources were also used to map the different drivers for building rehabilitation. The identified barriers to such projects are presented in Table 5, while the drivers can be seen in Table 6. The tick marks indicate whether the barrier/driver is mentioned in the specific source. If the cell is blank, the barrier/driver is not mentioned in the source.

Table 5: Barriers mentioned in the sources from Elicit.

Barrier	(Golić et al., 2020)	(Grecchi, 2022)	(Liu et al., 2022)	(Abreu et al., 2023)	(Passoni et al., 2021)	(Jowkar et al., 2022)
No need to rehabilitate						✓
Relocation of inhabitants					✓	✓
Long duration					✓	
Impairing construction sites					✓	✓
Unwillingness to raise a loan				✓		
Uncertain pay off			✓	✓		
Insufficient economic incentives			✓	✓		
Lack of awareness/knowledge			✓	✓		
Poor regulations and policies				✓		
Technical restrictions			✓			
Lack of skills ✓			✓	✓		
Condition of facades		✓				
Building restrictions		✓				
Maintenance costs		✓		✓		
Higher rent in reused buildings		✓				
Building layout		✓				
Health and safety requirements		✓				
Commercial risk and uncertainty		✓				
Low quality quality construction		✓				
Lack of community involvement ✓						
High initial costs			✓	✓	✓	✓

Table 6: Barriers mentioned in the sources from Elicit.

Barrier	(Golić et al., 2020)	(Grecchi, 2022)	(Liu et al., 2022)	(Abreu et al., 2023)	(Passoni et al., 2021)	(Jowkar et al., 2022)
Increased service life	✓					✓
Reduced resource consumption	✓			✓	✓	✓
Less material waste	✓			✓	✓	✓
Building functionality	✓					
Less disruption	✓					
Changing work patterns	✓					
Requirement for multiple use	✓					
Financial incentives	✓					
Reduce the negative impact of poor existing buildings	✓					
Better living quality and standards			✓			
Aspirations related to aesthetics			✓			
Becoming self-sufficient			✓			
Reduction in energy costs and house value improvement			✓	✓		
Pay back				✓		✓
Resilience against climate change			✓	✓		✓
Social engagement with public/expert partners						✓

3.2 Interview results

This subsection presents the findings from the interviews with stakeholders in real estate (RE1 – RE12) and contractors (C1 – C4). The results are structured in the same way as the interview guides, with key themes: experience with rehabilitation, regulatory and governmental roles, financial incentives, and the social and environmental value of rehabilitation. The perspectives from contractors are included to uncover similarities and different viewpoints.

3.2.1 Experiences with rehabilitation

Rehabilitation projects were consistently described as more uncertain and unpredictable compared to new construction. Ten out of twelve stakeholders cited unforeseen conditions such as rot, fungus, weak structures and challenging building layouts as recurring issues. RE10 explained:

"We rarely have a full overview before starting, and unforeseen issues often appear during the process."

Nine participants from real estate stated that costs of rehabilitation often exceed expectations and can surpass the cost of demolition and new construction. RE2 noted:

"In many cases, rehabilitation becomes more expensive than demolishing an existing building and building a new one."

RE12 provided a contradictory view, stating that rehabilitation is generally cheaper than demolishing and building new, but that it may offer lower returns.

RE4 expressed concerns regarding the lack of skilled workers being able to take on such projects, and RE10 described the industry as immature when it comes to reusing materials, highlighting the challenge of fully committing to the reuse of materials. RE10 stated:

"It is nearly impossible to decide to construct a building using reused materials. Certification and guarantees are very complicated."

Contractors confirmed the challenges surrounding reusing materials. C1 and C4 noted high costs and difficulties with recertifying components, and C3 highlighted issues with consultant approvals for reused elements.

Furthermore, several participants mentioned the difficulty of fulfilling some of the requirements in the existing building technical regulations (TEK17) in rehabilitation projects. Participants specifically mentioned the existing building's layout and their mismatches with current regulations when it comes to the level of daylight, and how these buildings are usually not made with universal design in mind. TEK17 was seen as a huge challenge in today's industry when it came to rehabilitation projects.

3.2.2 Factors influencing decisions

Six participants emphasized profitability as a decisive factor when choosing between rehabilitation and new construction. While environmental concerns have gained more traction in the last years, financial profitability remains the most important factor. RE2 summarized:

"It has to be profitable, otherwise we go bankrupt. Reducing emissions is next on the list, followed by overall sustainability."

Regulatory requirements further affect decisions. Several participants mentioned preservation requirements and municipal plans that often prevent demolition. RE10 said:

"Recently, reputation has become more important. Rehabilitation is often better for both the environment and our public image."

RE8 and RE9 highlighted geographical location and building-specific factors such as layout, flexibility, and technical condition, as crucial in decision-making. These factors often dictate the feasibility of rehabilitating and the expected rental income from tenants.

3.2.3 Governmental role in promoting building rehabilitation

The participants had divided views on the authorities' role when it came to promoting building rehabilitation.

Several participants agreed that authorities intend to promote rehabilitation, but that they do not succeed.

RE7 stated:

"Authorities are very important, but they are not doing their job well enough."

RE3 and RE4 felt the authorities had made insufficient efforts, while RE5 pointed to contradictory actions:

"Authorities have torn down several historic buildings in the centre of Oslo and replaced them with glass and steel blocks. I would not exactly describe them as role models."

RE9 doubted sustainable leadership even within the environmental agency in Oslo, stating that:

"The Urban Environmental Agency itself had no major environmental ambitions for its own offices, we had to push them in the right direction."

A strong majority of the participants from the real estate industry felt that the industry had been the main driver for rehabilitation projects, not the authorities. RE11 described municipalities as outdated:

"Municipalities talk about sustainability issues we discussed five to ten years ago."

RE12 attributed to this view, pointing to a lack of information and competence within municipalities.

3.2.4 Regulatory barriers and suggested measures

Many participants mentioned lengthy permitting and dispensation processes as barriers. RE1 emphasized: *"It would reduce time and costs significantly. We once got dedicated officers for a protected facade, cutting the regulation time from seven to three years."*

RE9 stressed the unpredictability in these processes:

"Uncertainty and long processing times for similar cases are the most frustrating."

Contractors agreed that the current processes are slow and inefficient. C3 described a five-month wait for approval to replace a single window due to outdated documentation.

As a solution, RE6 suggested the introduction of designated case officers to rehabilitation projects to improve efficiency. Contractors were later asked if they thought this would be a good and effective initiative, to which all responded positively. RE6 stated:

"It would reduce time and costs significantly. We once got dedicated officers for a protected facade, cutting the regulation time from seven to three years."

C2 proposed an external organization to handle cases as municipalities lack capacity or competence. Other participants offered other views, stating they would rather have the case processing within municipalities.

A dedicated building technical regulation for rehabilitation projects was suggested, a so-called "Rehab-TEK", with widespread support. This, to reduce case processing times related to dispensations and regulations. Several participants favored adjusting TEK17 and introducing tailored subcategories for preserved buildings, while RE9 and RE10 were skeptical of the idea. Contractors unanimously welcomed tailored regulations. C2 explicitly supported Rehab-TEK, while C3 and C4 favoured adjusting TEK17, but still agreed either of the two alternatives would significantly improve predictability and preserve more buildings.

RE1 and RE2 suggested removing infrastructure contributions for rehabilitation projects, describing this as an unnecessary cost and a measure that could incentivize more stakeholders to pursue rehabilitation projects.

3.2.5 Financial incentives

11 of the stakeholders in real estate explicitly confirmed that subsidies or tax incentives would strongly influence their decisions to rehabilitate, and nine participants believed such measures would effectively increase the rate of rehabilitation in Norway. RE3 explained:

"It is obvious, every developer needs projects to be financially sustainable."

Contractors believed such projects would benefit them by giving them more jobs. C4 compared financial incentives in the building sector to the electric car subsidies:

"We needed a carrot to get EVs started. The same would work here."

Stakeholders had various experiences with current subsidy schemes, particularly with Enova's programmes.

They were described as having a low financial impact, and the costs linked with the application projects almost overshadowed the benefits in the end. RE3 described a NOK 10M request for a NOK 50M project that was rejected, stating that if they had applied for NOK 7M, they would have gotten the grant, expressing dissatisfaction with the scheme's transparency. RE4 received NOK 1.7M for NOK 35M in measures, calling it barely worthwhile. RE12 highlighted inefficiencies:

"I believe the subsidies aren't set correctly. Some areas get too much, others too little. The system needs improvement."

RE3 explained that support often stops at energy assessments without funding for actual upgrades, discouraging implementation. RE3 and RE9 expressed the importance of engaging small-scale property owners in such projects, and that they often face disproportionate risks due to a lower opportunity to invest. RE9 stated:

"Most property owners own just one building. Incentives are absolutely crucial to reach them."

Several different subsidy schemes were suggested, where direct subsidies were favoured by most. Others wanted tax-related incentives, including lower property taxes and a differentiated property tax for preserved buildings. Direct subsidies were favoured for their predictability.

3.2.6 Social value of rehabilitation projects

Almost all interview participants reported rehabilitation projects that generate pride within organizations, tenants, or local communities. The only exception was RE8, who stated that their region was “starved” of such buildings and projects. RE1 described central Oslo buildings where tenants pay premium rents due to historical character. Another project was recognized by Enova as a model for sustainable upgrades:

“Both tenants and owners are proud, something we wouldn’t achieve with a new build of the same technical quality.”

RE2 mentioned receiving awards for a project that preserved the soul of an area mostly surrounded by new buildings. RE6 highlighted external recognition shaping organizational identity:

“We invest heavily in historic buildings not for financial returns, but for how we’re perceived externally.”

RE5 and RE12 described projects undertaken as contributions to the city, explicitly stating they were not profitable, something several other participants agreed on. Contractors echoed these sentiments, and C2 had been involved in the rehabilitation of a preserved building that received rewards, stating this further strengthened their sense of pride, and that also led to subsequent job opportunities for their firm.

Several participants mentioned the increasing popularity this subject has gotten over the years. RE11 particularly mentioned the Architectural Uprising and the widespread support this uprising has received, emphasizing that people now tend to favour old, traditional building styles, often seen in preserved buildings. RE11 further stated that they believed subsidies directed towards preserving more buildings like this would be taken as a good initiative among people in general.

3.2.7 Environmental benefits

Most participants recognized the environmental benefits of building rehabilitation. RE2 reported a 58.5% reduction in GHG emissions compared to a reference building of a new construction. RE8 noted that despite higher emissions, new buildings often appear greener due to energy performance:

“Any new building appears environmentally better than rehabilitation, but the biggest environmental gains are from reusing existing structures.”

Three stakeholders, RE1, RE11, and RE12, explicitly mentioned the need to introduce maximum GHG emission limits into current regulations, citing examples from Denmark and the Netherlands. Several participants mentioned that if one could keep the large structures of a building, such as concrete and steel structures, rehabilitation would outperform new builds in terms of carbon footprint and reduce emissions. RE12 wanted to see more comprehensive urban planning in the city, with a maximum emission budget, stating that companies would simply have to rehabilitate more so that they met the requirements in this carbon emission budget.

3.3 Document analysis

Drawing from various documents, this section offers relevant information on building rehabilitation in Norway. The results are organized by type and titles of the sources.

3.3.1 Action plan for energy efficiency

The Ministry of Energy’s action plan aims to improve energy efficiency across sectors to support Norway’s low-emission goals (Energidepartementet, 2023). It proposes increased funding to Enova and the Directorate for Building Quality (DiBK), focusing on upgrades to commercial buildings, particularly energy-efficient upgrades. DiBK is tasked with reviewing TEK17 and Building Regulations (SAK10) to facilitate energy efficiency and allow exemptions for rehabilitation projects. The plan acknowledges that financial and knowledge barriers still hinder implementation, particularly for organizations with limited investment capacity.

3.3.2 Proposed amendments to the Planning and Building Act & Act of law 93

The proposed amendments to the Planning and Building Act, from the Ministry of Local and Regional Affairs (KDD), aimed to simplify regulations for existing buildings (KDD, 2020). Clearer criteria for municipalities to grant exemptions from TEK17 were proposed, as well as considering introducing a Rehab-TEK. However, due to the complexity of varying building conditions, the ministry instead recommended better guidance in the existing frameworks.

Inconsistent interpretations of current frameworks were reported, with significant municipal resources being spent on existing buildings. 30-40% of applications in 2019 were concerning existing buildings. In the

same year, 40% of case officers found the current frameworks hard to enforce. Simplified regulations were expected to support rehabilitation. Subsequently, Act of Law 93 granted municipalities greater authority to exempt TEK17 (Plan- og bygningsloven, 2023, §31-4).

3.3.3 ZEN Report No. 50 - 2023

The 2023 ZEN report assessed Norway's building stock energy potential and measures needed to meet national and EU climate goals (Sandberg et al., 2023). Two scenarios were analyzed: a baseline, where energy demand rises due to building stock growth, and an "Ultra Green" scenario, reducing 13 TWh by 2030 and 40 TWh by 2050.

To achieve this, ZEN estimated a yearly investment need of NOK 4–5 billion, recommending one-third as grants and the rest as green loans. Ambitious renovation packages with 30–35% cost coverage could halve payback times, particularly benefiting existing buildings facing higher barriers. Measures include insulation, improved ventilation, heat pumps, and solar cells.

ZEN proposed a dedicated Rehab-TEK with performance requirements for building components and mandatory upgrades for energy class F and G buildings. It emphasized that support schemes are essential, comparing them to subsidies driving electric vehicle adoption and noting that they would ultimately reduce future electricity subsidies.

3.3.4 Enova

Enova SF, owned by the Ministry of Climate and Environment, manages the Climate and Energy Fund to support Norway's transition to a low-emission society (Lindstad & Nakstad, 2024). Operating under a four-year governance framework (2025–2028), Enova designs subsidy schemes while complying with EEA state aid rules.

The 2025 budget is estimated at NOK 15.23 billion (Enova, 2025), with NOK 1.004 billion allocated to construction and real estate programs in 2024. The primary schemes include Improving the Energy Condition of Commercial Buildings, which covers up to 30% of eligible costs with a maximum grant of NOK 10 million, Energy Mapping, Feasibility Studies, and Design for Reuse. In 2024, the commercial buildings scheme accounted for NOK 688 million, with 472 of 977 applications approved. The average grant was MNOK 1.46, equal to 14.6% of the maximum possible support (Enova, 2025).

Email correspondence with Enova revealed that few applicants request the maximum grant, as lower funding amounts rank higher in competitive calls (Enova Svarer, 2025).

3.3.5 Financial and administrative framework

Private developers in Norway often contribute to public infrastructure through "infrastrukturbidrag" or "anleggsbidrag," typically formalized in development agreements. These agreements typically involve financing roads, water, and sewage systems beyond the requirements of the Planning and Building Act (Chapter 18) (Norsk Eiendom, n.d.; Myklebust & Frøseth, 2020; Roede & Thunem, 2025). A proposed law would standardize contributions with a fixed cost per square meter, assessed by independent experts, to improve predictability.

The Planning and Building Agency in Oslo currently has no designated case officers for rehabilitation projects. A new application processing system, expected to be implemented in fall 2025, aims to improve efficiency (Plan- og bygningsetaten, 2025). In 2024, municipalities received over 15,000 dispensation applications, with 1,864 exceeding legal processing times and an average duration of 47 days for applications under the Planning and Building Act (SSB, 2025).

FutureBuilt promotes zero-emission construction projects that cut greenhouse gas emissions by 50% compared to 2020 levels, offering technical support, priority application processing, and reduced fees (FutureBuilt, n.d.; Oslo kommune, n.d.).

Property tax is a municipal levy under the Property Tax Act, capped at 7‰ for commercial properties (Christophersen & Ferdowski, 2025). In Oslo, the rate is 3.7‰, calculated using standardized valuation models considering gross floor area, square meter price, and location factor (Oslo kommune, 2025; Eiendomsskattekontoret, 2022). Adjustments are made for technical conditions and other market factors.

3.3.6 News articles, web pages, and readers' letters

Calls for stronger energy efficiency policies are growing. A 2025 debate article urged increased public funding to achieve a 10 TWh energy reduction in buildings and highlighted risks that the proposed

"Norway Price" could weaken incentives (Energi og Klima, 2025). Similarly, Grønn Byggallianse and Norsk Eiendom have argued that TEK17 is ill-suited for rehabilitation and proposed introducing a dedicated "Rehab-TEK" (Bramslev & Askjer, 2019). Legislative changes in 2023 now allow municipalities to more easily grant exemptions, aiming to support building reuse (Gjelsvik, 2022).

Financial incentives for rehabilitation have been suggested, including VAT exemptions and subsidies (ACAN Norge, 2025; NHO Byggenæringen, 2020). Preservation grants, primarily through the Cultural Heritage Fund, typically cover up to 50–70% of project costs (KLD, 2024; Kulturminnefondet, 2003, §11).

Cultural heritage is seen as both socially and economically valuable, with property values increasing significantly after rehabilitation (Solgaard et al., 2019; Perepechko & Mamadzhanov, 2025).

3.3.7 Webinars

Several webinars highlighted barriers and opportunities for rehabilitation in Norway. Only about 2% of buildings are rehabilitated annually, and fewer than half of these involve energy upgrades (Gullbrekken, 2024).

Speakers pointed to uncertainty over building condition, stricter regulations, and limited technical feasibility as main barriers (Nikolaisen, 2023; Gram, 2023). Current decision models fail to account for costs of leaving buildings unused (Grimsrud, 2023). Despite these challenges, surveys show users of rehabilitated buildings generally report satisfaction and pride.

Experts called for technical regulations tailored to rehabilitation, simplified rezoning, and financial incentives like tax relief to make rehabilitation more attractive (Bramslev, 2023; Gram, 2023).

Another webinar on EU's Buildings Directive discussed regulatory and financial barriers, lack of competence, and slow progress toward the 10 TWh energy-saving goal. Presenters argued that stricter rules, targeted incentives, and long-term environmental measures are needed to speed up rehabilitation (Skar, 2025; Kvellheim, 2025; Esmark, 2025).

At Arendalsuka 2024, panelists emphasized that reducing demolition is the most important climate measure in construction, as over 50% of emissions stem from material production. They called for regulatory adjustments (e.g., TEK17), faster application processing, and municipal flexibility. Incentives and better collaboration with FutureBuilt were cited as decisive factors for ambitious rehabilitation projects (Aasland, 2024; Hansen, 2024; Johannesen, 2024; Fylling, 2024).

4 Discussion

This section discusses the results based on the research questions, highlighting identified barriers, existing and proposed incentives, the social value of preserved buildings, suggested practical measures, and limitations of the research.

4.1 Barriers to large-scale rehabilitation

Findings from literature, interviews, and document analysis revealed several barriers hindering large-scale rehabilitation projects.

High costs and uncertainty regarding returns on investment emerged as the most significant economic obstacles. Stakeholders reported that profitability was often the determining factor when choosing between rehabilitation and new construction. Several participants described rehabilitation of preserved buildings as financially unviable, sometimes more expensive than building new. The consistency of these findings across all data sources emphasizes that economic considerations are a central barrier to scaling rehabilitation.

Interviews highlighted physical limitations of older buildings as a major barrier. Inefficient layouts, low ceiling heights, and challenges with universal design requirements made repurposing difficult and reduced rental income potential. Stakeholders also noted that unforeseen structural issues often arose after project initiation, increasing costs and extending project timelines.

A lack of specialized expertise and skilled workers able to perform rehabilitation tasks was identified in the literature and interviews. Stakeholders explained that older buildings require tailored solutions and experience that many in the current workforce lack. Some interviewees noted that traditional craftsmanship, necessary for preserving historical aesthetics, is diminishing.

Regulations were frequently described as unsuitable for rehabilitation projects. Building application processing times were seen as long and unpredictable, while technical standards such as TEK17 were criticized for being designed for new buildings. Preserved buildings faced particular challenges in meeting requirements for daylight, universal design, and U-values.

Although legislative changes introduced in 2023 increased municipal flexibility in granting exemptions (§31-4), many stakeholders reported little practical improvement. Suggestions for a dedicated “Rehab-TEK” or explicit exemption criteria in TEK17 were widely supported, indicating a systemic mismatch between existing regulations and sustainable rehabilitation practices.

Existing financial support schemes were perceived as inadequate. While Enova provides grants for energy-efficient upgrades to commercial buildings, only 48.3% of applications were approved in 2024, with an average grant of 14.6% of the maximum NOK 10 million. Enova clarified that few applicants request the maximum amount, but many stakeholders described the schemes as inaccessible or insufficient.

According to Enova’s 2024 annual report, NOK 864 million was allocated for energy-efficient measures in commercial buildings. This is significantly below the NOK 1.6 billion annual level recommended to achieve energy reduction targets. Stakeholders emphasized that stronger and more predictable subsidies could substantially influence decisions to rehabilitate instead of demolishing and building new.

Delays in municipal dispensation processes also contributed to inefficiency. A significant number of applications under the Planning and Building Act exceeded legal time limits. Such unpredictability discouraged investments in rehabilitation projects.

4.2 Incentive structures for rehabilitation

Promoting rehabilitation requires regulatory reforms and financial measures that make these projects more attractive and feasible.

Stakeholders proposed simplifying administrative procedures, particularly dispensation processes. Introducing designated case officers with rehabilitation expertise was suggested as a way to shorten processing times and improve predictability.

Adjustments to technical regulations were also widely discussed. Seven participants supported a dedicated “Rehab-TEK,” while others preferred embedding exemption criteria directly into TEK17 to avoid maintaining parallel frameworks. Participants from the construction sector agreed that regulatory changes were necessary to reduce costs and delays.

Material reuse and circular economy principles emerged as related considerations. Stakeholders proposed subsidy schemes for companies promoting material reuse and requiring manufacturers to handle recertification, thereby lowering barriers to incorporating reclaimed materials in rehabilitation projects.

Policy documents supported these recommendations. Government initiatives already task authorities with assessing changes to TEK17 and related regulations to improve energy performance while considering costs and environmental factors. Legislative changes have increased municipal flexibility in granting exemptions, though their practical impact remains limited.

Participants emphasized the decisive role of financial incentives in encouraging rehabilitation. Suggested measures included:

- Reducing or removing property tax for rehabilitated buildings.
- Introducing carbon-based taxation models that favor low-emission projects.
- Differentiating support levels for smaller stakeholders with higher financial risk.
- Providing direct subsidies and allowing increased depreciation rates for rehabilitation investments.

Document sources supported these proposals. Recommendations included funding levels covering 30–35% of additional costs for ambitious upgrades and annual allocations of NOK 4–5 billion to achieve energy reduction targets. Debate articles and industry letters also proposed VAT exemptions for rehabilitation and subsidies for stepwise rather than full-scale upgrades.

4.3 Societal and cultural value

Although social sustainability was not a primary focus in the early stages of the study, later interviews revealed important insights into the societal and cultural significance of rehabilitating preserved buildings.

Participants expressed pride and a sense of contributing to community identity through rehabilitation projects, even when financially unprofitable. Such projects enhanced company reputations and added

symbolic value to cities. Recognition from institutions like the Directorate for Cultural Heritage and Enova further reinforced this perception.

Contractors reported similar experiences, with public appreciation and positive end-user feedback creating additional non-financial rewards. Some noted that rehabilitated historic buildings generated new job opportunities and subsequent projects. Emotional engagement was often linked to the architectural quality of the buildings being rehabilitated.

Projects with civic or cultural purposes were described as particularly meaningful. Even without financial gain, stakeholders saw these efforts as giving back to society. Tenants were often willing to pay premium rents for historically significant properties, reflecting their distinct identity and cultural value.

Supporting evidence from documents showed strong public support for heritage preservation: a large majority of survey respondents saw cultural heritage as beneficial for tourism and business, while most considered it personally important. Heritage conservation was described as a new economic and cultural resource.

Rehabilitation was also linked to environmental sustainability, traditional craftsmanship preservation, local employment, and strengthened community identity. However, not all rehabilitation projects evoke the same social or cultural value, particularly when architectural significance is low. Financial considerations often conflict with preserving buildings despite these broader benefits.

4.4 Practical implications – suggested measures

Based on stakeholder input and document analysis, the following measures could enhance rehabilitation feasibility:

- TEK17 Exemptions: Explicit exemption criteria within TEK17 are preferred over separate regulations to simplify compliance while safeguarding sustainability objectives.
- Designated Case Officers: Rehabilitation-specific officers could expedite building applications and improve predictability, similar to Oslo's FutureBuilt projects.
- Increased Enova Funding: Expanding funding and introducing tiered support systems for different owner types could improve fairness and accessibility. Including carbon-focused incentives would further align with emissions targets.
- Reconsidering Infrastructure Contributions: Removing these fees for rehabilitation in existing urban areas could shift preferences away from new construction.
- Property Tax Relief: Exempting historically valuable buildings from property tax could offset financial losses and make heritage preservation more viable.

4.5 Limitations

The study's timeframe limited the number of interviews and depth of analysis. Including more participants from public authorities would have broadened perspectives.

Methodological constraints included limited database coverage in the literature review and reduced ability to capture non-verbal cues during digital interviews. Researcher inexperience in conducting qualitative interviews may have influenced responses.

While findings were consistent across sources, ongoing regulatory developments (e.g., revisions to TEK17 and EPBD) may alter the policy context. The fiscal implications of suggested measures were acknowledged but not analyzed in detail due to scope limitations.

Despite these constraints, triangulation across literature, interviews, and documents strengthened the study's validity and reliability.

4.6 Further research

Future studies should investigate:

- How to design financial incentives that effectively engage smaller stakeholders.
- The feasibility of a rehabilitation-specific technical framework and its enforcement mechanisms.
- The broader social and cultural benefits of preserving historic buildings contribute to a more holistic understanding of sustainability in construction.

5 Conclusion

This study examined how building rehabilitation in Norway can be made more attractive and feasible through targeted regulatory and financial measures, focusing on commercial and preserved buildings. Motivated by the need to reduce emissions and energy use in the building sector, the study combined a literature review, sixteen semi-structured interviews, and document analysis.

The findings show that several interconnected barriers hinder large-scale rehabilitation. Economic factors, particularly high upfront costs and uncertain returns, were identified as the most significant constraint. Preserved buildings were frequently described as financially unviable despite their societal value. Stakeholders also highlighted physical and technical challenges, including inefficient layouts and unforeseen structural issues, as major obstacles. Regulatory frameworks, despite recent reforms and ongoing consultations, were consistently described as poorly aligned with rehabilitation practices. Widespread support for tailored exemption criteria or a dedicated rehabilitation framework indicates a structural mismatch between current regulations and sustainable rehabilitation needs.

Financial and policy incentives were found to strongly influence decision-making. Direct grants were considered to be most effective, especially for small-scale owners with limited investment capacity. Tax-related incentives, such as property tax adjustments for rehabilitated buildings, were also emphasized. Slow and unpredictable building application processing emerged as another key barrier. Many stakeholders supported introducing designated case officers to streamline procedures and revising TEK17 either through a dedicated “Rehab-TEK” or embedded exemption criteria. These findings highlight that predictable, risk-reducing incentives and regulatory clarity are essential for improving the feasibility of rehabilitation projects.

The study also revealed that rehabilitating preserved buildings generates significant societal and cultural value. Stakeholders described such projects as heritage preservation and identity-building efforts that foster civic pride and enhance public image, despite limited financial returns. Current support schemes largely overlook these social dimensions, suggesting the need to incorporate cultural and societal contributions into policy frameworks.

In conclusion, large-scale rehabilitation offers substantial potential to advance Norway’s climate and energy objectives. Realizing this potential requires targeted interventions, including rehabilitation-specific exemption criteria in TEK17, designated case officers, differentiated funding schemes, subsidies linked to climate savings, and property tax exemptions for preserved buildings. Without such measures, Norway risks missing its 2030 energy and climate targets and losing opportunities for sustainable transformation of the built environment.

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Reclaiming Public Open Spaces: Community-Centered Management in Large Housing Estates

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Abstract

Public open spaces (POS) within inherited post-war large housing estates (LHEs), particularly in Central and Southeastern Europe, often suffer from systemic neglect, ambiguous ownership, insufficient funding, and a legacy of top-down management. In Serbia, LHEs from socialist period face similar issues, highlighting a critical need for innovative and sustainable management solutions. This paper explores diverse management approaches for POS within LHEs, with a particular focus on community-centered models. By analyzing exemplary practices, the study seeks to identify successful types of interventions, community engagement activities, and enabling criteria. These insights, alongside an analysis of current Serbian practices and challenges, form the basis for developing context-specific recommendations to enhance POS management in Serbian LHEs. The research methodology involves a critical review of established POS management literature along with a comparative analysis of selected examples, chosen to illustrate a variety of approaches and outcomes. Drawing upon existing research and documentation, an overview of POS management in Serbian LHEs is presented, highlighting both systemic issues and emerging local initiatives.

The paper argues that while traditional management models have often proven inadequate for the unique context of LHEs, community-centered approaches offer significant potential for revitalizing POS and fostering resident stewardship. Successful POS management in LHEs often involves collaborative governance, active resident participation in planning and maintenance, and supportive institutional frameworks. It requires a shift towards more inclusive, participatory, and context-sensitive strategies. The findings provide context-specific recommendations for Serbia, aimed at enhancing local capacity, formalizing resident participation, and fostering long-term stewardship of POS in LHEs.

Keywords: public open spaces, large housing estates, community-centered management, resident involvement, co-management, Serbia

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1. Introduction

Effective management strategies for public open spaces (POS) in residential neighborhoods are crucial for fostering sustainable, vibrant, and livable communities that enhance residents' health, well-being, and social connections. Inadequate or poor-quality open and green spaces in urban areas can seriously impact residents' quality of life. Despite this, organizational and management approaches to POS in residential settings have received limited attention in academic research (Said, Tempels, 2023; Lindgren, 2010). POS management is understood as a strategic, inclusive, and long-term process that balances planning, design, construction, maintenance, and preservation to maximize social, environmental, and economic value (Carmona et al., 2008; Jansson, et al., 2020; Dempsey, Burton, 2012). In the context of large housing estates (LHEs) built in the second half of 20th century, effective POS management has become a pressing concern (Hess et al., 2018). These estates, whether the modernist panel blocks of Central and Eastern Europe or the post-war social housing estates of Western Europe, were originally designed with generous open areas to provide recreation, greenery, and community life for residents. Over time, however, many POS have deteriorated due to insufficient upkeep and changing governance conditions. Unresolved ownership rights of POS within LHEs are the main problem in countries of Central and Eastern Europe, where rapid privatization of flats in the 1990s was conducted without establishing effective mechanisms to manage the formerly state-maintained open spaces. POS have often remained in the ownership of some third party (municipality, company, individuals, etc.) or returned in the restitution process to its rightful owners (Sendi et al., 2009). In addition, POS are also experiencing growing pressure from potential investors. While unresolved ownership issues are generally not a concern in Western Europe, these countries still face challenges stemming from a lack of responsibility. Social problems are particularly evident in these countries, where many housing estates have over time concentrate social dysfunction, poverty, ethnic issues and isolation, which has been accompanied with deteriorating buildings and POS (Hess et al., 2018).

Long-term community-centered management of POS is increasingly seen as a sustainable solution to these challenges (Lindgren, 2010; Mattijssen, 2018). Community-centered stewardship involves residents and local stakeholders in the ongoing governance and care of shared spaces. Quality POS require sustained management, not just initial "placemaking", but also "place-keeping" to ensure social and environmental benefits are preserved for present and future generations (Dempsey, Burton, 2012). In other words, the focus must shift from simply creating or renewing spaces to maintaining their quality and inclusiveness in the long run (Randrup, Jansson, 2020). Such an approach aligns with emerging practices of collaborative or participatory governance in urban planning (Jansson et al., 2018). Especially in residential environments, engaging residents in stewardship can build a sense of ownership and social cohesion, potentially overcoming issues of vandalism or neglect through collective care. In Western Europe, various models of residents involvement in estate management have been tested since the 1970s – from tenant management organizations in UK public housing (Simmons, Birchall, 2007) to various forms of self-management in Netherlands (Huisman, Czischke, 2022) or Sweden (Castell, 2006). These experiences offer valuable lessons for managing aging mass housing stock.

In Serbian cities, persistent neglect and poor management typically characterize POS within inherited LHEs, a prevalent housing type from the socialist era. This problem is multifaceted, arising from shifts in property ownership, regulatory gaps, diminished recognition of community value, and current urban planning approaches (Dragutinović, 2023; Milojević et al., 2019). Consequently, these areas frequently experience degradation, fragmentation, inadequate upkeep, and encroachment for private uses.

The aim of this paper is to analyze and compare models of community-centered POS management that have been applied in different contexts, drawing lessons for improving the sustainability and inclusivity of public spaces in LHEs. By examining how two countries from Western (Sweden) and Eastern Europe (Estonia) have addressed the management of POS in LHEs, the study seeks to identify successful types of interventions, and community engagement activities. These findings, combined with an examination of Serbian context, practices and challenges, provide a foundation for formulating context-specific recommendations to improve POS management within Serbian LHEs. The paper addresses the following research question: How can communities be effectively involved in the stewardship of open spaces in large housing estates over the long term?

2. Theoretical framework: defining POS management and governance models

POS management is usually related to the “end-phase” in the linear process of POS development (Said, Tempels, 2023), but it is also stressed out that management should not be limited to maintenance, upkeep and preservation of existing spaces yet it should also include planning and strategic approach (Jansson, et al., 2020). According to Carmona et al. (2008) public space management involves a complex set of activities with the aim to fulfil its legitimate roles, while managing all the interactions and impacts of its multiple functions in a way it is acceptable to its users. Clearly, POS management is not a one-time technical task, but an ongoing adaptive process requiring stakeholder collaboration and sustained commitment. It is referred to as “place-keeping” to denote the long-term and responsive management complementing the more popular idea of placemaking (Dempsey, Burton, 2012).

The responsibility for management of POS in most countries traditionally lies with the public sector. However, the reforms of public sector and local government, along with introduction of New Public Management in the 1980s and early 1990s have created new roles for public sector, market and users, where new stakeholders and organisations have gained a role in management (Carmona, et al., 2008; Randrup, Jansson, 2020). In addition, new demands have been set to POS use, planning and management due to transformed societal needs related to global megatrends such as loss of biodiversity, socioeconomic and environmental issues and lack of space as a result of urbanization, globalization and climate change (Jansson, et al., 2020). Organizational models for POS management can be categorized in three types (Carmona et al., 2008): 1) state-centred; 2) market-centred; and 3) community-centred.

In state-centered management model the local government or a public agency retains primary responsibility for POS upkeep. In many countries, POS are traditionally seen as a public good to be managed by municipal services (Dempsey, Burton, 2012), and it was typical in both Western welfare states and socialist countries during the post-war decades. This model ensures professional maintenance and public funding, but can suffer from budget limitations and limited citizen engagement. This is especially evident in post-socialist contexts, where after the 1990s privatization, municipalities often struggled with diminished resources and expanding responsibilities.

Market-driven management includes transfer management responsibilities on private entities (Carmona et al., 2008). While this can ensure dedicated funding, there is a risk that profit motives override inclusivity, or that spaces become quasi-private, excluding the broader public.

The community-centred model shifts the responsibility for managing POS from government to community organisations—such as associations of POS users or interest groups (Carmona et al., 2008). Unlike the market-centred model, these organisations are not profit-driven; their main concern is the quality of the space. They often operate within network governance, building formal and informal links with similar groups as well as with public and private bodies. This model aligns with the broader trend of co-production of public services with users, which is seen as an effective way to meet complex and diverse social needs. In the UK, this is reflected in the transfer of social-housing management (including associated open spaces) to housing associations and in policy shifts giving local groups a stronger role in decision-making (Dempsey, 2010).

Contracts under this model may be formal – such as the transfer of housing-estate management to associations (Carmona et al., 2008) – or informal, relying more on government support. Examples include ad-hoc residents’ groups under neighbourhood-renewal schemes, where communities in disadvantaged areas are encouraged to manage their own spaces. In Sweden, large public housing companies have initiated tenant-involvement programmes that have helped revive declining communities (Castell, 2010). Levels of resident control can range from limited participation in pre-defined tasks to full self-management.

Governance can take two main forms: self-governance and co-governance. In self-governance, users themselves organise and manage the space with minimal government input (Jansson et al., 2020). Authorities may set boundaries or rules, but the main responsibility lies with non-government actors such as residents or NGOs. One example is the concept of *urban commons*, where collective “commoning” practices – like do-it-yourself urbanism – help communities address resource scarcity, inequality and uncertainty, while building inclusion and local capacity. In co-governance, public authorities delegate part of their power to non-government actors. This collaboration can be open, with loose networks (e.g. community gardens or green-space co-management with local volunteers) or closed, with tighter dependence on public bodies.

3. Methodology

The research employs a comparative case study methodology, as this approach is particularly effective for understanding complex social phenomena in different contexts. Three case studies were selected based on theoretical sampling to capture different contexts and governance models. Two projects from Sweden (one bottom-up cooperative and one landlord-initiated self-management programme) were chosen to illustrate effective solutions despite opposite starting points in the same national context. Third case illustrates post-socialist context with apartment association based governance complemented by municipal programmes in Estonia. These cases provided framework to contrast with the informal, bottom-up nature of Serbian practice. For the Serbian context, the analysis included review of national and local laws and regulations, urban plans, and research findings to identify current gaps and potential reforms. Comparative analysis examined legal and institutional arrangements; governance and funding models; forms of resident participation; and observable outcomes for POS quality. By integrating findings from different contexts, the research aims to formulate recommendations that are not one-size-fits-all but rather sensitive to different governance environments, yet unified by the goal of empowering communities in POS stewardship.

4. Case study analysis

4.1. Sweden models of self-management

In Sweden, housing companies are important actors in the providing good quality POS for urban residents (Lindgren, Castell, 2008). They manage a considerable proportion of POS and a major trend in housing management is outsourcing of maintenance tasks. Another trend is a growing interest in self-management and other forms of resident involvement. Two cases from Sweden illustrate this practice in various forms, one bottom-up grassroots mobilization and top-down initiated self-management.

4.1.1. Eriksbo: a bottom-up cooperative

Eriksbo, a housing estate in Gothenburg with one thousand flats, was constructed in the 1970s as part of Sweden's "million programme," which aimed to address housing shortages (Krantz et al., 1999). It was initially well planned with low buildings, extensive green space, and a close relationship to its natural surroundings, however, the area's condition quickly deteriorated. Within a decade, Eriksbo suffered from high vacancy rates, drab and vandalized exterior spaces, and construction faults. Around 1980, facing a housing company incapable of undertaking necessary measures, a group of inhabitants established a new strategy for taking responsibility for their own environment rather than simply making demands on their landlord. This shift in attitude, initially marked as self-maintenance and later cooperative development, became the trigger for an exceptional evolution in the area.

The grassroots mobilization was partly inspired by an ideological debate within the social democratic youth league, where some residents sought a more active citizen role to reclaim control over their everyday lives (Castell, 2009). They began organizing, and numerous societies and clubs started to form, including a 'Green Group/Club' to improve outdoor spaces, an association to run the recreational centre, and clubs for tenants around each courtyard (Krantz et al., 1999). Cooperative association was formed to coordinate projects (Castell, 2009).

From 1985 to 1990, the housing company, with the help of government financing, began to address the area's physical problems (Krantz et al., 1999). Buildings were altered to give them a more pleasant appearance, and outdoor spaces were refurbished. However, this process was largely driven by professionals, and the refurbishment works were sometimes forced upon tenants, diminishing their influence.

Beginning in 1990, the residents strengthened their position and took on a much greater degree of influence, eventually occupying all the seats on the board that led the management and maintenance of the area. The relationship with the landlord shifted, with the company acting more supportive of resident initiatives (Krantz et al., 1999). The process grew and was institutionalized in the early 1990s when the cooperative signed an agreement to take over responsibility for open space maintenance from the housing company (Castell, 2009). The association received the funds the company would have otherwise

spent on contractors and hired unemployed tenants to carry out the work (Bogdanović Protić et al., 2018).

Without contacting professional planners, residents began to make small but qualitatively important improvements to the outdoor spaces. By the mid-1990s, the cooperative ran a school and a supermarket, and tenants had access to a center where they could discuss ideas or complaints with someone who could react immediately. The cooperative also managed a public park and handled indoor and outdoor maintenance through self-management contracts (Castell, 2006).

However, the activity declined drastically in the late 1990s (Castell, 2009). This was attributed to an inability to involve new resident groups, particularly youth and immigrants, in the cooperative. Furthermore, motivation fell when economic compensation for maintenance work was reduced. Ultimately, the housing company took back responsibility for POS maintenance.

Despite its decline, the evolution of Eriksbo remains a well-known and influential case study in Swedish housing. It demonstrated how a resident-initiated process could transform a declining area, creating a complex local culture and improving the quality of life for its inhabitants. The project highlighted the potential for tenants not only to participate in but to lead the revitalization of their own communities.

4.1.2. Holma: a top-down initiative

Holma is a housing area in Malmö, Sweden, with about one thousand rental apartments owned by the municipal housing company (Castell, 2009). Built in the early 1970s, also as part of "million programme," its design is typical of the era, featuring three- and eight-story slab blocks that form semi-closed square yards. By the beginning of the 1990s, Holma had become a declined and stigmatized district, facing significant social problems and a poor public image, even being described in newspapers as a "human dump" (Castell, 2006).

In an attempt to reverse this negative trend, the municipal housing company initiated the self-management strategy in the early 1990s (Castell, 2009). Unlike the resident-led movement in Eriksbo, the process in Holma was largely initiated and steered by the landlord. The organizational model was structured to let tenants to form yard teams and take over maintenance duties from the company (Castell, 2006; 2009). The district was divided into four management areas, each with a dedicated local manager. These areas were further divided into yard-wise "self-management areas", and the residents were encouraged to form yard teams to involve in the management of the yards. Team members signed formal contracts and received a rent reduction as direct economic compensation for their work.

The compensation system drew the attention of the national tax board (Castell, 2006; 2009). This concern triggered a political debate that resulted in a governmental commission and, eventually, a new tax regulation, the "Lex Holma". This new law clarified that untaxed economic compensation for residents was acceptable, but it drastically limited the amount, capping the size of the rent reduction.

Despite this change, the self-management project in Holma has continued and remains an influential example of formalized resident involvement in housing management. The evaluations found it very effective in improving social cohesion and demonstrated the high potential for resident involvement to break a cycle of suburban decay and spark a positive rejuvenation process (Castell, 2006). The model gained considerable attention and inspired many similar projects at other municipal housing companies across Sweden.

4.2. Estonia: hybrid governance model

Following a period of widespread housing privatization in the 1990s, Estonia developed a community-centered approach to managing its Soviet-era LHEs. This case study explores the evolution of this system, from the mandatory creation of formal apartments associations to the rise of grassroots civic initiatives.

The rapid privatization of state-owned housing in the early 1990s in Estonia resulted in a homeownership rate of nearly 100%, created an urgent need for a new management system (Leetma et al., 2018). The initial period was chaotic, as new homeowners had no established model for collectively managing their buildings and surroundings (Bernt, 2020).

To bring order (in housing management), central government mandated the formation of apartment associations, non-profit organizations composed of the apartment owners within a single building with

the goal to manage common areas on behalf of their owner-members (Leetma et. al, 2018). Initially encouraged in the mid-1990s, their establishment have become obligatory for all multi-family buildings since 2018 (Pirrus and Leetma, 2023). The primary function of these associations is to collect contributions for maintenance, handle repairs, and organize large-scale building renovations (Leetma et. al, 2018). The establishment of this system faced significant issues. Association leaders were residents who typically had limited administrative skills or legal knowledge. There was also initial confusion about this system in terms of privatized land around the buildings (Leetma et. al, 2018). Some apartment associations privatized large plots and later struggled to take care for it, while others privatized narrow space around the building which was too little to influence their surroundings. To address the skills gap, an umbrella organization, The Estonian Union of Co-operative Housing Associations (EKYL) was founded in 1996. In partnership with city government, the EKYL provided crucial training for apartment associations' leaders in accounting, leadership, and legislation, which increased the capacity of apartment associations to coordinate the common management.

This model proved highly successful in improving the housing stock. Through collective decision-making, apartment associations have significantly upgraded low-quality buildings, leading to a steady decline in the number of households living in substandard dwellings (Tallinn, 2025a). They are now considered the main citizen-level partners for city governments in relation to housing estates. The condition of a certain block largely depends on the competence of the apartment association's leadership. When association leaders manage to encourage homeowners to invest and effectively collaborate with partners such as municipal authorities and financial institutions, the blocks have generally better quality (Leetma et. al, 2018). The downside of this governance model that still remains is that tenants who rent apartments (about 20–25% in Tallinn) are not members of apartments associations and completely excluded from the decision-making (Bernt, 2020).

The apartments associations' jurisdiction is typically limited to the building itself (*a block, or a set of blocks*) and the surrounding privatized land. This creates a critical gap in the management of the vast, open green spaces between the apartment buildings, which are characteristic of socialist urban planning, and was left as a so-called "no man's land" for many years (Leetma et. al, 2018). This intermediary space remained public land, often with the status of "unreformed state land", and until recently even cities (municipalities) did not have the power to reorganize these areas (Bernt, 2020). Consequently, apartment associations have had neither the legal right nor the motivation to invest and maintain these areas, leading to their neglect and a lack of amenities like landscaping, playgrounds, and resting places (Tuvikene, 2019). The apartment associations' focus was on their immediate property, and they had a negligible role in broader neighborhood-level spatial planning or infrastructure development. The issue became even more complex when some of the land owned by the municipality or state was sold to developers (Bernt, 2020).

Recognizing the limitations of the apartments associations model, government bodies have stepped in with support mechanisms. The City of Tallinn's "Hoovid korda" (Renovate Your Courtyards) program, launched in 2006, is the most important (Tallinn, 2025b). This initiative provides co-financing to apartments associations for projects that improve courtyards with a focus on creating climate-resilient green spaces, but including also playgrounds, or bicycle storage. Apartments associations must contribute 50% the costs for all supporting activities.

More recently, a new model of community management has emerged in the form of grassroots neighborhood associations (Bernt, 2020). These civic initiatives work on a broader scale than individual apartment associations, aiming to improve the overall quality of the living environment. Neighborhood associations were often initiated by architects and planners, who organized vision competitions, urban gardening, and public discussions, serving as intermediaries between residents and municipalities. A grassroots NGO Lasnaidee was founded in 2014 in Tallinn's largest housing estate, Lasnamäe with the mission to activate residents and challenge the negative stigma associated with the mainly Russian-speaking panel housing district through community engagement (Krivy, 2022). Launched with several community barbecues to build local visibility, Lasnaidee's first major public action was a collaborative painting project called "LasnaVärvid" (Colors for Lasna). Around 40 participants, mostly teenage residents, took part in decorating a frequently used concrete outdoor stairway and nearby surfaces, following a design of brightly coloured triangular mosaics. In collaboration with local institutions, Lasnaidee has established community gardens that serve as hubs for social activity.

By focusing on the shared spaces that fall outside the direct responsibility of apartments associations, organizations like Lasnaidee foster a broader sense of community and have become important partners for the city government in urban planning. This evolving partnership in Tallinn between active citizens, their formal associations, and government bodies represents a pragmatic response to the unique challenges of post-privatization urban governance.

5. POS management in Serbian LHEs

Serbian LHEs from socialist period are paradigmatic case of the post-socialist challenges concerning POS management. During the 1990s, public housing was massively privatized, but the legal framework did not clearly redefined responsibilities for POS management and maintenance. Unclear responsibilities over POS, financial shortages stemming from economic difficulties since the 1990s, and declining resident engagement have made these areas obsolete and underutilized (Dragutinović, 2023). Conversely, city officials used underuse and maintenance challenges as key reasons for selling “undeveloped” urban land for new development projects (Milojević et al., 2019).

Similar to Estonian model, in Serbia the governance of multi-family building lies in hands of homeowners associations which consists of all the owners of special parts of buildings. By acquiring ownership rights of a specific part of the building, one also acquires co-ownership rights to the underlying land in proportion to the special part’s size. In practice, though, very few cases in Serbia register all building part’s owners as co-owners of the land on which their building is located (Marković, 2022). Based on the Law on Housing and Building Maintenance, owners, that is homeowners associations must maintain spaces outside the building that belong to the “land for regular use of building”, which consists of land under the building and the land around the building, that is a cadastral plot. Owners of special parts of the building are obliged to participate in maintenance costs. However, in the case of inherited housing stock from the socialist past, legalization was performed by forming the building’s cadastral plot the same size as the building, with no regard to the regime and use of land in the immediate surroundings of the buildings (Marković, 2022). The Law on Planning and Construction considers these blocks built in open system of spatial organization as a special case where “land for regular use of the building” is just the land under the building. This way, homeowners associations do not have legally responsibility for maintainance of vast POS, which mostly remained publicly owned and managed. Moreover, POS often fall under the jurisdiction of Republic of Serbia, while relevant institutions operate at the city level, which prolong permit procedures, complicating both development and maintenance (Stupar et al., 2020). This legal ambiguity for inherited housing blocks is a fundamental barrier to community-based management – because if residents do not formally own or lease the land, they lack clear authority or incentive to invest in its upkeep. The Decision on Communal Order does mention that users (residents) may be responsible for maintaining *areas in public use* within or between residential blocks. However, this does not apply to POS in Belgrade’s LHEs, which are designated as *areas of public use* and thus remain under city maintenance. In essence, Serbian law currently provides no straightforward mechanism for residents to formally take charge of their estate’s open spaces. Residents are not even formally recognized as stakeholders in public land management, which severely limits their ability to organize maintenance or improvements.

At the local government level, urban planning documents in Serbia acknowledge the importance of POS but don’t solve the governance issue. Belgrade’s General Urban Plan (GUP) and Plans of General Regulation Plan (PGRs) set out norms for preserving open spaces in both old and new housing areas. For example, the GUP recognizes the valuable concept of open residential blocks and mandates that they be protected and enhanced, with any new construction in them tightly controlled. The PGR for Belgrade explicitly designates green spaces in inherited LHEs as areas of public use with clear-defined maintenance responsibilities assigned to the competent utility company. Belgrade’s urban plans thereby focus on preserving POS in inherited LHEs, but not on innovative management solutions. Strategic documents like Development Strategy of the City of Belgrade until 2027 underscores participatory planning and supporting the growing number of citizen initiatives aimed at maintaining and enhancing living environments, hinting at a policy direction to involve communities. However, these intentions have not materialized into concrete local programs or regulatory changes that empower residents.

Against this backdrop, community initiatives have started to emerge in certain Belgrade’s super-blocks. Some initiatives include small spatial interventions as in Block 37 (Stupar et al., 2020), cleaning actions,

cooperation with public institutions to encourage the participation of citizens in the planning of open spaces (Udruženje građana "Blok 37", n.d.; Moj lepi grad, n.d.), but also organizing protests in order to defend POS from new construction (Danas, 2024). One of the most active initiative has been in Blocks 70 and 70a, two adjacent super-blocks near the Sava River. In the late 2010s, residents formed a grassroots citizens' association called *Joint Action Block 70 & 70a (Zajednička Akcija Blok 70 i 70a)*. A large number of residents of these blocks at first grouped in order to stop a plan for construction of a bridge and parking in the blocks in 2017. Although this was a trigger, the initiative continued and widened its scope to solving other problems in the neighbourhood such as cleanliness, maintenance, waste, lack of greenery, landscape planning, lack of parking spaces and improving life in local communities in a sustainable way (ZIP, 2025). This association has tackled both maintenance and advocacy. On the maintenance side, in just a couple of years they managed to plant hundreds of trees and organize numerous neighborhood cleanup actions (Figure 1). They created a pilot project called "Garbage for trees", installing recycling collection points in 30 buildings and using money from selling recyclables to fund tree planting and block arrangement. They have raised money through donations and even launched a crowdfunding campaign to buy tools and equipment for greenery upkeep (Blok 70 - Zajednička Akcija, n.d.). The planting is carried out in cooperation with Forestry Faculty and the city's utility company (JKP Zelenilo), showing an attempt at community-public collaboration. On the advocacy side, the Joint Action group has reacted against over-development: when an amendment was proposed to the the Plan of general regulation for the city of Belgrade (part I-XIX) that could have allowed new construction in the Sava blocks, they organized petitions and public comments, succeeding in having their area excluded from the plan changes (Dragutinović, 2023). They also push for involvement in future planning – for example, they fought for active participation in drafting a new Detailed Regulation Plan for their blocks.



Figure 1. Some of the actions organized by Joint Action Block 70 and 70a

Source: <https://www.zdruzeno.org/zajednicka-akcija-blok-70-i-70a/>

In terms of governance model, Joint Action Block 70 and 70a functions as an informal co-manager of the open space. It has no legal authority to manage public land, but through constant communication with city institutions (public utility companies, urban planners, city secretariats, etc.), the association has positioned itself as a representative of the community's interest in those spaces. They effectively act as a mediator between residents and public institutions, organizing residents' efforts on one hand and lobbying officials on the other. Additionally, they recognized the gap left by the closure of local community council (*mesna zajednica*) offices. New Belgrade's governance is very centralized with no active lower levels of government that could be focused on a neighbourhood level, which could facilitate implementing community activities in POS management (Jovanović & Stupar, 2022). By forming a network of building managers across Blocks 70 and 70a and convening them, Joint Action is trying to create a substitute platform for local decision-making and sharing experiences. This indicates that in absence of formal local governance, citizen associations can step in to coordinate at the neighbourhood level. The outcomes so far have been encouraging: the activities of Joint Action have contributed to better maintenance and overall quality of POS in these blocks, but also raise residents' awareness of POS values and foster community spirit. However, the association's work is not formalized, and relies on volunteer energy and occasional goodwill from city agencies. In order to be sustainable and more effective, it needs institutional, organizational, and financial support from public authorities.

6. Discussion

The experiences of Sweden, Estonia, and Serbia in POS management reveal various governance models, each shaped by distinct historical-political contexts, ownership structures, and levels of state involvement (Table 1). The Swedish and Estonian cases, while different, both highlight the critical importance of a formalized framework for community engagement, a component largely absent in Serbia. This absence has influenced Serbian initiatives to take a new role as informal co-managers.

Table 1: Comparative overview of POS management models in LHEs

Case	Governance Model	Initiator of Action	Legal Framework	Role of Municipality/ State	Outcomes
Eriksbo Gothenburg, Sweden	Bottom-up cooperative – formalized cooperative management	Residents (bottom-up), driven by ideology and necessity	Formal self-management contracts with the housing company	Supportive partner	Initial success in revitalization, but declined due to engagement issues
Holma Malmö, Sweden	Top-down self-Management	Housing company (top-down), driven by problem-solving	Formal self-management contracts with direct compensation	Active initiator, manager, and contracting partner	Sustained success in improving social cohesion
Tallinn, Estonia	Hybrid Governance	State (mandated apartment associations), later complemented by grassroots NGOs	Mandatory Apartment Associations Act; municipal programs for support	Legal structure, funding programs	Improved housing stock, but persistent "no man's land" problem with public space
Blocks 70 and 70a Belgrade, Serbia	Informal co-management	Residents (bottom-up), driven by neglect and threat of new construction	No formal mechanism for community management of public land	Largely absent or an obstacle; occasional ad-hoc cooperation with utility companies	Improved local maintenance and successful advocacy, but reliant on volunteer energy and lacks sustainability

A key distinction lies in the catalyst for community action. In Sweden, both the bottom-up cooperative in Eriksbo and the top-down initiative in Holma emerged from a system where housing companies were active and accountable partners, seeking solutions to social decay. In Estonia, the state mandated the creation of apartment associations to fill a post-privatization management gap, later supporting them with formal programs like "Hoovid korda". In stark contrast, Serbian initiatives like Joint Action Block 70 and 70a arise from an institutional void. They are not responding to an invitation from the state but are acting in spite of its absence, driven by the necessity to defend their spaces from neglect and unwanted development, and showing that capacity and willingness exist at community level.

All of the cases highlight that hybrid governance arrangements, which combine legal recognition, municipal co-financing or technical support, and empowered residents body, are necessary for effective POS management. The Swedish cases show that community will must be accompanied with formal channels for resources and legal stability; without those, volunteerism tends to fade. Estonia shows that mandatory forms (apartment associations) build capacity and routine management, but their mandate must be complemented by neighbourhood-scale mechanisms to address shared open space.

The issue of ownership and legal responsibility is the main distinction between the post-socialist cases and the Swedish model. The rental system in Sweden provides a clear landlord-tenant relationship, within which contracts for self-management can be established. Estonia attempted to solve the post-privatization ownership dilemma by mandating apartments association, but the privatization of land

around the building created the "no man's land" problem, leaving vast POSs without clear stewards. Serbia's legal framework mirrors this flaw, with laws designating the land for regular use as only that beneath the building, legally absolving homeowners' associations of responsibility for the surrounding open spaces. This legal ambiguity is the fundamental barrier that prevents Serbian initiatives from moving beyond informal, volunteer-based action to a more sustainable, formalized model of co-governance.

Finally, the sustainability of these models varies. Eriksbo's decline demonstrates that even a successful bottom-up cooperative is vulnerable to changes in funding and an inability to engage new generations. Estonia's grassroots initiatives, like Lasnaidee, rely on dedicated activists and partnerships to complement the formal but limited role of the apartment associations. The Serbian model, while demonstrating remarkable community resilience and resourcefulness, is the most fragile. It depends entirely on volunteer energy and the goodwill of city agencies, lacking the institutional, organizational, and financial support necessary for long-term place-keeping. While the Serbian initiatives effectively function as self-governing urban commons, their long-term impact hinges on achieving a formal role within a co-governance structure.

The studied cases confirm a theoretical point that **placemaking must be complemented by place-keeping**. Design-led improvements are necessary but insufficient; long-term stewardship, adaptive governance and stable resource flows are key to improve POS into a resilient social and ecological commons.

7. Conclusion

This paper analyzed community-centered management models for POS in LHEs, comparing formalized approaches in Sweden and Estonia with emerging informal initiatives in Serbia. The analysis confirms that while top-down, state-centered management has proven inadequate in many LHEs, sustainable solutions lie in collaborative models that empower residents as active stewards of their environment. The research sought to answer how communities can be effectively involved in the long-term stewardship of these spaces. The findings indicate that effective involvement requires not only grassroots mobilization but also a supportive and clear institutional framework that grants residents legal authority, provides access to resources, and recognizes them as legitimate partners in governance.

The Serbian case demonstrates that in the absence of such a framework, dedicated residents will create their own informal governance structures out of necessity. However, the sustainability of these initiatives is uncertain. To move from ad-hoc actions to long-term, strategic place-keeping, and to scale these successes beyond a few hyper-active neighborhoods, systemic changes are required.

Based on the comparative analysis, the following recommendations are proposed for the Serbian context:

- Establish a clear legal framework for co-management. Existing legislation needs to be revised to create a mechanism for homeowners' associations or registered citizen groups to formally lease or obtain management rights over adjacent public open spaces. This would provide the legal certainty needed for long-term investment and planning. The first step could be to determine land for regular use of the building for inherited building stock from socialist past.
- Develop municipal support programs. Local governments should create dedicated programs, inspired by models like Tallinn's "Hoovid korda," that offer co-financing, technical assistance, and material support to community-led POS improvement projects. This would formalize the relationship between the city and active communities, transforming it from informal occasional goodwill to a structured partnership.
- Establish a neighbourhood-scale coordination body that link homeowners' associations, citizens groups and public institutions.
- Foster Capacity Building. The development of an umbrella organization, similar to the Estonian EUAA, should be supported to provide training and resources for homeowners' associations and citizen initiatives. Building local capacity in project management, fundraising, and advocacy is crucial for the long-term success of community-centered governance.

By adopting these measures, Serbia can bridge the gap between the potent energy of its grassroots initiatives and the need for stable, long-term management, ultimately fostering the revitalization of its valuable.

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Attitudes and housing policy: systematic literature review

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Abstract

Despite the fundamental role of housing in people's lives, the ways in which individuals perceive and evaluate housing policies are rarely examined in empirical studies. Yet, the understanding of these attitudes is considered essential for the development of more responsive and resilient policy frameworks. It is often shown that public attitudes remain unfamiliar to policymakers, while politically sensitive data tend to be underutilized or even suppressed. In this theoretical paper, the research question addressed is: What studies have already been conducted on attitudes toward housing policy? Building on a conceptual overview, comprehensive search strings were constructed using a wide range of terms associated with “attitudes” and “housing policy,” allowing for a methodologically rigorous literature review. A final sample of 17 journal articles, published between the late 1980s and the early 2020s, was identified. These articles were published across 13 different journals, reflecting the interdisciplinary relevance of the topic. Across the reviewed studies, 44 research questions or hypotheses were identified, covering a wide range of thematic concerns. Approximately half of the studies were based on secondary data, while the remainder relied on original data collection. Quantitative methods, particularly multivariate statistical analysis, were predominantly employed. Through this review, both the conceptual width and methodological limitations of the existing literature are highlighted. While diverse aspects of housing policy are addressed, most studies follow similar quantitative approaches and rarely integrate qualitative methods. Furthermore, “mid-range” studies—those focusing on national housing policy, grounded in legal, institutional, and theoretical frameworks—are notably absent. These gaps indicate significant opportunities for further research.

Key words: housing policy, public attitudes, housing legislation, housing policy frameworks

1 Uvod

Pomen proučevanja stanovanjske politike z vidika ljudi, so prepoznali številni raziskovalci (glej Bartnicka, 1994; Butkeviciene, 2012; Hussey & Pearson-Merkowitz, 2013; Indriliūnaitė & Žilys, 2018; Kostecký, 2005; Lo idr., 2023; Lux idr., 2023; Motley & Perry, 2013; Roark idr., 2017; Sihvo & Uusitalo, 1995; Stamsø, 2010; Vobecká idr., 2014; Walker, 1999). Vendar raziskovalci stanovanjsko politiko opišejo na različne načine in preučevanje z vidika posameznika pogosto ni v središču opredelitev. Peter Boelhouwer in Harry Heijden (1993) sta stanovanjsko politiko opredelila kot zapleteno medsebojno vplivanje stanovanjskega trga in vladnih interesov. Avtorja priznavata pomembnost tržnih vplivov za oblikovanje stanovanjske politike, vendar izpostavljata, da bi morale države več pozornosti namenjati tudi politično zastavljenim ciljem (Boelhouwer & Heijden, 1993). Iz medsebojnega vpliva stanovanjskega trga in vladnih interesov izhaja tudi Bo Bengtsson (2001), ki stanovanjsko politiko opredeli kot skupek popravkov stanovanjskega trga, ki določajo ekonomske in institucionalne okvire za sklepanje pogodb. Po njegovem mnenju je: »cilj državnega poseganja v trg čim večje približanje obstoječega nepopolnega stanovanjskega trga, namišljenemu popolnemu trgu (Bengtsson, 2001, str. 259)«. Peter King (2009) stanovanjsko politiko poenostavi na skupek števil in standardov, s katerimi se rešuje proizvodnja, uporaba, upravljanje in vzdrževanje stanovanjskega sklada. Pri tem izpostavi odnos med stanovanjsko politiko in stanovanjem; slednje daje ljudem smisel in pomen, kar za stanovanjsko politiko po njegovem mnenju ni pomembno (King, 2009). Njegovi poenostavljeni opredelitvi se je zoperstavil David Clapham (2010), ki je utemeljil, zakaj je pomen, ki ga imajo stanovanja za posameznika, pomembno izhodišče stanovanjske politike. Kljub temu je šlo v navedenem primeru le za zanimivo teoretsko razpravo, saj avtor kasneje uporablja tudi druge opredelitve stanovanjske politike, ki jo opiše kot vsak ukrep vlade (ali drugega pristojnega organa), da bi vplivala na procese ali rezultate na stanovanjskem področju (Clapham, 2018). Zelo podobno definicijo uporablja tudi Peter Marcuse (2013), le da izpostavlja usmerjenost vladnih ukrepov v reševanje stanovanjskih problemov. Kljub temu da je stanovanje za posameznika izrednega pomena (Daly & Rose, 2007; Domanski idr., 2006; glej Erikson, 1993; Fahey idr., 2004; Mandič, 2011) in da so številni raziskovalci prepoznali pomen proučevanja stanovanjske politike z vidika ljudi, je ta vidik proučevanja stanovanjske politike pogosto zoperstavljen. Poleg spremljanja značilnosti stanovanjskega trga, je pomembno spremljati tudi, kako stanovanjski trg in stanovanjsko politiko doživljajo in vrednotijo ljudje, uporabniki različnih stanovanj. Ravno poznavanje stališč ljudi namreč pomembno prispeva k načrtovanju prihodnjega razvoja stanovanjske politike, katere cilj je njeno izboljšanje in večja odpornost (Eirich & Corbett, 2009; García-Sánchez idr., 2023; Lasswell, 1957).

Podatki o stališčih ljudi so danes večinoma uporabljani za vrednotenje obstoječih politik in njihovih učinkov (Eirich & Corbett, 2009; Lasswell, 1957), imajo pa tudi druge pomembne razsežnosti. Pomagajo nam razumeti širše razmišljanje družbe o določeni temi (Eirich & Corbett, 2009) in na podlagi posameznih stališč določiti zaokrožene skupine ljudi z enakimi značilnostmi, ki jih razumemo kot dejstva v smislu družbenih pojavov (Eirich & Corbett, 2009; Lasswell, 1957; Voas, 2014). Ko prepoznamo različno misleče skupine ljudi, se lahko med njimi ugotavlja razlike in ali je zanje potrebno zagotavljati drugačne ukrepe, ki bi vodili k splošno ustrežnejši ureditvi določenega področja. Spremlja se lahko tudi, kdo ali kaj ima nanje največji vpliv, kar dodatno omogoča usmerjanje ukrepov (Eirich & Corbett, 2009; Lasswell, 1957). S ponavljajočim in sistematičnim spremljanjem stališč ter njihovo analizo se oblikuje novo znanje o trendih, ki lahko vnaprej določijo problematična področja in vzorce, ki bodo pri urejanju izkazala možno potrebo po večji pozornosti političnih predstavnikov (Lasswell, 1957).

Podatki o stališčih predstavljajo del oblikovanja politik na osnovi dokazov in tak pristop k oblikovanju ni vedno pozitivno sprejet s strani političnih predstavnikov (Bejko & Dauti, 2019). Kljub vsem prednostim, ki jih poznavanje stališč prinese za proces oblikovanja politik, se pogosto izkaže, da jih politični predstavniki ne poznajo, da imajo samo podatke o stališčih do celotne politike in ne do njenih posameznih delov, ali da ne poznajo stališč določenih družbenih skupin (García-Sánchez idr., 2023; Rosset, 2013). Bianca Oehl idr. (2017) so v raziskavi o vplivu javnega mnenja na oblikovanje politik ugotovili, da se podatki o stališčih najpogosteje sploh ne zbirajo. Razlog je lahko cena tovrstnih raziskav ali mnenje političnih predstavnikov, da imajo dovolj informacij (Bejko & Dauti, 2019). Večje število

raziskav ugotavlja, da se raziskave o občutljivih temah raje ne izvajajo, saj bi rezultati lahko vplivali na volilno podporo (Bejko & Dauti, 2019; Choi idr., 2005; Ham idr., 1995). Nina Vohnsen (2013) je ugotovila, da prihaja do določenih omejevanj, tudi ko so raziskave že izvedene, predvsem gre za preprečevanje objav rezultatov raziskav, ki izpodbijajo prepričanja in programe političnih predstavnikov. V postopku oblikovanja politik se podatki o stališčih večinoma uporabljajo samo kadar lahko politični predstavniki z njimi utrjujejo svoje interese oziroma so rezultati raziskav skladni s političnim programom vlade (Bejko & Dauti, 2019; Jack idr., 2010).

Pri raziskovanju stališč je treba izpostaviti, da raziskovalcem vse do danes ni uspelo oblikovati univerzalne opredelitve pojma (Ajzen, 2001; Cialdini idr., 1981; Fishman idr., 2021; Olson & Zanna, 1993; Petty idr., 1997). Ker je stališče pomemben koncept za različne discipline, vsak predstavnik svojega področja izpostavlja značilnosti stališč, ki so ključne za njegovo področje delovanja, vendar hkrati priznavajo pomen sodelovanja in izmenjave raziskovalnih dosežkov in opažanj med disciplinami (Sherif & Cantril, 1945). Kljub vedno novim opredelitvam pojma stališče, raziskovalci in teoretiki večinoma ne morejo oblikovati dovolj trdnih argumentov, na katerih bi popolnoma ovrgli opredelitev svojega predhodnika.

V znanstvenih raziskavah je vrednotenje element, ki predstavlja skupno točko med sicer zelo različnimi opredelitvami stališč (Fazio, 2007; glej Olson & Zanna, 1993; Petty idr., 2007; Schwarz, 2007; Voas, 2014). Nanje je že zgodaj opozoril Read Bain (1928) in izpostavil, da raziskovalci s tem izrazom opisujejo mnenja, navade, tendence za delovanje, čustva, želje, vrednote in tudi druge koncepte. Bainov sodobnik, Luis Leon Thurstone (1928), je v enem od temeljnih del razvoja metodologije objektivnega merjenja stališč, stališče opredelil na način, ki še razširja Bainova opažanja, in poleg konceptov, ki jih je Bain že povezal s stališči, dodaja še druge, npr. posameznikova nagnjenja, predsodke, predstave, ideje, strahove, grožnje in prepričanja o določeni temi. Iz tega izhaja opažanje, da raziskovalci stališče razumejo različno, hkrati pa v svojih raziskavah ne opredelijo natančno pomena stališča, ki ga uporabljajo (Bain, 1928). Richard LaPiere (1938) pomen stališča poenostavi z razlago, da stališče v večini raziskav pomeni odgovor na vprašalnik. Muzafer Sherif in Hadley Cantril (1945) v teoretične razprave o pomenu stališča vpeljeta še pogostost uporabe termina v vsakodnevnih pogovorih, kar še dodatno prispeva k številčnosti različnih opredelitev in nedosledni uporabi pojma. Bain (1928) je ugotovil, da je v zgodnjih raziskavah s področja proučevanja stališč, najpogostejša zamenjava stališča z mnenjem. Raziskovalci so glede opredelitve mnenja složnejši in ga interpretirajo kot besedni izraz stališča, ki je lahko ustni ali pisni (Bain, 1928; Sherif & Cantril, 1945; Thurstone, 1928).

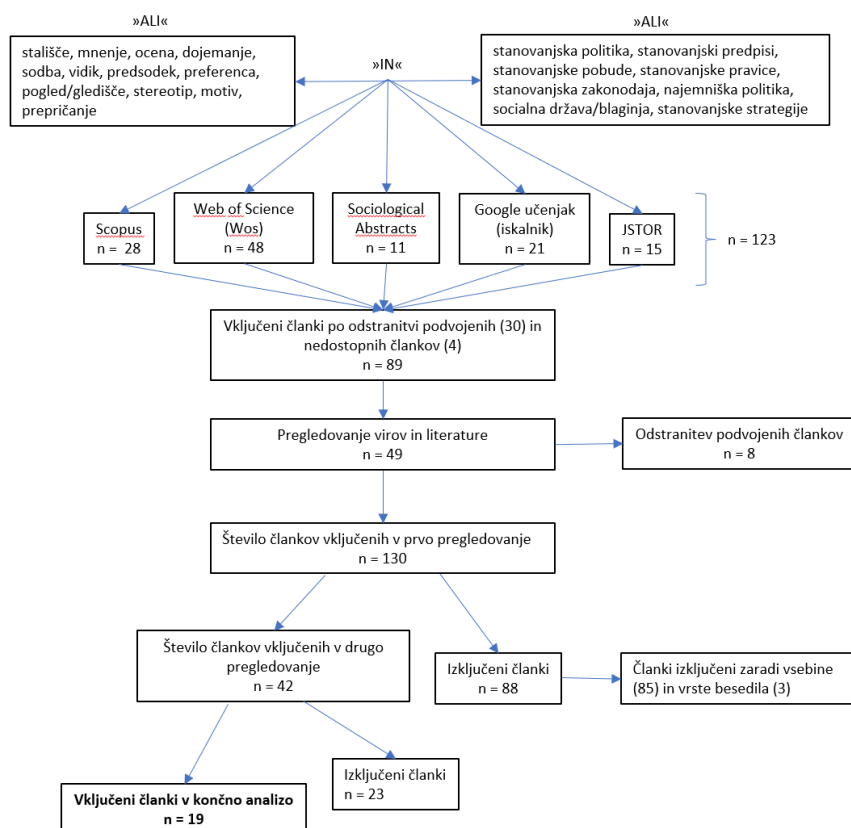
Zaradi pomena, ki ga lahko ima poznavanje stališč ljudi, velikega interesa raziskovalcev za raziskovanje te tematike, kontroverznosti podatkov o stališčih in hkrati močnega vpliva stanovanjske politike na posameznika, nas je zanimalo raziskovalno vprašanje: »Kakšne raziskave so že bile izvedene na temo stališč do stanovanjske politike?« Odgovor na to vprašanje je ključen tudi za potrditev inovativne zasnove doktorske disertacije z naslovom *Stališča prebivalcev Slovenije do stanovanjske politike v državi* (v pripravi), saj ta predvideva zapolnitev raziskovalnih vrzeli, ki smo jih prepoznali s to teoretično raziskavo in jih predstavili v razpravi na koncu prispevka.

2 Metodologija

Za odgovor na raziskovalno vprašanje smo naredili natančen pregled obstoječe literature in pri tem uporabili metodo sistematičnega pregleda literature. Proces sistematičnega pregleda literature smo razvili na podlagi priporočil Diane Ridley (2012), Arlene Fink (2019) ter Marka Petticrewja in Helene Roberts (2006).

Pri temeljitem pregledovanju literature smo sproti oblikovali grafični model procesa sistematičnega pregleda literature (Slika 1) in v Excelovi preglednici zbirali osnovne informacije o objavljenih člankih (avtor/ji, leto objave, naslov članka, naslov revije, ključne besede). Poleg tega smo za odgovor na raziskovalno vprašanje oblikovali tudi dva cilja. Prvi cilj je prepoznati raziskovalna vprašanja oziroma hipoteze, ki so jih v raziskavah že raziskovali. Z izpolnitvijo tega cilja smo opredelili, katerim vsebinam

so obstoječe raziskave namenjale več pozornosti. Drugi cilj je prepoznati uporabljene raziskovalne metode in analizirati, kako so raziskovalci pristopali k oblikovanju raziskav.



Slika 1: Grafični prikaz procesa izvedbe sistematičnega pregleda literature

Za izpolnitev zastavljenih ciljev in oblikovanje odgovora na raziskovalno vprašanje, smo pregledali literaturo v štirih znanstvenih bazah (Scopus, Web of Science (WoS), Sociological Abstracts, JSTOR) in uporabili iskalnik Google Učenjak. Da bi zagotovili celovit pregled obstoječe literature, smo na podlagi teoretične raziskave, na kratko predstavljene v uvodu, opredelili različne izraze pojma stališče in jih vključili v iskalne nize. Čeprav je stanovanjska politika manj zapleten pojem kot stališče, smo tudi zanj opredelili več izrazov, s čimer smo zagotovili temeljitost iskanja in zajeli najširši možni nabor literature. Za vsako znanstveno bazo in iskalnik smo prilagodili iskalne nize njihovem delovanju. Iskanje smo izvedli v angleškem jeziku. Vsak iskalni niz je zajemal izraz za stališča in stanovanjsko politiko. Prvi del iskalnega niza je poudaril stališča (ang. attitude) in prej opredeljene sorodne izraze, kot so dožemanje (ang. perception), vidik (ang. viewpoint), pogled (ang. view), mnenje (ang. opinion), prepričanje (ang. belief), preferenca (ang. preference), pogled/gledišče (ang. perspective), sodba (ang. judgment), predsodek (ang. prejudice) in stereotip (ang. stereotype). Te izraze smo povezali z logičnim operatorjem (ang. Boolean operator) "ALI" (ang. "OR"). Drugi del iskalnega niza je zajemal izraz stanovanjska politika (ang. housing policy) in z njo povezane izraze, kot so stanovanjski predpisi (ang. housing regulations), stanovanjske pobude (ang. housing initiatives), stanovanjske pravice (ang. housing rights), stanovanjska zakonodaja (ang. housing legislation), najemniška politika (ang. tenement policy), blaginja (ang. welfare) in stanovanjske strategije (ang. housing strategies). Tudi ti izrazi so bili med seboj povezani z logičnim operatorjem "ALI", posamezna vsebinska sklopa pa ločena z oklepaji in povezana z operatorjem "IN" (ang. "AND").

3 Rezultati in analiza

3.1 Vmesni rezultati in analiza

Iskanje smo izvedli med 15. in 21. 2. 2024, pri čemer nismo določili spodnje časovne meje. Z iskanjem smo zaključili, ko pri pregledovanju rezultatov nismo več našli novih člankov. Pri prvem pregledovanju rezultatov, smo primernost člankov ocenjevali glede na njihov naslov. S pomočjo orodja za avtomatsko upravljanje z viri (Zotero 6.0.30), smo ustvarili zbirko 123 člankov. Iz nje smo odstranili trideset podvojenih in štiri nedostopne članke, za nadaljnjo obravnavo pa jih je v zbirki ostalo 89. Nato smo pregledali njihove vire in literaturo ter v zbirko dodali še 49 po naslovu primernih člankov. Po tem koraku smo ponovili pregledovanje podvojenih člankov in jih odstranili še osem.

V obdobju od 14. 6. do 21. 8. 2024 smo ocenjevali ustreznost (ang. first screening) 130 člankov v zbirki glede na njihove naslove, ključne besede in povzetke, pri čemer smo uporabljali vnaprej določena merila za vključitev in izključitev (ang. inclusion and exclusion criteria). Kadar povezava stališč in stanovanjske politike ni bila takoj očitna, smo uporabili ciljno iskanje po celotnem besedilu. Iskali smo koren besede »housing«, članke, ki tega izraza niso vsebovali, pa smo izločili. Prvo merilo za nadaljnjo obravnavo se nanaša na vrsto besedila: vključili smo le članke iz znanstvenih revij in recenzirane konferenčne prispevke, medtem ko smo izključili poglavja v knjigah, recenzije in doktorske disertacije, saj ti pogosto niso v celoti dostopni v omenjenih bazah podatkov in iskalniku. Drugo merilo je bilo vsebinsko. Iskali smo članke, v katerih raziskovalci preučujejo oziroma merijo stališča ljudi do stanovanjske politike v najširšem pomenu ali le do njenih posameznih delov. Kot primerne smo ocenili tudi članke, ki raziskujejo stališča ljudi do blaginje, vendar le v primerih, kjer je stanovanjska politika opredeljena kot njen sestavni del. Na podlagi vsebinskega merila smo izključili članke, kjer raziskovalci teme niso raziskovali skozi stališča ljudi, ampak so bili osredotočeni na druge vidike stanovanjske politike (npr. zgodovinski razvoj, statistične podatke, energetska učinkovitost itd.).

Po prvem pregledovanju smo v naslednji krog uvrstili 42 člankov, 88 pa smo jih izločili, tri zaradi neustrezne vrste besedila (Belden idr., 2004; glej Gille, 1952; Lawrence, 1985) in 85 zaradi neustrezne vsebine. Članke, ki jih v nadaljnjo analizo nismo umestili zaradi vsebine, smo na osnovi prebranega vseeno analizirali in jih razporedili v 5 tematskih skupin (Preglednica). Največ člankov (33) raziskuje različne vidike politik socialne države/blaginje, njenih posameznih delov ali stališča ljudi do njih. Stanovanjska politika v več primerih ni bila opredeljena kot del politik blaginje oziroma, kjer je bila, raziskovalci niso posebne pozornosti namenjali stanovanjskim programom ali stališčem ljudi do njih. Raziskovalna vprašanja so bila večinoma usmerjena v bolj splošne vidike politik blaginje, npr. v povezavi z njihovim financiranjem, distribucijo in podporo socialnim programom kot je npr. izobraževanje in predvsem javno zdravstvo. V drugo tematsko skupino so umeščeni članki (23), ki proučujejo različne vidike stanovanjske oskrbe, npr. načine zagotavljanja stanovanj, vpliv ekonomskih in socialnih dejavnikov na stanovanjske razmere, stanovanjsko oskrbo za različne skupine ljudi. V tretjo tematsko skupino so vključeni članki (13), ki raziskujejo vpliv stereotipov določenih družbenih skupin na oblikovanje stališč, večinoma do politik socialne države. Zaključkov o stanovanjski politiki na podlagi teh člankov ne bi mogli oblikovati, saj je bila stanovanjska politika včasih samo omenjena in ni bila središče raziskav ali poglobljenih študij. Četrta tema vključuje teoretične in primerjalne raziskave (10), ki so osredotočene na zgodovinski razvoj stanovanjskih in socialnih politik ter njihovih posledic skozi čas. Raziskave v tej skupini ne izpolnjujejo merila, da merijo stališča ljudi do teh tem ampak so uporabili druge metodološke pristope za analizo. Najmanj člankov je razvrščenih v peto tematsko skupino (6), ki vključuje prostorske vidike stanovanjskih politik, tudi urbanistično raziskovanje, zadovoljstvo s soseskami ...

Tematska skupina	Dojemanje politik blaginje	Stanovanjska oskrba	Stereotipi	Zgodovina (stanovanjske) politike	Prostorska analiza v povezavi s politikami
Članki v tej kategoriji	(Stamsø, 2010) (Andreß & Heien, 2001) (AuClaire, 1984) (Baslevent & Kirmanoglu, 2011) (Bean & Papadakis, 1998) (Berinsky, 2002) (Blekesaune, 2007) (Blekesaune & Quadagno, 2003) (Bullock idr., 2003) (Cnaan idr., 1993) (Dalen, 2022) (Evans & Kelley, 2018) (Gelissen, 2000) (Häkkilä & Toikko, 2021) (Hasenfeld & Rafferty, 1989) (Kim idr., 2018) (Kutsenko & Gorbachyk, 2014) (Larsen, 2008) (MacLeod idr., 1999) (Rantanen idr., 2015) (Roosma idr., 2014) (Roosma idr., 2013) (Sabbagh & Vanhuyse, 2006) (Sundberg, 2014) (Svallfors, 1995) (Svallfors, 1997) (Szelewa, 2022) (Tam & Yeung, 1994) (Taylor-Gooby & Bochel, 1988) (Van Oorschot, 2006) (Van Oorschot idr., 2012) (M. W. Wagner, 2007) (Zimmermann idr., 2018)	(Boulton idr., 2022) (Bowes idr., 1997) (Brazienė, 2019) (Brazienė, 2019) (Filandri & Bertolini, 2016) (Forrest & Yip, 2014) (Galal, 2015) (Galster, 1985) (Hrast idr., 2019) (Johnston & Wozniak, 2021) (Jones idr., 2012) (Mandič & Filipovič, 2015) (Hrast, 2015) (Marsh & Kulshreshtha, 2022) (Ortiz & Johannes, 2018) (Seabrook idr., 2013) (Shucksmith idr., 1993) (Vale, 1998) (Varady & Preiser, 1998) (Vobecká idr., 2014) (S. L. Wagner idr., 2010) (Walker, 1999) (Williams & Twine, 1993) (Xian & Forrest, 2020) (Zhu & Ding, 2022)	(Brown-Iannuzzi idr., 2021) (Brown-Iannuzzi idr., 2017) (Cooley idr., 2019) (Fox, 2004) (Gilens, 1996) (Gilens, 1995) (Henricks, 2015) (Hussey & Pearson-Merkowitz, 2013) (Motley & Perry, 2013) (Salzer, 2000) (Shepherd & Campbell, 2020) (Spiegel, 1960) (Tuch & Hughes, 1996)	(Bourassa idr., 1995) (Bartnicka, 1994) (Elander idr., 1991) (Gonzalez-Perez, 2003) (Graham Tipple & Korboe, 1998) (Paris & Muir, 2002) (Pugh, 1989) (Tomlinson, 1999) (Tsenkova, 2014) (Watson & McCarthy, 1998)	(Howley idr., 2009) (J. Li idr., 2019) (Misiak, 1986) (Robison & Jansson-Boyd, 2013) (Widya idr., 2023) (Wu idr., 2020)

Preglednica 1: Razvrstitev izključenih člankov glede na vsebino pri prvem pregledovanju po temah

Pri drugem pregledovanju člankov (ang. second screening) med 22. 8. in 4. 11. 2024 smo se osredotočili na ustreznost njihove vsebine, pri čemer smo celotna besedila pregledovali s hitrim branjem. Tako kot pri prvem pregledovanju smo vse izključene članke razvrstili po vsebini študij v tri tematske skupine. Tematska skupina z največ vključenimi študijami je enaka, kot smo jo oblikovali pri prvem pregledovanju, to je dojemanje politik blaginje, vendar smo lahko na osnovi branja celotnih besedil določili dva vsebinska poudarka znotraj skupine. Prvi vsebinski poudarek se osredotoča na študije, ki obravnavajo splošni pogled ljudi na sisteme socialne varnosti in njihovo dojemanje socialnih storitev (npr. nadomestila za brezposelnost, javno zdravstvo, ...). Raziskovalna vprašanja teh študij so osredotočena na to ali ljudje podpirajo ali nasprotujejo različnim storitvam, ali so te storitve učinkovite, pravične, nujne itd. (glej Abramsson & Borgegård, 1998; Han, 2012; Huang, 2022; Muuri, 2010; Zhirkov idr., 2023). Drug vsebinski poudarek te tematske skupine pa se osredotoča na to, kako obstoječe socialne politike oziroma izkušnje ljudi z njimi, oblikujejo njihova stališča do teh politik oziroma do prihodnjih reform (glej Bennett, 1973; Dum idr., 2017; He idr., 2021; Im & Meng, 2016; Sihvo & Uusitalo, 1995; Taylor-Gooby, 1982, 1983). Druga tematska skupina vključuje študije, ki raziskujejo vprašanja povezana s cenovno dostopnostjo do stanovanj, z izzivi, s katerimi se soočajo določene demografske skupine (npr. mladi, starejši ...), ter vlogo političnih in družbenih dejavnikov pri oblikovanju stanovanjskih politik (Forrest & Yip, 2014; Hoekstra & Dol, 2021; Indriliūnaitė & Žilys, 2018; J. V. Li, 2014; Lo idr., 2023; glej Tighe, 2010). V zadnjo tematsko skupino smo razvrstili študije, ki so raziskovale vpliv stanovanjske politike na družbeno stabilnost in dobro počutje prebivalcev. Posebno pozornost so namenili vlogi lastništva, lokacije (npr. mestno, podeželsko okolje) in vključenosti skupnosti v stanovanjske projekte (Friedrichs & Blasius, 2009; Gkartzios & Scott, 2013; glej Jenkins, 1999; Ruel idr., 2013).

3.2 Končni rezultati in analiza

Končno analizo 19 člankov smo izvedli v obdobju od 18. 12. 2024 do 12. 2. 2025. Po temeljitnem branju celotnih besedil smo iz analize izključili še dva, ki obravnavata delovanje zasebnega najemnega trga in se ne ujemata popolnoma z vnaprej zastavljenimi merili (Duffy idr., 2017; glej Yung & Lee, 2014). Yung in Lee (2014) v svojem članku razpravljata o enaki pravici do stanovanja in ugotavljata, da so določene družbene skupine v Hongkongu že zakonodajno diskriminirane, zato je njihova edina možnost reševanja svoje stanovanjske situacije v okviru zasebnega najemnega trga, kjer se prav tako soočajo s številnimi izzivi. Podobno se tudi članek Duffyja idr. (2017) ne osredotoča na stališča do stanovanjske politike, temveč na izkušnje najemodajalcev na zasebnem najemnem trgu. V članku izpostavljajo izzive, s katerimi se po mnenju najemodajalcev sooča zasebni najemni trg, ter ovire, ki omejujejo njegovo učinkovito delovanje. Ker se oba članka osredotočata na delovanje zasebnega najemnega trga na splošno in ne na stališča ljudi do najemne stanovanjske politike, kot dela celotne stanovanjske politike, nista bistvena za našo analizo in sta bila izključena iz nadaljnje obravnave.

Pri iskanju nismo uvedli časovnih omejitev glede objave članka, saj smo želeli zajeti vse relevantne študije o stališčih in stanovanjski politiki do začetka iskanja v februarju 2024. Najstarejši vključen članek je nastal ob koncu 80. let 20. stoletja (Cnaan, 1989), najnovejši pa v začetku 20. let 21. stoletja (glej Lux idr., 2023). Prisotnost teh tem v znanstveni literaturi je v različnih obdobjih močno nihala. Z našimi iskalnimi nizi nismo našli nobenega ustreznega članka, ki bi nastal v 90. letih 20. stoletja, po prehodu v novo tisočletje pa se je zanimanje za temo povečalo. V končni analizi je tako največ člankov iz obdobja drugega desetletja 21. stoletja (glej Butkeviciene, 2012; Gallent & Robinson, 2012, 2012; Gugushvili, 2015, 2019; Hudson idr., 2016; Roark idr., 2017; Tighe, 2012; Wu idr., 2020).

Različnost revij, v katerih so avtorji objavljali članke, kaže da so stališča in stanovanjska politika zanimivi za različne znanstvene discipline. Hkrati to nakazuje, da je splošen pristop k preučevanju te vsebine izrazito interdisciplinaren. V pregled je vključenih 17 člankov, objavljenih v 13 različnih revijah. Največkrat so bili članki s presečiščem teh tem objavljeni v reviji *Housing Studies* (glej Basolo,

2007; Gallent & Robinson, 2012; Matheis & Sorens, 2022; Tighe, 2012), dvakrat pa se ponovi v reviji *Sociologicky Casopis* (glej Dupal, 2005; Kostecký, 2005).

Med 17 članki je šest takšnih, pri katerih avtorji niso navedli ključnih besed (glej Cnaan, 1989; Dupal, 2005; Gugushvili, 2015; Hudson idr., 2016; Kostecký, 2005; Lipsmeyer, 2003). Ključne besede preostalih člankov zajemajo zelo širok razpon tem, zato je zgolj na njihovi podlagi težko oceniti pomen posameznega članka za raziskovalno vprašanje in zastavljena cilja. Najpogostejše, kar 17-krat se med ključnimi besedami ponavlja izraz »housing«, vendar ne vedno kot samostojna beseda, ampak kot del besedne zveze. Kontekst uporabe tega izraza se med članki precej razlikuje.

Med analiziranimi članki je pet takih, ki nimajo jasno zastavljenih raziskovalnih vprašanj ali hipotez (glej Dupal, 2005; Gallent & Robinson, 2012; Hudson idr., 2016; Ortiz idr., 2022; Roark idr., 2017). V preostalih 15 člankih so avtorji oblikovali 44 raziskovalnih vprašanj. Nekatera so zastavljena kot podvprašanja ali pomožne hipoteze, vendar smo jih zaradi lažje analize obravnavali enotno, saj v vseh primerih izražajo samostojno, malenkost bolj poglobljeno ali specifično vsebino. Število zastavljenih raziskovalnih vprašanj v posameznem članku se giblje je od enega do sedem:

- članek z enim raziskovalnim vprašanjem (Kostecký, 2005),
- članki z dvema raziskovalnima vprašanjema (glej Andersson idr., 2007; Butkeviciene, 2012; Matheis & Sorens, 2022),
- članki s tremi raziskovalnimi vprašanji (glej Cnaan, 1989; Gugushvili, 2019; Lipsmeyer, 2003),
- članek s štirimi raziskovalnimi vprašanji (Lux idr., 2023),
- članka s petimi raziskovalnimi vprašanji (glej Basolo, 2007; Gugushvili, 2015) in
- članka s sedmini raziskovalnimi vprašanji (Chen idr., 2019; glej Tighe, 2012).

Raziskovalna vprašanja v posameznem članku se med seboj povezujejo, nadgrajujejo in postajajo vedno bolj specifična. Večina jih je oblikovanih tako, da izpostavijo skupno značilnost določene skupine ljudi ter predpostavljajo, da bo ta skupina verjetneje razvila pozitivna ali negativna stališča do določene teme stanovanjske politike oziroma, da obstaja večja verjetnost, da bodo politiko podpirali ali zavračali. Chen idr. (2019) so v svojih hipotezah opredelili več skupin ljudi, ki bodo verjetneje podpirali razvoj posebnega vključujočega programa stanovanjske politike. Te skupine vključujejo:

- posameznike z nižjim družbeno-ekonomskim statusom, med njimi potencialne prejemnike stanovanjskih subvencij, trenutne prejemnike stanovanjskih subvencij, uporabnike subvencioniranih stanovanj, revne ter tiste, ki živijo v slabih stanovanjskih razmerah;
- starejše;
- osebe z nižjimi stopnjami izobrazbe;
- zaposlene na manj prestižnih delovnih mestih;
- prebivalce mest z visoko stopnjo pokritosti s subvencioniranimi stanovanji;
- prebivalci mest z bolj celovitimi stanovanjskimi politikami in predpisi (Chen idr., 2019).

Chen idr. (2019) so kot skupino ljudi, ki verjetno ne bi podpirala posebnega vključujočega programa stanovanjske politike, opredelili nove priseljence v mesto, ki ne izpolnjujejo pogojev za prijavo na razpise za pridobitev subvencij ali drugih oblik javnih stanovanjskih pomoči. Alexi Gugushvili (2015) analizira stališča prebivalcev Armenije, Azerbajdžana, Belorusije, Gruzije, Moldavije in Ukrajine do blaginje in njenih delov. Njegova prva hipoteza temelji na predpostavki, da na stališča ljudi do blaginje vplivajo trije dejavniki, torej družbeno-ekonomski položaj, dožemanje premikanja posameznikove družine po družbeni lestvici (ang. intergenerational positioning) in dožemanje politične in ekonomske tranzicije v državi (Gugushvili, 2015). Ugotovil je, da stanovanjske politike blaginje bolj podpirajo posamezniki z nižjim družbeno-ekonomskim položajem ter tisti, ki tranzicijo dojemajo pozitivno, medtem ko starejši pogostejše izražajo negativna stališča do tovrstnih programov (Gugushvili, 2015). V kasnejšem članku se je Gugushvili (2019) osredotočil na povezavo med stališči do politik blaginje in posameznikovo dožemanje premikanja njegove družine po družbeni lestvici (ang. intergenerational mobility). Njegove ugotovitve kažejo, da posamezniki, ki menijo, da se je njihova družina po družbeni lestvici premaknila navzdol, pogostejše izražajo podporo programom blaginje, vključno s stanovanjsko politiko. Nasprotno pa tisti, ki menijo, da se je njihov družbeni status izboljšal, pogostejše zavračajo državne programe, ki zadovoljujejo primarne programe, vključno s stanovanjsko politiko (Gugushvili,

2019). Rosie Tighe (2012) je raziskovala vpliv stereotipiziranja na razvoj cenovno dostopnih stanovanjskih projektov, ki so del državnih in lokalnih stanovanjskih politik. Pri načrtovanju takšnih projektov pogosto prihaja do odpora lokalnega prebivalstva, ki nasprotujejo gradnji z argumenti, povezanimi s sindromom »ne na mojem dvorišču« (ang. Not In My BackYard; NIMBY). Tighe (2012) predpostavlja, da pozitivna stališča do razvoja cenovno dostopnih stanovanj razvijejo ljudje, ki zaupajo vladi in tisti, ki v ideološkem pogledu sledijo idejam egalitarizma. Nasprotno pa negativna stališča izražajo posamezniki, ki so podvrženi rasnim in družbeno-ekonomskim stereotipom (ang. racial and poverty stereotyping), ter tisti, ki ideološko sledijo konservativnim vrednotam.

Vsi avtorji, ki so raziskovalna vprašanja oziroma hipoteze oblikovali tako, da so izpostavili skupno lastnost določene skupine ljudi in preučevali njen vpliv na stališča – bodisi pozitivno bodisi negativno –, so kot eno ključnih značilnosti uporabili različne spremenljivke, povezane z nižjim družbeno-ekonomskim položajem (Chen idr., 2019; Gugushvili, 2015, 2019; glej Tighe, 2012). Poleg tega so različni avtorji v svojih hipotezah kot pomemben dejavnik pri oblikovanju stališč pogosto izpostavili tudi starost. Pri tem se njihovi zaključki razlikujejo: Chen idr. (2019) predpostavljajo, da starost prispeva k oblikovanju bolj pozitivnih stališč, medtem ko rezultati Gugushvilijeve (2015) raziskave kažejo, da starost vpliva na razvoj negativnih stališč. Druge lastnosti, ki opredeljujejo različne skupine ljudi se v teh člankih ne ponavljajo.

Druga najpogostejša vsebina raziskovalnih vprašanj oziroma hipotez se nanaša na stališča javnosti do blaginje. Ta vsebinski sklop se delno prekriva s prej obravnavano temo, saj ljudje ne podpirajo vseh sestavnih delov države blaginje enako (Cnaan, 1989). Zato raziskovalce pogosto zanima, v kolikšni meri naj bo država vključena v zagotavljanje blaginje in v kolikšni meri ljudje raje prevzemajo individualno odgovornost za reševanje osebnih situacij (Butkeviciene, 2012). Poleg obsega vloge države pri zagotavljanju blaginje, raziskovalce zanimajo tudi stališča ljudi v različnih družbeno-ekonomskih okoljih, zlasti v državah, ki so doživele tranzicijo (Butkeviciene, 2012; Gugushvili, 2015, 2019; glej Lipsmeyer, 2003; Lux idr., 2023).

Naslednja skupina raziskovalnih vprašanj se osredotoča na stališča ljudi do različnih stanovanjskih politik, predvsem v povezavi z različnimi stanovanjskimi statusi, ki pri posameznikih in političnih predstavnikih vzbujajo različne občutke varnosti in tveganj (glej Andersson idr., 2007; Basolo, 2007). Raziskovalci se pri tem sprašujejo tudi, ali lahko stanovanjski status služi kot osnova za oblikovanje družbenih razredov (Kostelecký, 2005).

Zadnja opredeljena tema raziskovalnih vprašanj so stališča ljudi do razvoja projektov cenovno dostopnih stanovanj in dejavniki, ki vplivajo na podporo takih projektov (Matheis & Sorens, 2022; glej Tighe, 2012).

Analiza raziskovalnih pristopov in metod je pokazala, da je polovica raziskovalcev za dokazovanje zastavljenih hipotez uporabila sekundarne podatke različnih virov, med katerimi so:

- svetovne in evropske javnomnenjske raziskave, kot so International Social Survey Programme (Butkeviciene, 2012; glej Lipsmeyer, 2003), Life in Transition Survey (glej Gugushvili, 2015, 2019), British Social Attitudes (glej Hudson idr., 2016)
- manjše raziskave na lokalnih ravneh (Chen idr., 2019; glej Kostelecký, 2005; Lux idr., 2023) in
- zgodovinski podatki, zbrani in objavljeni v vladnih poročilih (glej Hudson idr., 2016).

Ostali članki, vključeni v pregled, temeljijo na primarnih podatkih, zbranih neposredno za zastavljene raziskovalne namene (Andersson idr., 2007; Basolo, 2007; glej Cnaan, 1989; Dupal, 2005; Gallent & Robinson, 2012; Matheis & Sorens, 2022; Ortiz idr., 2022; Roark idr., 2017; Tighe, 2012). Pri raziskovanju stališč in stanovanjske politike se je večina avtorjev odločila za kvantitativen pristop, le tri študije pa so k raziskovanju pristopile drugače. Lux idr. (2023) so svojo raziskavo izvedli kot kombinacijo kvantitativnega in kvalitativnega raziskovanja, med tem ko so Andersson idr. (2007) ter Gallent in Robinson (2012) uporabili izključno kvalitativni pristop. Gallent in Robinson (2012) sta izvedla fokusne skupine, Lux idr. (2023) ter Andersson idr. (glej 2007) pa so v kvalitativnem delu raziskav uporabili polstrukturirane intervjuje. Raziskovalci, ki so za dokazovanje hipotez oziroma

odgovarjanje raziskovalnih vprašanj potrebovali kvantitativne podatke, so jih večinoma analizirali z različnimi statističnimi tehnikami multivariatne analize (Basolo, 2007; Butkeviciene, 2012; Chen idr., 2019; glej Cnaan, 1989; Gugushvili, 2015, 2019; Kostelecký, 2005; Lipsmeyer, 2003; Lux idr., 2023; Matheis & Sorens, 2022; Ortiz idr., 2022; Tighe, 2012). Za uporabo drugih metod analize kvantitativnih podatkov so se odločili le Roark idr. (2017), ki so uporabili t-teste in ANOVA teste. Pri člankih Dupala (2005) in Hudsona idr. (2016) iz opisa metodologije ni mogoče natančno določiti uporabljene metode.

4 Razprava

Na zastavljeno raziskovalno vprašanje, »Kakšne raziskave so že bile izvedene na temo stališč do stanovanjske politike?« lahko odgovorimo s povzetkom ugotovitev končnih rezultatov in analize, ter predstavimo glavne vsebinske vrzeli, ki smo jih s tem sistematičnim pregledom literature prepoznali. Vsebinsko se študije med seboj zelo razlikujejo, raziskovalci z njimi pokrivajo številna področja oziroma vidike stanovanjske politike, vendar v metodološkem smislu, kljub vsebinski različnosti, k raziskovanju pristopajo zelo podobno.

Analiza raziskovalnih vprašanj je pokazala več pomembnih poudarkov. Kljub vsebinski različnosti posameznih študij vključenih v pregled, smo ugotovili, da imajo te študije pogosto vsaj eno hipotezo vezano na prepoznavanje družbenih skupin, ki bolj ali manj verjetno oblikujejo pozitivna ali negativna stališča do stanovanjske politike. Vsem študijam je skupen način oblikovanja teh hipotez, ki so zelo konkretne. V njih raziskovalci vedno izpostavljajo določeno značilnost anketirancev, npr. starost, za katero menijo, da vpliva na posameznikova stališča in nato svoje hipoteze dokazujejo. Analiza hipotez je pokazala, da lahko enaka značilnost v različnih družbeno-ekonomskih okoljih deluje različno – bodisi spodbuja pozitivna bodisi negativna stališča (Chen idr., 2019; glej Gugushvili, 2015). Ta ugotovitev je bila vodilo za drugačno zasnovano doktorske disertacije *Stališča prebivalcev Slovenije do stanovanjske politike v državi*, ki ima prav tako kot analizirane študije cilj razvrstiti stališča anketirancev v družbene skupine z enakimi stališči do stanovanjske politike, vendar brez v naprej zastavljenih predpostavk, katera spremenljivka bi lahko pozitivno ali negativno vplivala na stališča ljudi do stanovanjske politike. Pri določanju spremenljivk, ki vplivajo na oblikovanje stališč smo lahko nehote pristranski, zato je bilo pri oblikovanju omenjenega cilja doktorske disertacije za nas ključno ohraniti nevtralno izhodišče, cilj pa bomo izpolnili z uporabo ustrezne statistične metode, ki bo omogočala nepristransko razvrščanje ljudi v skupine z enakimi značilnostmi.

Analiza raziskovalnih vprašanj je pokazala tudi dva prevladujoča vsebinska pristopa k preučevanju stališč do stanovanjske politike. Prvi, širši pristop se osredotoča na stališča ljudi do različnih programov blaginje (kot so npr. pokojninski sistemi, zdravstvo, izobraževanje ...), v posameznih državah ali celo skupinah držav. V tem okviru merjenje stališč do stanovanjske politike ni osrednji poudarek, temveč je del primerjave med posameznimi programi blaginje. Rezultat tako zasnovanih raziskav je iz vidika stanovanjske politike predvsem ugotovitev, kakšen pomen ima stanovanjska politika za ljudi v razmerju z drugimi programi blaginje. Ker stanovanjska politika v teh raziskavah ni zasedala prvih mest (običajno so za ljudi najpomembnejša področja javno zdravstvo, izobraževanje, pokojninski sistemi), o stališčih ljudi do stanovanjske politike ne izvemo veliko (Butkeviciene, 2012; glej Cnaan, 1989; Gugushvili, 2015, 2019; Hudson idr., 2016; Lipsmeyer, 2003), čeprav imajo lahko tudi do stanovanjske politike v splošnem zelo izoblikovana stališča, ki pa v tem kontekstu niso prišla do izraza. Drug, ožji pristop pa se osredotoča na merjenje stališč do specifičnih programov stanovanjske politike, pogosto na ravni lokalnih skupnosti (Andersson idr., 2007; Basolo, 2007; Chen idr., 2019; glej Dupal, 2005; Gallent & Robinson, 2012; Kostelecký, 2005; Lux idr., 2023; Matheis & Sorens, 2022; Ortiz idr., 2022; Roark idr., 2017; Tighe, 2012). Ker ima vsaka država več lokalnih skupnosti in ker ima vsaka lokalna skupnost določeno mero avtonomije pri urejanju tega področja, stališča ljudi do različnih programov njihovih skupnosti med seboj niso primerljiva. Analiza raziskovalnih vprašanj tako razkriva prvo vrzel v raziskovanju, in sicer odsotnost raziskav srednje širine. Glede na izvedeno analizo, kot raziskave srednje širine razumemo najprej raziskave, ki so osredotočene izključno na stanovanjsko politiko, brez povezave z drugimi področji, ki običajno spadajo med področja blaginje. Hkrati mora biti raziskava osredotočena na krovno stanovanjsko politiko posamezne države. To pomeni, da morajo raziskovalci pri zasnovi raziskave upoštevati oziroma izhajati iz veljavne stanovanjske zakonodaje v državi, veljavnih

stanovanjskih politik v državi ter vse to povezovati tudi s teorijo stanovanjske politike. Ta sistematičen pregled literature je pokazal, da med obstoječimi raziskavami (do tega trenutka) ni raziskav, ki bi stanovanjsko politiko v kateri koli državi preučevale na način, ki ga opredeljujemo kot raziskave srednje širine. To vsebinsko vrzel bo za Slovenijo zapolnila že omenjena doktorska disertacija, ki v svoji zasnovi napoveduje empirično raziskavo stališč ljudi do obstoječe stanovanjske politike v Sloveniji prav na osnovi vseh omenjenih vidikov.

Čeprav številni raziskovalci opozarjajo na potrebo po iskanju novih načinov preučevanja stališč (glej Oehl idr., 2017; Wlezien, 2017), je analiza raziskovalnih pristopov in metod pokazala, da večina raziskav sledi podobnim metodološkim vzorcem, pri čemer prevladuje kvantitativni pristop. Le nekaj študij v analizi je bilo zasnovanih drugače – ena kot kombinacija kvantitativnih in kvalitativnih metod, dve pa sta temeljili izključno na kvalitativnih metodah. To nakazuje drugo vrzel v raziskovanju tega področja, in sicer metodološko pomanjkanje raznolikosti. Ker so stališča izrazito večplastna, menimo, da je ključno metodološko dopolnjevanje kvantitativnih in kvalitativnih pristopov. Kvantitativne metode omogočajo identifikacijo vzorcev in posploševanje rezultatov, medtem ko kvalitativne metode pripevajo k poglobljenemu razumevanju tematike in vsebinski pestrosti preučevanih pojavov. Izvedena analiza tako potrjuje inovativnost zasnove doktorske disertacije tudi v metodološkem pogledu, saj izpostavlja pomen kombiniranja kvantitativnih in kvalitativnih metod. Namen uporabe kvantitativnih metod v doktorski disertaciji je oblikovanje posplošitev, ki jih bomo potrebovali za razvrščanje stališč anketirancev v družbene skupine z enakimi stališči do stanovanjske politike v Sloveniji. Tako kot večina študij vključenih v pregled bomo tudi v doktorski disertaciji za analizo uporabili eno od metod multivariatne analize. Namen uporabe kvantitativnih metod pa je poglobitev vedenja o tem, kako ljudje o stanovanjski politiki razmišljajo. S poenostavitvijo stališč na številke se lahko veliko vsebine izgubi, zato je za celovito poznavanje stališč prebivalcev Slovenije ključno izvesti tudi intervjuje. Intervjuvanje bomo dopolnili še z metodo analize komentarjev pod novicami na novičarskih portalih na temo, povezano s stanovanjsko politiko, saj smo v današnjem medijskem okolju vsi neprestano izpostavljeni sporočilom iz različnih virov (Bachner & Hill, 2014, str. S56–S57) in se nanje tudi odzivamo. Tako bomo dobili vsebinsko pestro vsebino, saj v komentarjih ljudje izražajo stališča samoiniciativno, brez usmerjanja, kot je to značilno za intervjuvanje (Bachner & Hill, 2014, str. S64; O'Connor idr., 2010, str. 1–2).

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The limits of analogy in the modern legal system: balancing legal certainty and justice in the digital age

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Abstract

Starting from the absence of a definitive answer to the question of whether axiology can be fulfilled in analogical law, this article undertakes an exploratory journey through both classical and recent debates surrounding the dual contemporary issues of legal certainty and legal justice. The rise of digitalization, information technology, big data, artificial intelligence, and online dispute resolution systems has generated challenges for which traditional legal concepts were neither designed nor sufficiently adapted, leading to forced analogies and overstretched axioms. In this context, it is necessary to revisit classical perspectives and contemporary critiques, particularly regarding the notions of perfect, imperfect, and forced analogy. Well-known examples—such as the often-cited but flawed claim that “data is the new oil”—illustrate how analogies can obscure essential distinctions between an object and its legal framework. The perceived obsolescence of the legal profession in the digital era is less a standalone issue than a symptom of deeper structural problems, particularly the neglect of law’s core axiological and descriptive aims. The unresolved tension between innovation and regulation reflects a broader axiological ambiguity, where analogical reasoning highlights the interplay—and sometimes conflict—between traditional and innovative explanatory systems. Justice by analogy, while attractive, cannot provide a definitive solution; it calls for a rethinking of legal foundations, institutions, methods of regulation, and education. Courts, legislatures, executives, and the legal profession itself, in academic, professional, and institutional unity, form part of a wider network tasked with channeling and harmonizing the constant and multidirectional flow of legal communications, preventing it from disrupting the main trajectory of legal axiology. Achieving justice through analogy requires time to transform and adapt reasoning, developing new models that may not always align with prior frameworks. Ultimately, legal certainty and legal justice demand more than simplified coexistence; they require deeper conceptual and empirical inquiry to determine whether legal justice can, in fact, be achieved through analogical law.

Keywords: legal analogy; digital age; artificial intelligence; foreseeability; legal certainty

1. Introduction

The limits placed on legal analogy—and by extension, political analysis, political philosophy, and public policy—derive not from the analogy itself, which remains a valuable instrument of reasoning, but from a world in flux, in which new, sometimes radical, challenges compel the reconsideration of longstanding legal rules and assumptions. The tension between legal certainty and justice has, at all times, presented complex conceptual and practical questions. Now that the digital transition has taken center stage, nonetheless, the issue has received fresh impetus and assumes added urgency. As courts, professional organizations, and legislatures address these questions, legal analogy emerges once more as a crucial instrument of analysis. The following presentation focuses on key elements of the ongoing debate and highlights the approaches that—while not speaking strictly to the digital transition—may nevertheless chart the course for its continuation. (Kahn, 2016)

Recent scholarship emphasizes that the digitalization of legal services has broadened access to justice but simultaneously exposed regulatory gaps. The challenge lies in ensuring that innovations such as online dispute resolution or AI-driven legal assistance do not exacerbate inequalities, but rather enhance fairness and transparency (Susskind, 2019; Cambridge Handbook, 2022).

Methodology

This qualitative comparative study aims to assess the use and limits of legal analogy in the digital age. The study is based on an analysis of both primary and secondary legal sources. Primary sources include court decisions and statutory provisions, as well as relevant provisions of national or supranational legislation supporting or bound by the doctrine of analogy. Other primary sources typically include regulations, consensual understandings, and public authorities' secondary acts. Secondary sources cover literature in books, articles, policy papers, legislative reports, or commentaries. Further, the analysis of primary and secondary law is based on doctrinal legal analysis as well as interdisciplinary literature from legal scholarship, theory, philosophy, science and technologies studies, political science, sociology, digital economy and digital regulation literature, and law and digitalization. Particular attention is paid to the legal and interdisciplinary literature on digital technologies, particularly artificial intelligence, big data, data-driven and algorithmic decision-making, online dispute resolution, digital justice, technology-enabled dispute resolution, and digitalization of justice. The study thus applies secondary legal analysis based on law and digitalization studies or similar disciplines. The synthesis between classic legal scholarship and digitalization-focused scholarship allows for articulating the dialectical opposite meanings of analogy in law and the connected themes addressed, which refer to the institutional, moral-legal and social-regulatory dimensions of the practice of analogy.

The concept of analogy in law

Analogy serves as a vital tool of reasoning that enables thoughtful inference on the basis of one or more significant resemblances between distinct or parallel subjects, allowing for deeper understanding. In the context of law, it effectively fills gaps that are often left unaddressed by incomplete legal codes, offering a means of facilitating reasoned inferences from existing statutes or rules to similar cases that may arise in varied circumstances. (Kahn, 2016) While analogy has been a significant and powerful mechanism since the times of classical Roman law, contemporary considerations raise the need for a thorough examination of its limits. This is especially true in our digital age, where certain inferences may stretch too far beyond original premises, leading to potential misinterpretations or unjust applications of legal principles. (McMahon, Bonneau, 2017) As the landscape of law continues to evolve, understanding the role and constraints of analogy becomes increasingly relevant for ensuring fairness and upholding justice. (Giovannetti, 1984)

As Camaiora notes, analogical reasoning operates as a bridge between the known and the unknown, but its normative force collapses when the compared cases diverge too deeply. In the digital age, where unprecedented scenarios lack historical precedents, analogies often fail to provide adequate legal certainty (Camaiora, 2021).

3. Historical context of legal analogy

Advocates of the “limits” of analogy continue to point at significant dangers in its contribution to the practices of the modern legal system. Analogical reasoning is fundamental in law and widely used to draw parallels between cases and circumstances, where adequate similarity usually must be demonstrated. Whether the principles of legal certainty or the aspiration to justice prevail in any legal system depends on its compatibility with the latter. The preference for certainty or justice varies between systems because their differences rest not only on the acceptance of either principle, but on the obligation to respect the other as well. **Scholars of digital law stress that earlier technological revolutions, such as the printing press, reshaped precedent-building by democratizing access to information. The ongoing digital transformation may have an even more profound effect, altering not just how analogies are made but the very authority of precedent itself** (Communication Law: Practical Applications in the Digital Age, 2018).

Comparisons between new and old technologies or one era and society with previous ones reveal the risks of failing to accommodate the unintended long-term consequences of analogies and metaphors that shape thought and society (Kahn, 2016). A 2013 US Supreme Court case exemplifies the hazards of adopting precedents across a technological divide: The Court looked through past decisions for analogous cases to decide whether evidence obtained from a cell-phone search violated the Fourth Amendment. The alternative to analogy is non-analogy, or the declaration of radical dissimilarity between two technologies, civilizations, or even eras; yet the choice is seldom clear, and the repercussions of an incorrect answer may prove momentous.

The purpose and context of an analogy determine its strength; differences in the legal, factual, or procedural circumstances of the parties influence which analogy is more appropriate. The legal context embraces procedural posture, applicable legal rules, and underlying policies (McMahon, Bonneau, 2017). Procedural posture particularly limits the facts that can be considered: For example, a motion to dismiss must be decided based solely on the facts alleged in the complaint, rendering any out of posture facts in an analogy invalid; hence, understanding the procedural posture of both the case and the precedents is essential. In the Anglo-American tradition, the challenge to the “purity” of the rule of law stems from the continuing creation of crimes at common law; judges’ creative powers have almost vanished, and New Code is bias against any judicial analogy due to its alleged lack of legal certainty. Judicial application of analogy in Anglo-American law follows strict guidelines limiting its legitimate range, with resulting tensions between its limited legal relevance and broader scientific, ethical, or social requirements (Giovannetti, 1984).

4. Legal certainty: definition and importance

Legal certainty is a fundamental principle of modern law developed during the seventeenth and eighteenth-century European Enlightenment and enshrined in Article 7(1) of the European Convention on Human Rights (ECHR). Legal certainty not only requires that laws be clear, ascertainable, and non-retroactive but also goes far beyond these conditions. Protracted litigation before courts, claimed to be based on plainly clear statutory texts, is often criticized for poor legal certainty. Law, according to Alf Ross, embraces the notions of “legal certainty,” “systematicity,” and “normativity.” Conversely, “justice or injustice is not an essential aspect of law” because of the indefinability and relativity of justice. The perception of justice is relative and varies widely between individuals, states, countries, and cultures such that a genuine conception of justice cannot be reconciled with any conception of law. The question of balancing these two principles has driven various developments of legal thinking. The tension between legal certainty and justice thus remains a crucial guiding element in juridical processes. (Muchmore, 2016)

5. Justice in the legal framework

Justice is one of the oldest concepts found in law (Kahn, 2016). One of its desires is the arrival at a just outcome, which may be defined as fairness, the moral design of the law or similar (Senécal, Benyekhlef, 2010). Intuitively, it is desirable to retrieve justice from the legal framework; it is, after all, much more important than certainty, which does not enjoy such a universal approval. Justice, however, is subjective, especially the portion found in the moral aspect of it. It invariably depends on the individual’s context,

beliefs and ideas and, therefore, a more controversial subject than that of certainty (Ojo, 2011). Without this subjectivity, though, justice ceases to be, as illustrated in the major question answered in the negative uniformly by the users. Indeed, while justice is to be desired, absolute justice may not work in the legal realm. Justice in the legal framework is, therefore, a delicate pursuit, where the interpretation of multitude of factors must be taken into account.

The limits of analogy have rested on the interplay between legal certainty and justice. If the law were to evolve in strict accordance with the pursuit of justice, through analogy or not, the legal toolbox would plethorically fill up and leave certainty out in the dark. Legal certainty does not ensure the arrival at a fair result for the litigants. However, it is nevertheless an essential principle of the law, upheld even by those who are more free to pursue justice through other means. An idea, once it is codified or convicted by the Court, is set in a space-time capsule and must wait for a re-interpretation or a change of statute to take part in the evolution of the law. Otherwise, adapting the ideas at will would generate excessive unpredictability into the system.

6. The digital age: challenges and opportunities

The appropriation of digital technology profoundly influences and significantly shapes the evolving landscape of the juridical field. Western legal systems, which have initially developed over centuries, were designed to accommodate the teleologic nature of a public communication medium. The introduction, in the sixteenth century, of the printing press was revolutionary, as it released legal information to the broader public, thereby fostering the birth of legal precedent and allowing for a deeper systematization of law. This monumental shift allowed citizens and practitioners alike to access legal materials that were previously restricted, enriching the understanding and application of law. Because various communication channels establish the dominating teleologic, it follows that even particular legal categories, such as contracts, property, criminal, or public law, all depend to a larger extent on these epoch-making transitions in communication technology. Since the mid-twentieth century, the logarithmic evolution of communication channels continues to forge its path, leading progressively towards ever-advancing information technology that is replete with both opportunities and challenges. (Senécal, Benyekhlef, 2010)

Law adapts to the prevailing mode, and the currently dominant communication channel, Information Communication Technology, also shapes and constrains the functioning of law. Digitalization modifies the horizontal organization of law and disseminates new information circulation patterns among all of the stakeholders. In contrast to legacy communication, the computerized system involves an exponential increase in the quantity of data contained in judicial documents and a subsequent increase in their complexity and diversity. It also modifies the potential treatment of texts; whereas paper communication involves amending the original documents at each act, digital files aggregate a strictly irreversible and comprehensive collection of additions and modifications. Stored information grows exponentially in volume (Penney, 2014), and digital devices acquire ever-growing monitoring and recording capacity. The term “digital devices” refers to computers, smartphones, tablets, mobile phones, related digital recording technologies and plugins, software, and other similar computerized devices.

7. The role of precedent in legal analogy

Two constraints necessarily limit the application of legal analogy. First, there must be a suitable precedent. The model of precedential reasoning described by (Varsava, 2019) and underscored by (Kahn, 2016) confirms that analogy requires one case to resemble another. Second, the elements of the analogy must be legally significant, capable of determining a conclusion about the new case. As a reasoning mode, analogy introduces unsettled facts, since it enables the legal system to forge its own precedents as continuations of the familiar sequence. When the necessary precedents can be found, courts can also derive analogies from texts and pre-existing materials. The prerequisite is that an analogy purporting to resolve a matter bears on the legal issues raised by the dispute. Where neither suitable precedents nor legally significant analogies can be identified, judicial decision-making cannot rely on the mechanism.

8. Case studies: successful analogies in law

Legal analogies sometimes fail, but they often succeed in unexpected ways. Judges may not always find the best analogy available, but they do occasionally discover one that is remarkably fitting, and this process of analogical reasoning remains an indispensable tool in the realm of law. Numerous cases throughout history demonstrate that legal analogy can serve to supply the necessary legal certainty while simultaneously promoting fairness and justice in the legal system. When one first uncovers a classical judicial analogy that fits perfectly to address the flaw present in a modern rule, it can intuitively feel as though the question has already been thoroughly resolved; however, prominent judges frequently find themselves in serious disagreement over which analogy is ultimately more appropriate in its application, reflecting the well-known difficulties and complexities that surround legal interpretation. (Wallace, Green, 1997). Thus, Slovenian administrative case law has allowed analogy *in bonam partem* to fill a statutory gap: in UPRS, Judgment IV U 124/2022-15 (10 March 2025; ECLI:SI:UPRS:2025:IV.U.124.2022.15), the court analogically applied Article 97 of the Tax Procedure Act (ZDavP-2) to permit a tax refund where doing so benefited the taxpayer, anchoring predictability in the Act's existing structure rather than inventing a new rule. At the EU level, the CJEU in C-231/22, *État belge v Autorité de protection des données* (11 January 2024), reasoned by analogy with *Worten* to clarify that even an official journal may qualify as a “controller” under the GDPR when it functionally determines processing, thereby promoting coherence and effectiveness in data protection. In the United Kingdom, the Supreme Court in *Fearn v Board of Trustees of the Tate Gallery* [2023] UKSC 4 extended private nuisance by analogy to sustained visual intrusion from a viewing platform, preserving the doctrine's core test—reasonable use of land—while adapting it to contemporary urban-social conditions. And in the United States, the Supreme Court in *United States v Rahimi*, 602 U.S. (2024), employed Bruen's historical-analogical method, emphasizing that what is required is not a “historical twin” but a “relevantly similar” analogue, thereby using analogy to structure methodology as much as outcomes. Courts consistently uncover cogent analogies that fortify the foundations of legal certainty and advance the pursuit of justice, highlighting the delicate balance that must be maintained in legal reasoning and decision-making processes. (Kahn, 2016)

A further classical success is the “neighbor principle” in *Donoghue v. Stevenson* (1932), where the House of Lords analogized a manufacturer's duty toward an ultimate consumer of a ginger-beer bottle to broader duties arising from foreseeability and proximity. The move supplied a general duty-of-care template that courts could analogically extend across product contexts, thereby strengthening legal certainty while promoting fairness in negligence law. In *Carpenter v. United States* (2018), the U.S. Supreme Court analogized long-term cell-site location tracking to a kind of **near-perfect, ankle-monitor-like surveillance**, distinguishing it from traditional “business records.” This historically rooted, but technology-aware, analogy re-channeled Fourth Amendment doctrine without demanding a one-to-one historical twin, and it anchored a predictable warrant rule for prolonged CSLI acquisition. EU data-protection jurisprudence supplies another clean success. Beyond *Worten*, the Court of Justice has repeatedly invoked “**by analogy**” reasoning to extend established controller/processing principles to new constellations of actors and technical settings, aiming at system-level **coherence and effectiveness**. The interpretive stance maintains legal certainty by tying innovations to settled GDPR purposes rather than inventing sui generis carve-outs. These cases collectively show how **well-chosen analogies** can (i) fill normative gaps, (ii) translate enduring principles into new environments, and (iii) keep doctrine legible to officials and regulated parties alike—precisely the virtues your Slovenian, EU, UK, and U.S. illustrations already demonstrate. (Wallace, Green, 1997; Kahn, 2016)

9. Case studies: failures of analogy in law

The limits of analogy in law become evident when the tension between legal certainty and justice takes on concrete form. Neither is spontaneous; the very concepts that generate their productive friction support them also. They constitute the limits of analogy in regulation and interpretation. A set of tools does not solve them, cannot solve them, however cleverly arranged. The choice of instruments and their combination can be guided, and temporarily frozen; it cannot be tightly controlled (Magyar, 2013). There therefore remains a substantial role in the execution of policy, and the application of precedent, for authority – protection from hindsight. Situation fixes those tools, though not the use to which they

shall be put. Other conditions impose form and inhibit purpose. Within them, however, choice remains. Judges conducting statutory construction must remain conscious of the fact that they occupy a continuing and perilous position in relation to the will of the lawmaker. That is not because the instrument of governmental power can dissolve precedent, throw off limitation, and embark upon a course of absolute and unambiguous amelioration. Nevertheless, there can be moments of considerable uncertainty at the threshold of any situation (Jelen, 2016). Directives remain unadjusted and unapplied. But if interpretation is possible without adjustment, the question remains open as to whether it is the responsibility of judicial discourse to effect, or speed, or enable the change necessary. For, at least in the Western tradition, the amendment of a norm implies the suspension of the very power of the norm. Any other reading excuses government the necessity of seeking or exercising control; and it is scarcely in the constitutional interest to do so. The shifting between new and old in judicial discourse must therefore be directed by a determination of the extent to which institutional endeavor is reasonably accommodated by continued reliance upon standing authority, a point not readily reducible to the dimensions of policy application (Kahn, 2016).

In legal proceedings, analogical reasoning is a double-edged sword. During hominin evolution, it was undoubtedly adaptive: readily discoverable similarities between unfamiliar, wounded or hostile animals and known, benign species could punctuate the constant stream of tactical decisions requisite on the African savanna. Yet naive analogizing continues to elicit false positives in the modern tropical woods of jurisprudence. Rationales involving policy objectives, as well as rules, customs, government interests, prior authoritative decisions, and statutory words, are employed to ensure that comparisons are neither capricious nor gratuitous (McMahon, Bonneau, 2017).

Contemporary case law illustrates these boundaries. In Slovenia, the Constitutional Court (USRS, Up-1289/20, 9 March 2023) underscored *lex stricta* and barred analogy in defining crimes and penalties under Article 28 of the Constitution and Article 7 ECHR, to prevent retroactivity and preserve the foreseeability of punishment. Likewise, the Ljubljana Higher Court refused to apply the Employment Relationships Act (ZDR-1) by analogy in a typical B2B contractual dispute over a non-compete (VSL, I Cpg 170/2022, 15 February 2023), because employment law protects a weaker party whereas obligations law is marked by autonomy and dispositivity—an instance where institutional similarity deceives and analogy fails due to the norm’s distinct systemic function. In the United States, the Supreme Court in *Twitter, Inc. v. Taamneh*, 598 U.S. (2023), rejected the claim that ordinary platform operations amounted to aiding and abetting terrorism under JASTA, insisting on conscious, culpable participation consistent with Halberstam’s framework—an example of a digital-age analogy that collapses without a comparable core of conduct. And in *Andy Warhol Foundation v. Goldsmith*, 598 U.S. 508 (2023), the Court declined to extend by analogy Campbell’s “transformative use,” holding that the commercial and functional proximity of the secondary use to the original weighed against fair use—marking a boundary where analogy yields to market predictability in intellectual-property doctrine.

A frequent failure mode occurs when courts treat **qualitatively new technologies as if they were physical containers**. In *Riley v. California* (2014), the U.S. Supreme Court rejected the proposed analogy between a smartphone and a wallet or cigarette pack for “search-incident-to-arrest” purposes, emphasizing the device’s unmatched storage depth and privacy sensitivity. The refusal of the analogy preserved predictability by carving out a warrant default for phones. Statutory over-extension is another hazard. In *Van Buren v. United States* (2021), the Court declined the government’s analogy that **misusing** computer access credentials is akin to **hacking** under the CFAA. Treating mere policy-violating access as “exceeding authorized access” would have criminalized vast swaths of routine behavior; the Court insisted on a narrower, text-anchored view (off-limits areas vs. misuse), illustrating how ill-fitting analogies would erode legality and notice.

Even in tort and IP, analogies can mislead. Attempts to stretch “transformative use” from *Campbell* to **magazine-licensing portrait derivatives** in *Andy Warhol Foundation for the visual arts, Inc. v. Goldsmith et al* (2023) faltered because the commercial purpose and market role tracked the original too closely; the analogy failed at the level of **functional substitutability**, and the Court preferred a factor-specific, market-effect analysis to protect transactional certainty. These breakdowns resonate with Slovenian constitutional and obligations-law examples: where the **function** of the norm, the **risk of retroactivity**, or the **core conduct** diverges, analogy should stop—lest it unsettle foreseeability, dilute legislative primacy, or punish without clear law.

10. Comparative analysis: analogies in different legal systems

Different legal systems around the world adopt a variety of approaches to the application of analogy, heavily influenced by their unique historical and philosophical contexts. In nations that adhere to the civil law tradition, such as many countries in Europe and Latin America, the use of analogy is generally forbidden in the realm of criminal law due to the entrenched principle of legality. This principle dictates that no person can be punished under laws that are not clearly defined and established prior to the infraction. The significance of this principle is profound, as it aims to protect individuals from arbitrary or unpredictable legal consequences. However, in other areas of law, such as civil law or administrative law, the use of analogy is permitted, albeit to a certain degree. This allowance enables a somewhat flexible interpretation of existing statutes, allowing legal practitioners to draw parallels and apply them to similar situations that may not have been explicitly articulated in the law. In stark contrast, common law systems, which are prevalent in countries like the United States and the United Kingdom, embrace the application of analogy with considerable freedom across various legal domains. These systems rely principally on the doctrine of precedent, which allows judges and legal practitioners to apply reasoning from previous cases to reach decisions in current cases that share notable similarities. This approach facilitates the development of the law in a manner that is responsive to changing societal norms and expectations. Additionally, common law's emphasis on case law provides a rich resource for judges to explore relevant precedents that can guide their decisions while still considering the unique circumstances of each new case that comes before them. (Giovannetti, 1984) Furthermore, socialist legal systems, often found in countries with a communist framework, take a markedly different stance by discouraging any form of judicial lawmaking. These systems strongly reject the use of analogy, unequivocally viewing it as antithetical to the rule of law. The reasoning behind this rejection lies in the belief that the use of analogy could lead to unpredictability and arbitrary judgments, both of which would undermine the foundational principles on which their legal systems are built. (McMahon, Bonneau, 2017) Thus, in socialist contexts, strict interpretation of laws is emphasized, ensuring that legal outcomes remain consistent and firmly rooted in the established codes. Each of these approaches to analogy reflects not only the legal culture of the respective system but also the underlying societal values that shape how justice is administered in different regions of the world. (Kahn, 2016)

In civil-law systems, analogy is categorically barred in criminal law to honor *lex certa/lex stricta*, as underscored in Slovenia by the Constitutional Court in Up-1289/20, which—consistent with Article 7 ECHR—rejects expansive construction to an accused's detriment; yet outside the criminal sphere the same system tolerates analogy *in bonam partem* to fill statutory gaps, as the Administrative Court did in UPRS IV U 124/2022-15 by analogically applying Article 97 ZDavP-2 to enable a taxpayer refund. EU law shows a similar, gap-filling posture in private-law style domains: in C-231/22 (*État belge v Autorité de protection des données*), the CJEU reasoned “by analogy” with *Worten* to treat an official journal as a GDPR “controller” where it functionally determines processing, thereby preserving coherence and effectiveness. By contrast, common law embraces analogy as a primary engine of reasoning across fields: the UK Supreme Court in *Fearn v Tate* [2023] UKSC 4 extended private nuisance to sustained visual intrusion while retaining the doctrine's core test of reasonable use, and the U.S. Supreme Court in *United States v Rahimi* (2024) used Bruen's historical-analogical method to uphold temporary disarmament without demanding a “historical twin,” only a “relevantly similar” analogue. Even there, however, analogy has limits: in *Twitter v Taamneh* (2023) the Court refused to equate neutral platform operations with knowing, culpable assistance under JASTA. Socialist legal traditions, for their part, have historically discouraged judicial lawmaking and thus treat analogy as antithetical to rule-bound predictability, favoring strict textual application. Taken together, these patterns confirm that different systems calibrate analogy to their theories of authority: civil law cabins it to protect legality yet uses it to promote systemic coherence where safe; common law operationalizes it to adapt doctrine to new facts; and socialist frameworks minimize it to avoid discretion—divergent configurations that reflect deeper social values about certainty, fairness, and the judicial role (Giovannetti, 1984; McMahon & Bonneau, 2017; Kahn, 2016).

11. The impact of technology on legal interpretation

In many jurisdictions, open-textured or under-specified legal provisions allow decision-makers to extend law beyond its initial implementation, originally designed to address specific circumstances in a pre-digital context. The increasing ubiquity of digital technologies renders analogical reasoning less effective in legal interpretation, compelling judges and other decision-makers to reconsider established conceptual frameworks. **Camaiora warns against “forced” analogies, where courts stretch comparisons to cover novel digital issues. Such practices risk judicial overreach, effectively creating new rules without democratic legitimacy. The digital environment, where legislation lags behind innovation, makes this risk particularly acute (Camaiora, 2021).**

Traditionally, the law’s structure has been analogical, a consequence of legal certainty coexisting with legal systems that purport to be “complete” (Kahn, 2016). In an incomplete legal system that aspires to legal certainty, any case must be addressable by a determinate rule. Judges therefore infer a “gap-filler” provision by analogy whenever an effective parallelism exists between the facts of the unregulated case and some previous, legislated or adjudicated “model” case (McGinnis, Wasick, 2015).

This approach preserves legal certainty by identifying a stringently constrained epistemic path from statement of the existing rule to inference of an appropriate one. The polar opposite, justice, attends full discretion: outcomes may vary according to an approachable standard, and parties are not even assured that the law “works” analogically. A tension emerges between the goals of justice and legal certainty. The constraints promoted by analogical interpretation are heuristics that guarantee legal certainty—and ultimately legal stability—at the expense of justice. A pivot to a different interpretation mode enables adequate legal responses but divorces outcomes from the covering-law doctrines that anchor both claims of legal certainty and, consequently, social legitimacy.

12. Ethical considerations in legal analogies

The rapid proliferation of digital technology over recent years presents numerous difficult ethical questions that significantly exacerbate the complex dilemmas arising from the conceptual tension that exists between legal certainty and justice, as previously discussed in earlier sections of this analysis. Courts are increasingly relying on various analogies to shape their responses to the unprecedented developments occurring in the realm of law today. However, it is essential to understand and recognize that these analogies must be assessed not only from a purely logical perspective, but also from a deeply moral standpoint. The rhetorical force of well-crafted analogies—echoing the enduring concerns expressed by the philosopher Plato regarding those who utilize them as “a sort of incantation”—can easily obscure the fragile nature of a particular reasoning process. This situation can readily lead to a conflation of the persuasive with the just, ultimately necessitating and requiring a level of judicial circumspection that proves incredibly challenging to uphold in actual practice. The unmediated use of analogy in legal contexts, particularly when it occurs without the consideration of a responsible and reflective approach to such complexities, genuinely risks undermining the very legitimacy of the law itself. This raises profound concerns about the essential role of ethics in legal decision-making and interpretation during this digital age where technologies evolve and interact with legal principles in unprecedented ways. (Kahn, 2016).

The rhetorical power of well-crafted analogies—as per Plato’s warning against those who employ them as “a sort of incantation”—can obscure the tenuousness of a particular reasoning process, and conflate the persuasive with the just; they require judicial circumspection that is difficult to maintain in practice. Unmediated use of analogy, without consideration of a responsible approach, risks undermining law’s very legitimacy.

13. The future of legal analogy in a digital context

The limits of analogy in the modern legal system are examined with particular attention to balancing legal certainty and justice in the digital age. Legal certainty demands that similar cases be decided similarly. Analogy is a tool of reasoning that helps achieve legal certainty: cases that are not identical may nevertheless be considered similar, whether because they share a similar underlying principle, because they produce similar results, or for other reasons. When these analogies breakdown, however, legal certainty comes into question, and the court may allow the needs of justice to take precedence. The

current digital revolution—the full adoption of digital technologies in all sectors in an increasing number of countries—is producing constant change, which challenges the law and courts with new situations and issues that the law does not regulate or regulate well. The analysis begins with the inevitable need for analogy in order to resolve these new situations. It then seeks to identify the limits of analogy, although it is not a question of a failure in judicial activity, but of a limitation inherent in analogy itself. (McMahon, Bonneau, 2017)

No one can resist the demands of justice, but heroic efforts to satisfy justice may, in the long term, threaten legal certainty. Information technology is so dynamic and expansive that the claims of justice and legal certainty often clash. In response, courts have incorporated justice into their decisions, overruling previous positions and, therefore, abandoning legal certainty. In bridging these two concepts, analogy has reached its limits. Excessive use of analogy can lead to a violation of legal certainty. Within the Classical Model of Legal Interpretation, judgments are expected to go beyond the literal meaning of the rule only when the text is obscure. In the digital era, however, conditions of obscurity abound. When judges can use analogy in a broad manner, they act as legislators rather than judicial operators. The risk they run is that the benefits of analogy in protecting both legal certainty and justice in situations omitted or mistakenly regulated by the legislature may become a tool for making law, thereby destabilizing the system. Protective and moral questions remain unexplored in the analysis of analogy. (Senécal, Benyekhlief, 2010)

14. Balancing legal certainty and justice

Legal certainty and justice represent two competing principles between which any modern legal order must seek to maintain a fair and equitable balance that is not only necessary but also crucial for the effective functioning of society. Advocates of legal certainty will ardently argue, and rightfully so, that predictability and certainty are essential preconditions for the very existence of a reliable legal system that can earn the trust of its citizens and the world at large. They believe that without these characteristics, individuals and entities would be unable to plan their actions or make informed decisions within a legal framework. On the other hand, adherents of justice will contend, by contrast, that when a legal system ceases to serve the noble cause of justice and fairness, the integrity of the rule of law is significantly undermined and must be eventually replaced with a more just and equitable framework that truly reflects the principles of fairness and equality. The profound events precipitated by the ongoing digital transformation make it abundantly evident that existing constraints delineating appropriate analogical usage in law will need periodic and systematic review. This reevaluation is essential if the tension between legal certainty and justice is to remain under control and in a healthy balance that can support a progressive legal environment. Furthermore, it seems increasingly likely that analogue systems will be constructed to operate alongside digital systems for the foreseeable future, requiring a comprehensive and nuanced approach to lawmaking and interpretation. Hence, the established framework retaining a comprehensive general set of conditions in which the limits of analogy may be defined is both reaffirmed and critically underscores the complexity of the current legal landscape that legal systems must navigate in these changing times. (McMahon, Bonneau, 2017)

Civil-law systems often formalize when judges may analogize *outside* criminal law. The **Swiss Civil Code, Art. 1**, famously directs courts—absent a provision—to decide “in accordance with customary law” and, failing that, to craft the rule a legislator would make, thus **institutionalizing analogy (analogia legis/iuris)** to sustain coherence while acknowledging gaps. This sits alongside strict legality in criminal matters (mirrored by ECHR Article 7).

The **European human-rights framework** sharpens these boundaries. The ECtHR’s **Guide to Article 7** reiterates that expansive analogy **to the detriment of the accused** is forbidden, insisting on accessibility and foreseeability of criminal norms—yet it permits reasonable, **foreseeable judicial development** in line with the essence of the offense. This duality explains why your Slovenian **Up1289/20** (strict ban in criminal law) coexists with administrative or tax settings that allow **in bonam partem** analogies. By contrast, **common-law systems** lean heavily on case-based analogical reasoning across domains, but even there the judiciary polices fit and function. **Fearn** and **Rahimi** show *method-guided* extension (core tests adapted to new facts or historically analogous regulations), whereas **Taamneh** shows the brakes applied when the **conduct nucleus** (neutral platform services vs. affirmative assistance) does not align. The common law

thus **welcomes** analogy but **disciplines** it through precedent structure and element-focused tests. In systems influenced by **socialist legality**, courts traditionally resisted analogical adjudication altogether, stressing legislative exclusivity and the dangers of uncertainty that judge-made analogies might introduce; this stance reflects a governance preference for **code supremacy** over evolutionary case law. (McMahon, Bonneau, 2017)

Put together, these trajectories reveal a stable comparative pattern: **criminal law** across traditions cabins analogy to protect legality; **private/administrative law** often **uses** analogy to maintain coherence and fill interstices; and **common law** makes analogy a prime motor of doctrinal growth—tempered by fit, purpose, and market or constitutional constraints. (Giovannetti, 1984; Kahn, 2016).

In modern adjudication—especially amid fast-moving digital contexts—analogy is indispensable but potentially destabilizing. The goal is to channel analogical reasoning so it reinforces legal certainty while remaining responsive to justice. The following “test of proportionate analogy” offers a compact, operational guide for judges and practitioners: it specifies the domain and permissible direction of analogy, demands a demonstrable fit in purpose, safeguards predictability and reliance, and screens for systemic side-effects—followed by a quick checklist to ensure disciplined application in practice. Here is the operational “test of proportionate analogy” with a digital-era lens: (1) **Domain and direction of the analogy**—in criminal law, apply strict *lex stricta* and forbid analogies *in malam partem*; in administrative/tax law, allow analogy only *in bonam partem*; in civil/private law, permit analogy where it strengthens systemic coherence (e.g., consistent with the contrast between *Up-1289/20* and *UPRS IV U 124/2022-15*). (2) **Degree of similarity (“fit”) and distance**—justify a *relevantly similar* purpose or principle (not a historical “twin”): following *United States v. Rahimi*, an analogue suffices when it captures the underlying reason (e.g., protecting others’ safety), not merely surface parallels. (3) **Predictability and reliance**—assess effects on legal certainty and reliance interests and avoid expansive readings to an individual’s detriment (echoing ECHR Article 7’s foreseeability concerns). (4) **Systemic effects in digital environments**—screen for unintended expansions of liability (e.g., platforms) where the culpable core is not comparable (*Twitter v. Taamneh*). **Checklist:** (a) pinpoint the normative gap; (b) choose the source of analogy—*analogia legis* or *analogia iuris*; (c) apply the direction test (pro/contra *reum*; pro/contra *contribuente*); (d) articulate the “relevant similarity” with core reasons; (e) explain impacts on foreseeability, settled expectations, and doctrinal coherence.

15. The role of judges in interpreting analogies

The 21st-century digital environment profoundly complicates the intricate task that judges face when striving to preserve legal certainty while simultaneously engaging in the complex process of analogical reasoning. This form of reasoning not only serves vital jurisprudential purposes but also fulfills deeply important ethical functions within the legal framework. The assimilative character of analogy is crucial, as it promotes a sense of conceptual justice by making interactions both more comprehensible and much easier to navigate for all parties involved. Through the thoughtful and strategic use of analogy, courts find themselves compelled to identify prior cases that bear significant and relevant similarities, which is necessary for the effective and ongoing promotion of legal certainty in our rapidly changing world. However, this pressing need can sometimes lead to an ultra-cautious approach, which, while often well-intentioned, can inadvertently run the risk of allowing improper outcomes to prevail over justice. (Kahn, 2016) This tendency, in its dual nature, can serve as both a robust strength and a notable weakness in the complex judicial process, acting both as a necessary safeguard for justice while simultaneously hindering the application of fair, equitable, and timely rulings. Therefore, judges are tasked with the essential and weighty responsibility to construe analogies in a thoughtful and deliberate manner that advances the congruent realization of both legal certainty and justice, carefully balancing their duty to uphold the law with the equally important need to serve ethical principles and the broader interests of society. (McMahon, Bonneau, 2017)

16. Public perception of legal analogies

Public perception of legal methods such as analogical reasoning is no less important than the technical details of the practice itself. Although judges may well develop internal criteria for the appropriate use of analogy, without actual communication with the public their exercise of analogical reasoning is likely to remain controversial (McMahon, Bonneau, 2017).

The features that underpin legal certainty—transparency, predictability, and equality—are also among the pillars of legitimacy, so the public’s understanding of law is crucial if they are to trust the system that governs them (Wallace, Green, 1997). Disengagement from the legal system combined with the high importance of widely applied statutory or regulatory provisions constitute a risk where the public is confronted with legislation that they neither fully comprehend nor can easily avoid. In such circumstances failure to apply a legal provision in the manner most anticipated by the public is likely to be perceived not as a correction of the text but rather as a departure from it (Kahn, 2016). Such a perception risks precipitating a crisis of legitimacy that undermines both legal certainty and justice.

17. Legislative responses to digital challenges

Digital advances have generated novel legal questions, and lawmakers have responded with statutes regulating Internet activities such as online gambling and digital copyrights. Artificial intelligence has raised related challenges, and jurisdictions without common-law traditions have invested in comparable codifications. **The Cambridge Handbook underscores that regulation must also address the legal services market itself. AI-driven legal advice and automated document drafting raise pressing concerns about professional ethics, consumer protection, and quality assurance. Without proper safeguards, technological disruption may erode public trust in the legal system (Cambridge Handbook, 2022).** Drafting, however, is complicated by the fact that legislative reforms must, generally speaking, navigate through political processes and address the needs of large groups that are heterogeneous. Moreover, because the legal system mirrors the cultural environment in which it is embedded, some countries have prioritized the protection of fundamental rights (Penney, 2014). Other states have adopted binding International Framework Agreements (IFAs), which are rigorously enforced and mandate that laws accommodate new technologies.

18. International perspectives on legal analogy

The use of legal analogy is rooted in the observation that there is an inherent continuity in the legal system. Because legal analysis requires the application of abstract concepts to concrete situations, a number of broad “labels” (such as “contract,” “intent,” or “patent”) are designed to help organize this continuity. Once the law has been articulated for a sample of factual circumstances (the “precedent,” whether in statute, treatise, or case), it becomes relevant to establish whether other circumstances are sufficiently similar to justify applying the same legal label. Consequently, the task of analogical inquiry is to understand the elements of legal continuity—to identify the features of the precedential situation that, when compared with the challenger, establish sufficient similarity in the normative or institutional context. Successful lawmaking through analogy therefore entails delineating the criteria that allow a legal regime developed for one factual complex to be extended safely to another. Despite the usefulness and pervasiveness of analogical extensions, the capacity to draw meaningfully from precedent requires a foundational level of theoretical coherence across the legal system. To put it another way, the legal system must admit of principles broad enough to justify a legal labeling but narrow enough to preserve meaningful differences between subject areas. Without such a balance, legal reasoning collapses for opposite reasons: the scope of the label is either too tight to embrace new situations or so loose as to embrace all of them. Legal analogies represent the point where the broader questions of legal principle are most readily formulated and tested: analogical formats of legal discourse shape the way the principle question is articulated and give concrete expression to the problem of coherence (Kahn, 2016). It is therefore inevitable that the limits of analogy are the locus of a number of the most important legal-environmental challenges of the twenty-first century.

19. Recommendations for practitioners

What practical advice can be extracted from describing the limits of analogy? First, practitioners should appreciate the potential of analogy as a creative tool that, in the right environment, may contribute both to justice and legal certainty in the face of technological change (Kahn, 2016). Second, they should remain attentive to the distance separating an original case from a putative analogy and to the possibility of a restructuring of the legal framework. This vigilance may help anticipate situations in which the analogue may become inoperative and more direct action is needed (Penney, 2014).

20. Implications for legal education

Legal education must mirror the ongoing challenges facing the modern legal system. Visualizing and navigating the intersections of law and technology demand a comprehensive pedagogical approach that facilitates skill acquisition and the development of self-learning capacities (Johnson, 2013). Contemporary students rarely acquire sufficient legal competencies independently—future practitioners will confront a legal landscape fundamentally altered by technological advancements, one that draws heavily on capabilities that may not be readily identified through traditional methods. An education attuned to the phenomenon of legal analogy can assist in this transformation by offering clarity, structured thinking, and accessible tools.

Two developments in law schools exemplify the necessity of this approach. The persistent adherence to curricula and teaching methodologies largely reminiscent of the 19th century persists—even though the case method of study, a central element of the Socratic method, emerged during that era. Few institutions today implement the reforms delineated by the MacCrate Report and the Carnegie Foundation. Conferences focused on “Teaching for Tomorrow” underscore the critical role technology can play in facilitating the practical legal skills and self-reliant learning capabilities deemed indispensable by these reform initiatives. Both transformations—incorporating technological tools and addressing the inadequacies of the traditional case method—converge on the necessity for an educational paradigm capable of confronting the complexities of legal analogy.

21. The role of artificial intelligence in legal reasoning

The constant evolution of society demands that the law maintains an appropriate degree of flexibility in its provisions. This requirement is especially true in regard to the execution of data analysis and the relevant processing of information in the context of emerging technologies such as big data, artificial intelligence (AI), and blockchain. **AI-based legal technologies often rely on analogical reasoning by identifying similarities across large datasets. Yet, as critics point out, machine learning tends to reproduce existing patterns rather than generate genuinely novel analogies. This can reinforce legal certainty but limit justice, particularly when unprecedented cases arise** (Communication Law: Practical Applications in the Digital Age, 2018). **Scholz further observes that misleading analogies—such as “data is the new oil”—distort policymaking by obscuring the unique properties of data, including its non-rivalrousness and deep connection to human identity** (Scholz, 2019). Concern grips institutions, businesses, and individuals, given the massive amounts of data transmitted and the personal information becoming increasingly vulnerable to cyberattacks and other invasions of personal privacy. The application and use of digitalization in the social sphere now necessitate rethinking and, where appropriate, redefining the concept of analogy in law against the backdrop of design technologies and emerging communication platforms. Technology that fosters new discourse introduces a significant shift in the communication paradigm, highlighting the inconclusiveness of prior communication models. In light of this societal transformation, legal regulation must maintain its function of mediation without relinquishing respect for traditions developed throughout the history of law or the *raison d’être* of the legal system itself. Thus, the role of analogue reasoning remains the most appropriate method for exercising the law. AI can assist with or even replace this reasoning. Legal AI seeks to acquire the ability to argue about legislation and case law, accepting that meaningful legal decisions are often contingent, as argued by (Eliot, 2020).

The prevailing criticism questions the capacity of AI since, in building arguments based on existing laws, it can only replicate argumentative forms already known to it. Tackling challenges from novel perspectives requires isolating the essence of reasoning and generating rules from those insights—aspiring to develop the capacity of argument invention from first principles.

Examples and enforcement practices of the COVID-19 pandemic decree illustrate these notions.

22. Case law analysis: key judgments

The limits of legal analogy are examined through the analysis of key case law. In the Supreme Court of Canada's recent trilogy of cell phone decisions, the court emphasised the importance of legal certainty and recognised that judicial reliance on analogy, if not supported by principle, can generate confusion and unpredictability (Kahn, 2016). In *R v Telus Communications Co*, the majority acknowledged that when characterising a new technology, the analogue selected must comport with the underlying values of the legal principle in a way that is conceptually sound and empirically supportable. Otherwise, ensuing jurisprudence risks degenerating into a catalogue of metaphors and even contradictory analogies. Subsequent cases such as *R v Marakah* and *R v Reeves* have endorsed a normative conception of analogy to impose limitations on its application. In the digital context, the law is confronted with novel challenges that fundamentally test legal tools such as analogue reasoning. Innovation, as the precursor to virtue, is bound to raise this tension to an intolerable degree. Whenever the exercise of analogue reasoning threatens, as it might in the digital age, to undermine either legal certainty or justice, limits must be sought. Kahn then discusses the triangle of digital law and the roles of analogy, legal certainty, and justice within it. Salient points from various preceding chapters are elaborated upon and interconnected, emphasising that the triangle is dynamic, disintegrating under the strain of legal transformation and reform. The ongoing digitisation of public and private life will impose a test of considerable magnitude on established doctrines of analogue reasoning. The past rarely provides a blueprint for the future, especially in a world as radically transformed and as finely balanced as today's. The extended analysis demonstrates that the limits of legal analogy can be extrapolated with reference to the challenge of balancing legal certainty and justice.

23. Legal reforms and analogical reasoning

Efforts to maintain legal certainty require legal reforms capable of addressing the challenges introduced by an increasingly digitalized society. Reform in this context must be sensitive to the limits of analogy and committed to avoiding the pitfalls analogical reasoning can engender when applied too freely in an era of new technologies.

Analogy is a familiar form of legal reasoning that can produce judgments consistent with precedent but also lead astray. Because a compelling analogy hinges on the purpose of the comparison within the legal context, the conditions for its employment are rarely met in the case of technologies without ready counterparts. To accommodate such technologies, lawmakers are thus compelled to adjust the normative framework itself. Judges encounter a similar difficulty: when precedent is unavailable or inappropriate, they cannot rely on analogy without jeopardizing legal certainty. In the absence of clear guidance from the legislature, they have no choice but to resort instead to the level of justice to which their authority grants access. Accordingly, analogy is best conceived as a mechanism for navigating the space that separates legal certainty from justice. Its limits reveal the tension inherent in the legal system's simultaneous quest to satisfy both requirements.

Contemporary legal systems act as interpretive mechanisms that coordinate social interaction through the surveillance of agreements and the sanctioning of harm. To succeed in this role, law must be sufficiently stable to resemble a fixed framework – a stance best expressed in terms of legal certainty – yet also attuned to the evolving notions of fairness that define justice. Cognizant of this, jurists rank the two principles accordingly: while justice is commonly recognized as the ultimate objective of the law, legal certainty is universally acknowledged as its foundation. With the emergence of the digital era, the gap between the two widens considerably. Consequently, relying more heavily on the interpretative resources already available within the legal framework becomes imperative.

In the face of these challenges, judicious reform of the normative framework is essential for ensuring law's continued capacity to provide secure and just solutions. The boundaries of analogical reasoning remind legislators that the public interest will not indefinitely tolerate a shared landscape of uncertainty and injustice.

Analogical reasoning ranks as the most familiar form of legal reasoning (McMahon, Bonneau, 2017). It is widely employed for linking situations lacking a ready legal classification to those that enjoy one.

Sometimes, analogy enables the law to progress by opening access to notable legal resources; in other cases, it constitutes a means of preserving legal certainty in turbulent times. For all its virtues, however, relying too freely on analogous reasoning entails considerable risks. America's legal tradition offers a cautionary example in the long history of "intrusion upon seclusion" before the Supreme Court's climactic recognition that citizens' phone conversations warranted at least the protection set out in the Fourth Amendment (Kahn, 2016). By that stage, the law had already spent decades applying assorted technologies to that general form. In 1934, analogical reasoning thereby arrested legislative activity on the subject and erected a formidable barrier against technological innovation, confining civil liberties to a framework haunted by telegraphs and letters.

24. The intersection of law and technology

The ongoing digital transformation challenges the institution of law with demands for reinterpretation and reform that would ensure the principles of the legal system better cope with the new realities. **According to the Cambridge Handbook, the role of lawyers is evolving from traditional advisors to "designers" of legal services, requiring not only legal expertise but also technological literacy. Legal education must adapt to prepare professionals for a world where analogy alone is insufficient to bridge the gap between established doctrine and digital realities (Cambridge Handbook, 2022).**

Technology fundamentally alters the interaction with legal discourse and changes the legal discourse itself, revising the interaction of law with social practice. It also constrains the types of answers that can be produced by adjudicating bodies and restricts the range of practical reasoning (McGinnis, Wasick, 2015).

Legal discourse consequently undergoes a process that should necessarily lead to a change in the specifics of the content of law and to a modification of the limits that the use of analogy should traditionally observe in law. The roots of these limits remain solid, but careful scrutiny brings forth the necessity to redefine the ways and the extent to which analogy can be employed, and the general range of substantive restrictions that conditions and shapes its use.

25. Future trends in legal analogy

Revolutions in communication and the organisation of information, together with profound changes in the way people live and work, have induced fundamental legal transformations. These developments raise the question whether the use of analogy must develop restrictions to ensure the observance of the principle of legal certainty. The implications of the question require that the principle of legal certainty is defined with precision and that a conception of justice is adopted which is consistent with the principle of legal certainty (Giovannetti, 1984). These two pre-conditions are emphasised throughout the discussion. The aim is to conceptualise possible developments in the use of analogy within the traditional foundations of law (Kahn, 2016).

A long-range prediction can be developed by assessing the variables that are likely to appear in the coming century. The strength and influence of the constitutional instrument are in the process of being considerably strengthened. Judicial reform and the introduction of an element of class action may substantially increase the range and diversity of cases presented by claimants. An emphasis on shaping and determining the totality of a court environment may gradually draw use of analogy to the attention of the adjudicating authority. Technology offers a powerful tool to select, design and develop analogies, and even to provide novel forms of analogical process not referred to by present theory or practice. The horror of a complete collapse should be moderated by the realisation that the use of analogy is itself one and the same analogy.

The breach of copyright offers a pertinent example of developments which are already under way. Greater attention is given to the legitimate reasons of use (cf. The Advocate-General) and the reference point is increasingly shifted from product to process. Organizations such as the copyright collecting societies cannot exercise effective control in the environment of the World Wide Web, and the traditional distinctions between access, use and reproduction tend to become progressively blurred. Conventional use of analogy, carried out by judicial or legislative authority, must rapidly give way to new forms of development, extension and creation inspired or influenced by new and unforeseeable needs.

26. Conclusion

Ancient jurisprudence, entwined as it is with the origins of metaphor, has made analogical legal reasoning appear a natural process for applying law to novel facts. This renders courts' resort to analogy unremarkable despite the substantial social and legal reforms required to adapt precedents designed for different eras to unforeseen developments (Kahn, 2016). The limits of analogy, accordingly, depend on the tension between legal certainty and justice. A period of rule-of-law reform, when American lawyers and legal scholars seem eager to transplant the fruits of the legal system onto foreign soils, highlights some hazards lurking in the tradition of analogical thinking: Reasoning of this sort remains "inescapable" but must be cautiously deployed.

The limits of analogy, in this respect, appear broader than those set by legal certainty yet narrower than those dictated by justice. Analogies, in other words, struggle to coax justice out of the remains of an eroded precedent. Judicial earnest attempts to find precedents analogous to contemporary facts often alienate the people affected by the resulting judgments (Karanasiou, 2013). The rarer achievement secures a broad measure of legal certainty—an exceptionally high bar demanding justice, predictability, and rhetoric—without raising serious concerns about the analogy's scope. Legal forms, summoned persistently to address endlessly emerging contingencies, regularly require profound alterations to maintain their function; by the same token, the law's adaptation capabilities diminish quickly once the exception approaches the rule. Contemporary experience suggests that the limits of the analogical rule cannot be understood apart from this fundamental balance.

With the inclusion of perspectives from contemporary scholarship, this expanded article demonstrates that the limits of analogy in the digital age are not only conceptual but also institutional and regulatory. The balance between legal certainty and justice hinges not only on judicial reasoning but also on how regulators, legislators, and legal professionals adapt to technological change.

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Adapting Settlements to Climate Change: Transforming Former Industrial Areas Along Rivers in Germany into Resilient Mixed-Use Real Estate

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Abstract

Climate change poses numerous threats in urban areas, such as heatwaves, reduced air quality, ecosystem disturbance, etc. For city areas located along rivers there is an increased risk of more frequent and intense flooding. Various riverside industrial zones in German cities were redeveloped into mixed-use areas in the post-industrial era. Therefore, this paper investigates the challenges faced by these new settlements, such as flood management, ecosystem protection, water pollution reduction, provision of public spaces, enhancement of urban aesthetics, and their connection to the real estate market on the local level. For research purposes, three projects from the German context are elaborated: Hamburg (HafenCity project), Heilbronn (Neckarbogen project), and Basel-Huningue-Weil am Rhein (3Land project). This qualitative research applies a case study approach to analyze historical documents, scientific literature, planning documents, and urban and architectural projects, thus identifying correlations among historical, spatial, social, and economic factors that influenced these redevelopments. To collect context-specific data, case study visits were conducted. Findings indicate that flood and social resilience are issues addressed in riverbank settlements through multifunctional public space design. Equal efforts are made in architectural innovation in the design of the buildings, which is highly important when adapting settlements to climate change effectively. A significant contribution is the improvement of connection of the redeveloped areas to the broader urban fabric of the respective cities. Furthermore, the newly redeveloped areas play an important role in improving the city's overall image while successfully integrating elements of its industrial heritage. Finally, this research develops valuable recommendations for policymakers, urban planners, and stakeholders involved in the development of real estate in riverside areas.

Keywords: climate change adaptation, flood risk management, riverbank settlements, urban resilience

Introduction

Waterfronts have historically evolved through several stages. This morphodynamical development of waterfronts is correlated with five historic periods of industrial development from 1801 to the introduction of the EU Water Framework Directive (EU-WFD). Each period exhibits a distinct influence on the watercourse, driven by human intervention. As a result of deindustrialization in recent decades, industrial zones, ports, and transportation routes have been relocated with brownfield sites being left behind. These areas are predominantly located in central city areas, and frequently, along rivers as remains of former ports. Brownfields near rivers are a result of economic restructuring as well (Hersh et al., 2012). Both architects and the real estate industry support transforming these former ports into promenades that can attract residential developments, offices, and cultural facilities (Schubert, 2010). Furthermore, transforming these areas along rivers could potentially help in adapting and mitigating climate change threats.

In the 1960s, brownfields were replaced with new facilities, which was a trend that first emerged in North America. By the early 1980s, large-scale mixed-use developments began to take place on these brownfields which were often characterized by weak planning. In the early 1990s, participative planning and design competitions became more common, often accompanied by events like the Olympics or flagship architectural projects, particularly in Europe. Finally, in the new millennium, projects were increasingly characterized by public-private partnerships and professional planning management. These kinds of redevelopments often served as city marketing strategies. Mixed-use developments and luxury housing became dominant on the riverfronts (Schubert, 2010).

The restructuring of waterfront brownfields is unique because of their proximity to existing infrastructures and their complexity in terms of land use, historical, economic, and other factors (Hersh et al., 2012). Revitalizing old port areas involves a complex web of stakeholders and interests as they present opportunities for sustainable development. Successful waterfront regeneration requires attention to creating a master plan that involves communities and developers from the earliest stages, public-private partnerships, collaboration between public authorities and private organizations and overseeing by an independent development agency (Wang, 2002). Riverfront redevelopments in brownfield areas in Europe and especially in Germany are leveraging the growing awareness of climate resilience, sustainability, and environmental responsibility to create projects that meet modern real estate demands while also addressing environmental challenges. Many riverside industrial zones in German cities were redeveloped into mixed-use areas, with residential use often being dominant (Wolf et al., 2021).

The objective of this paper is to analyze riverfront redevelopment projects in Germany, the challenges they face in the process of planning and implementation and the role of real estate in that process. The research examines three different case studies positioned in different contexts and with different objectives. However, all these projects share the common goal of implementing sustainable practices in shaping contemporary settlements by the river. The projects under study are still in progress: the HafenCity project in Hamburg, the Neckarbogen project in Heilbronn, and the 3Land project in the border area between the cities of Weil am Rhein in Germany, Basel in Switzerland, and Huningue in France. The paper will introduce each of the case studies, beginning with an exploration of the historical context that initiated these redevelopments, and the goals of each project. Furthermore, the important innovations in planning, design and governance will be analyzed. The paper will conclude by presenting key insights and recommendations drawn from the analysis.

Methodology

This research was done through a qualitative case study approach. The data on the specific projects was collected through a review of historical and planning documents, scientific literature, and documentation on the selected urban and architectural projects. Furthermore, site visits were conducted with the goal of familiarizing oneself with the specific context that the projects are set in. Finally, for two of the case studies semi-structured interviews were held with urban planners included in the plan development. The analysis of the gathered data identifies correlations between the specific objectives and processes in which these redevelopments are being conducted so final conclusions could be drawn.

Case studies of riverfront redevelopments

Neckarbogen, Heilbronn

Heilbronn was a key player in Württemberg's economic development in the last century and the analyzed area in Heilbronn holds a historically strategic position along the Neckar River. The area's spatial significance understandably came from its proximity to the river and railway lines. The Wilhelmskanal, which made the Neckar River navigable, was constructed in 1821 and a terminus station was established in 1848, which connected Heilbronn to Stuttgart by rail. The discovery of rock salt in the 1880s spurred the growth of the local chemical industry (Rösch, 2007). Over the years, the area saw the creation of harbors and the relocation of railways to accommodate growing traffic. Since 1935 the Neckar was blocked off by steep embankments and roads and was only visible as an element in the urban space in a few places in the area. Despite significant wartime damage and industrial use, the Wilhelmskanal and the former terminus station still remain in the area (Stadt Heilbronn, 2009). As transportation modes evolved and industries began to relocate or decline, the area along Neckar faced spatial challenges. Some of those challenges were the underutilization of the railway infrastructure and the port facilities. Therefore, this area was set to be repurposed into mixed-use developments with residential, commercial, and service-oriented activities.

Development plan

In 2009, an Urban Development Competition was held for the master plan of the area. The competition area covered approximately 100 hectares, and the task was to create a master plan that would serve as a guiding framework for the area's development. The transformation was driven by the need to better integrate the Neckar River into the city's urban fabric. An important aspect was the reconnection of the east and west districts that had been historically separated by industrial infrastructure. Key objectives of the competition included the conception of an urban quarter with around 750 residential units, the development of mixed-use spaces that would combine living, working, culture, and leisure, and the development of riverbanks as open spaces. The master plan was expected to address several critical factors such as ensuring protection against emissions from adjacent industrial areas, integrating higher-level transport requirements, and creating sustainable infrastructure. The overall goal was to create a district that meets the needs of the current population and also serves as a model for future urban development, that integrates green spaces and sustainable practices into the urban landscape while revitalizing a historically industrial area (Dokumentation Modellquartier Neckarbogen, 2017). Steidle Architekten from Munich, in collaboration with t17 Landschaftsarchitekten, won the competition. The competition's results led to a framework plan that included a distinctive triangular settlement figure, green landscape strips, and bridges to connect different parts of the area. The plan integrated the garden city model and served as the basis for decisions related to the Federal Garden Show which was a project that was being parallelly developed in the same area. Several development plans are further derived from the Neckarbogen framework plan.



Figure 1: Neckarbogen district area in Heilbronn.
Source: author, 2023



Figure 2: Neckarbogen public spaces. Source: author, 2023

BUGA 2019

The 2019 Federal Garden Show in Heilbronn, known as BUGA 2019, combined a garden exhibition with a city exhibition, transforming a 40-hectare area called Neckarbogen. In preparation for the show, an open space planning competition was held in 2011, based on the 2010 framework plan for Neckarbogen. The competition was won by *sinai Gesellschaft von Landschaftsarchitekten mbH* in collaboration with *Machleidt GmbH*. The project was set to revitalize the underused land, connect districts across the Neckar, and improve the city's image by integrating existing structures like the ABX Hall. The garden exhibition featured green spaces, horticultural art, and urban block development. The exhibition also included the construction of three blocks of mixed-use buildings up to nine floors, that would create a mix of urban living, shopping, and leisure opportunities, ultimately forming the new Neckarbogen district in Heilbronn. The three construction sites were located between Stadtsee and Altneckar, bordered by the canal and Westrandstraße. The first construction phase of Neckarbogen was completed for the event, making the Neckarbogen an integral part of BUGA 2019. The new quarter was visible to visitors along with other important features like the city and leisure lake that would later become part of the district. The BUGA 2019 served as a catalyst for urban development in the area. It was a decisive instrument in driving the implementation process, linking to the theme of sustainability and acting as an ambassador for this idea. It provided a platform for stakeholders as users or exhibitors, by the realization of high-quality living spaces (Stadtplanung & Landschaftsarchitekten, 2015).

A model for integrated urban development and sustainability

In the wish to make the Neckarbogen a model neighborhood, there was a question on what Neckarbogen can serve as a model. To explore this, potential model aspects were divided into levels, such as: urban development (which includes integration, mix, diversity, layout, and strategy), open space (which includes community gardens, public spaces, street designs), architecture/typology (which includes rooftop terraces, cooperatives, sustainable construction), mobility (which includes car sharing, public transport, cycling, pedestrian traffic), and energy/sustainability (which includes water management, energy supply, energy-efficient buildings). These model aspects were further categorized into three types: Heilbronn New Standard 2019 (implementation of current standards in the district by the 2019 BUGA), Heilbronn Innovation (introduction of innovative projects by combining or evolving existing ideas) and Heilbronn Lighthouse (forward-thinking projects as experimental research). A matrix was developed to guide decisions on these aspects as the Neckarbogen develops.

One of the important aims of the Neckarbogen district is to create a diverse mix of functions, housing types, ownership models, and sponsorships, which would promote social sustainability. This urban mix includes diverse functions (combining living, working, leisure, and services within each area); variety in housing (offering different types of housing, such as perimeter blocks, row houses, and urban terraced houses); mixed ownership (including rental, ownership, and leasehold options); sponsorship diversity (involving investors, housing associations, cooperatives, and individual builders) (Dokumentation Modellquartier Neckarbogen, 2017). Finally, the framework aims to create a city of

short distances, where living, working, and leisure is closely integrated. This means achieving inclusivity, as people with varying income levels can live near their workplaces and participate in the community.

Planning process, governance and stakeholder collaboration

The development of the Neckarbogen area has followed a clear, integrated planning process since the 2009 urban planning competition, including early and ongoing citizen participation. The 2010 framework plan was updated to refine existing plans, achieve a density that would allow for a critical mass to form in the district, and was closely aligned with the BUGA 2019 mission statement to maximize synergies between these complementary projects (Dokumentation Modellquartier Neckarbogen, 2017).

For the implementation of the plan a design manual was provided to ensure the design outcomes for the district. The Design Manual serves as a guide for future developments and ensures that the Neckarbogen becomes a unique and recognizable urban district. It provides guidelines for coordinating different construction projects. The manual is not rigid but serves as a flexible guide to create a unified and distinct identity for the area to achieve coherent overall picture. This gives all involved a clear direction for future developments (Dokumentation Modellquartier Neckarbogen, 2017). The Design Manual helps all involved in the planning process to coordinate between each other. The selection of developers for the properties is done through quality criteria and not through price. Furthermore, the allocation is made by parcel, so interested parties can apply for a maximum of two plots for a building with the same architect that are not directly adjacent to each other and at least one building cooperative/building group should be provided for each construction site. With the creation of building groups, the private builders collaborate to create properties. These projects, which include participatory planning and long-term self-use, often result in innovative and eco-friendly housing (Dokumentation Modellquartier Neckarbogen, 2017). The idea is to create a mixture of sponsorships (Pressestelle, n.d.). Furthermore, a special building commission reviews all the projects. The building commission is a city-appointed group of urban planners, landscape planners, and architects, reviews construction projects based on the design manual, energy, mobility concepts, and the development plan. Finally, competitions where at least five architectural firms are participating are mandatory for key buildings and areas. The awarding authority is the plot owner or, in larger proceedings, the city of Heilbronn (Stadtplanung & Landschaftsarchitekten, 2015). This kind of planning and implementation contributes to a collaborative design context, where investors and builders are given the greatest possible scope for their individual needs.

Hafen City, Hamburg

is the third-largest seaport in Europe and remains one of the busiest in the world (Bruns-Berentelg et al., 2022). HafenCity is a district in Hamburg-Mitte, situated on Grasbrook Island along the Elbe River, where the former Port of Hamburg was located. The analyzed redevelopment area is situated south of the historical Speicherstadt district which served as a port warehouse, built between 1883 and 1927, and was added to the UNESCO World Heritage List in 2015. This warehouse complex, built on oak piles over demolished 16th-18th century residential buildings, isolated the port from the city center. Following extensive damage during World War II, when about 70% of the warehouses were destroyed, and the rise of container shipping in 1956, the old port basins near the city became too small and shallow. As a result, the harbor quickly shifted to the south banks of the Elbe River (Prinzleve, 2023) and post-war, Hamburg's development had focused away from the Elbe (Gelfond, 2021). After World War II, many German cities prioritized urban reconstruction with separating industrial, office, retail, and residential areas. Hamburg created a 75 km² city center zone dedicated solely to harbor use (Bruns-Berentelg et al., 2022). During the third Industrial Revolution, HafenCity's significance as an industrial hub further declined. By the fourth Industrial Revolution, driven by cultural and creative industries, the area's industrial facilities were no longer in use (Bruns-Berentelg et al., 2022).

By the early 2000s, the port facilities had moved west to accommodate large vessels (Gelfond, 2021). Because of this, Hamburg undertook two major regeneration projects: HafenCity (initiated in 1997) and Wilhelmsburg Island by IBA-Hamburg (which begun in 2006). Both projects were a part of the Hamburg Spatial Vision 2020. The HafenCity project is Germany's largest urban reclamation initiative aimed at expanding downtown Hamburg by 40%. The area of the projects spans approximately 155 hectares, stretches from Speicherstadt to the Elbbrücken and transforms former port facilities into a mixed-use area (Petrow, 2011).



Figure 3: Mixed use district in HafenCity.
Source: author, 2023



Figure 4: Mixed use district in HafenCity.
Source: author, 2023

Development plan

The concept of HafenCity was initiated in the 1990s and unveiled in 1997. In the competition held in 1999 the "Hamburgplan" and Kees Christiaanse / ASTOC design was selected as winning. The plan aimed to turn the area of 157 hectares into a mixed-use urban area that preserves the historical and natural features of the context while adding socio-economic value to it (Gelfond, 2021). The Masterplan integrated residential, commercial, leisure, retail, and cultural facilities, and maximized land use with a high building density index of 2.5 to accommodate Hamburg's limited development space (Alpay, 2012). The initial Masterplan proposed in 2000 faced significant public criticism, as it was overly rational and failed to preserve elements of the site's industrial heritage. The Masterplan also outlined a phased development of HafenCity, which was set to move from west to east to ensure controlled construction across the area. A zoning plan for the first phase was established in 2000, and the first buildings were completed by 2004 (Schubert, n.d.). The project's phased implementation also ensures connection with broader urban goals. This approach contrasts with the piecemeal redevelopment of other European port cities, as it also integrated HafenCity into a larger city-wide and regional strategy (Deubig, n.d.). HafenCity framework plan encouraged experimentation and adapted to emerging opportunities, such as nurturing creative hubs in historic warehouses. This approach exemplifies Hamburg's shift from managerialism to entrepreneurialism in urban policy.

A model of sustainable and resilient urban development

There are five key points of sustainable development strategy for the HafenCity: reuse of the former industrial area and achieving high density; providing mixed use and sustainable land use in the redevelopment area; including sustainable mobility and implementing the concept of walkable city; achieving high efficiency and use of renewable energy and certification of buildings (Deubig, n.d.). Waterfronts have become key locations for city marketing, featuring iconic architectural projects. Similarly, HafenCity project features design by renowned architects such as Rem Koolhaas, Massimiliano Fuksas, and Herzog & de Meuron and also aims to showcase a blend of high-class housing, tourist attractions, and public events to build its image and integrate it into Hamburg's identity (Petrow, 2011).

HafenCity is located between the Norderelbe and the public flood protection line, placing it within the Elbe's flooding zone. Unlike other parts of the Elbe Estuary, which are protected by embankments and levees designed to withstand storm surges predicted for 2085, HafenCity requires unique flood

protection solutions due to its geographical positioning and the nature of its development. The key flood protection measure in HafenCity involves elevating buildings on artificial mounds or plinths that reach 8 meters above mean sea level (msl) (Ge et al., 2014). This strategy allows for the integration of HafenCity with Hamburg's existing urban fabric by implementing innovative adaptive architecture. Finally, this resilient building principle enables phased development from west to east and north to south.

HafenCity is designed as a "walkable city" where everything is easily accessible without a car, thanks to its mixed-use layout, a dense network of pedestrian streets, car lanes, and bus lines, the U4 subway line (operational since 2012) and an extensive quayside promenade. Parking is heavily restricted, and most parking spaces are hidden underground to integrate with flood protection measures. Finally, the HafenCity eco-label from 2007 was Germany's first to set high energy standards for all building types and requires annual performance verification. The district also features various tourist attractions distributed throughout its area (Bruns-Berentelg, 2014).

Planning process, governance and stakeholder collaboration

The HafenCity project reflects the complexities of urban development in port areas. Early in the planning process, dialogue and interdisciplinary collaboration were established to build consensus on the objectives of the plan (Alpay, 2012). The Hamburg Port Authority (HPA), not the Ministry for Urban Development and the Environment (BSU), oversees planning in the port, which complicates collaborations (Schubert, n.d.). By 2004, Corporation for Harbor and City Development was transformed into HafenCity Hamburg GmbH, a public company, which took over the development process (Bruns-Berentelg, 2014) and soon owned most of the land. The company uses its influence to ensure that investors adhered to the broader planning vision. This approach balances immediate land sale profits with long-term planning goals, incorporating mixed-income and mixed-use neighborhoods (Bruns-Berentelg et al., 2022). In this way public ownership in the area was maintained. Instead of charging the highest possible price for land, they require investors and developers to contribute to the overall planning goals of HafenCity, which in turn raises the value of new land plots.

A specific example of the original form of governance in HafenCity is the new Elbphilharmonie concert hall. The idea for a new iconic concert hall on Hamburg's redeveloped waterfront came from a local developer who had commissioned famous architects Herzog & de Meuron to design it. The planning and building process of the indicates a shift in the governance of iconic flagship projects at least in Germany and reveals new discourses and practices of a place-specific neoliberal governmentality. Uniquely, this project relied heavily on local civic commitment and patronage, as a new form of governance in urban development that blends public and private interests (Balke et al., 2018). Another aspect of the project that relies on private stakeholders is the flood preparation for privately owned buildings meaning that the owners pay higher price for real estate in the area because the funds go in flood protection and maintenance of the buildings (Mees et al., 2014).

3 Land, Weil am Rhein – Basel – Huningue

The municipalities of Basel, Weil am Rhein, and Huningue form a historical border triangle on the river Rhine. These areas have gradually become a continuous urban space through uncoordinated growth. Before 1840, the Rhine between Kembs and Breisach was a broad, branching floodplain. From 1842 to 1876, the river was narrowed into a deeper, more controlled bed and became less navigable until 1962 when the Rhine Lateral Canal was built. In that time Basel was known internationally as a "factory city" with a high number of workers, a trend that continued until the 1980s (Team LIN, 2015a). The Hafen-Stadt port in Kleinhüningen, Switzerland, evolved from a fishing village into a vital industrial and residential area. Originally it was the most important port in Switzerland, whose growth was spurred by key developments such as the construction of the St. Johan port in the early 1900s, the opening of the Maritime Station in 1926, and a second port basin in 1946. This expansion influenced the growth of the pharmaceutical and chemical industries in the region. The early 2000s saw the beginning of a new transformation phase with the development of the Novartis Campus, which was later extended to



Figure 5: 3Land area in Basel. Source: author, 2023



Figure 6: 3Land area in Huningue. Source: author, 2023

connect with the Rhine (ENSURE - European Sustainable Urbanisation through Port City REgeneration, 2019). A significant cross-border protest occurred in 1986 after a chemical spill polluted the Rhine. By 2000, the Rhine had become clean enough for swimming through Basel's city center. The national borders have shifted over the centuries and today they have significant marks on the urban landscape. Over time, the cities have expanded towards these borders, resulting in a complex mix of urban areas and a closely connected cross-border region (Team LIN, 2015a). Despite its well-developed infrastructure—proximity to the port, airport, railway stations, and main roads—the 3Land area has not fully realized its potential, with infrastructures often acting as barriers rather than connectors. The region had a fragmented urban space while people's access to the Rhine was limited, with residential areas often located behind industrial zones. Despite its urban and industrial nature, the 3Land area also includes ecologically valuable habitats and biotope networks that are crucial for maintaining local, regional, and supra-regional ecological networks (IBA Basel, 2020).

Before the project, the Rhine was mainly seen as a border, especially for Huningue and Weil am Rhein, while Basel viewed it as central to its identity. Basel's growth is limited by land availability, so it needs cooperation with nearby municipalities in a polycentric agglomeration. Furthermore, the development of the Swiss Rhine ports, including relocating the harbor station, is a focal point of Basel's urban strategy (Team LIN, 2015c). Huningue, though not the initiator, sees the project as a significant opportunity for its own development (Team LIN, 2015c).

Today, efforts are underway to restore some of the Rhine's original floodplain to create sustainable habitats for endangered species. Rhine is now also viewed as a central figure in European cross-border identity, which offers opportunities for multifunctional, transnational urban development (Team LIN, 2015a). The cities of Basel, Huningue, and Weil am Rhein, along with the Saint-Louis Agglomération and the Conseil Général du Haut-Rhin, joined forces to develop this area into dense, sustainable urban

districts. A 2012 planning agreement led to the creation of a joint development vision and spatial concept (IBA Basel, 2020). The 3Land project is situated in a 430-hectare cross-border area and aims to reconnect the cities with the Rhine, while providing green and open spaces, particularly in Friedlingen. The transformation of port and industrial areas in 3Land is freeing up space for new urban districts (Team LIN, 2015a). The idealized lifestyle—working in Switzerland, shopping in Germany, and living in France—is being reevaluated for sustainable development across the region (Team LIN, 2015c). The reintegration of the port with the city and EU funding were key catalysts for regional economic development and cultural exchange (Le Den et al., 2019). This development aims to maintain each city's distinct identity while merging them into a unified space with potential for 20,000 jobs and residents over the coming decades.

Development plan

The initial concept for the Rhine Island, was also known as "Rheinhattan," proposed by MVRDV and faced criticism for its perceived luxury focus which led to fears of displacing existing residents. Therefore, the newly proposed planning concept of the area aimed for a gradual and careful transformation rather than exclusivity. In November 2013, Team LIN was tasked with developing a spatial concept for 3Land. After consulting with politicians, planners, and experts from Germany, Switzerland, and France, they proposed the framework. The 3Land spatial concept is a preliminary framework, not a final master plan. The concept of the framework was refined based on feedback. In the process of citizen involvement, demands for diverse and flexible living arrangements were discovered, with 45% of respondents valuing a variety of housing types and 50% demanding flexible building designs. Many prefer renting over ownership and asked for affordable and cooperative housing (Team LIN, 2015b). The 3Land project aims for a mixed-use approach and envisions three cross-border hubs: Campus Labor (education and research functions, new industries), Urban Vis-à-vis (living and working functions), and Vis-à-vis across the Rhine (residential and leisure functions). Approximately 900,000 m² of space was set to be developed (Team LIN, 2015d).

The project implementation is divided into four phases, each addressing specific goals and timelines. The pre-project phase focuses on laying the groundwork with flexibility to adapt plans as needed, while coordinating land release, and implementing temporary uses in preparation for future development. Phase 1 (2015-2020) focuses on the area's visibility through temporary projects, improvement of accessibility with new bridges and public transport, and hosting trilateral events. Phase 2 (2020-2025) intensifies urban redevelopment with the introduction of an express bus line, transformation of Huningue South, construction of a northern bridge, and residential projects in Weil am Rhein. Phase 3 (2025-2030) is planned for developing the previously started areas and improving public transport connections, including a direct link to EuroAirport, while further constructing bridges and advancing urban projects. The final, Phase 4 (2030-2035), focuses on completing urban development in Huningue South and Basel's southern port area, and exploring potential long-term projects with BASF and Novartis (Team LIN, 2015d).

A model for cross-border sustainable urban development

3Land seeks to achieve a unified riverfront experience that respects the varying cultural approaches to the Rhine in each country. Furthermore, 3Land will support a new educational institution focused on language acquisition and international schooling in order to aid cross-border communication and education. The newly redeveloped area is set to provide flexible spaces for start-ups, small businesses, and innovative enterprises. This includes business incubators and adaptable office spaces, complementing traditional commercial areas. Leveraging the area's rich cultural backdrop and its unique border location, 3Land will accommodate both permanent cultural facilities and temporary events such as festivals and markets.

The 3Land area is designed for high flexibility, allowing further subdivision of plots as needed. Shore areas will be publicly accessible. Development will incorporate buffer zones between different uses and connect new and existing districts through open spaces and harmonized urban planning (Team LIN, 2015d). In the 3Land project, a catalog of criteria was implemented to guide private and non-profit investors, developers, and landowners across the three participating countries. This catalog, known as

the “Trinational Criteria Catalog,” aims to exceed current standards and awards the “Sustainable 3Land Durable” certificate to those who meet its rigorous requirements. The catalog has five overarching goals: creating green and open spaces by opening previously closed areas, enabling user-oriented and cooperative development, ensuring accessibility for all city residents, prioritizing walking, cycling, and public transport, and implementing environmentally friendly transformation processes. For instance, one key indicator under energy efficiency is the reduction of gray energy, which involves upgrading existing buildings with minimal intervention and designing new buildings for flexibility (Expertenhandbuch, n.d.).

Planning process, governance and stakeholder collaboration

In the context of 3Land, governance represents a pragmatic and adaptable approach to managing complex cross-border interactions among three countries. The project impacts a wide range of stakeholders, including architects, conservationists, neighborhood groups, and businesses. While traditional governance might seem inadequate, especially in regions with varied administrative systems and national traditions, governance in 3Land is viewed as a complement to existing structures. It employs direct interaction between citizens and decision-makers rather than relying solely on democratic representation (Team LIN, n.d.).

Out of the 430 hectares in 3 Land area, a significant portion is privately owned, particularly by Novartis, BASF, and other companies in the Huningue South zone. Public ownership is limited, mainly in France. Effective planning for the 3Land project requires strategic negotiations with the private landowners. The Port Company is a key partner, and as port areas transition to the Canton of Basel-Stadt, gradual land releases are anticipated. However, the planning process for 3Land remains complex and evolving (Team LIN, 2015a). The cities and local authorities of the Basel agglomeration have a long history of cross-border cooperation as shown by the establishment of the Trinational Eurodistrict Basel (TEB) (Team LIN, 2015a). Despite Switzerland's non-EU status, the TEB allows it to benefit from EU funding.

An open space and nature conservation concept was also developed for 3Land. While implementation is primarily managed at the municipal level, certain bi- and trinational projects will be jointly developed. It will guide future planning in each city, serving as an orientation and regulatory tool. The concept also outlines tasks for each city, categorized into short-term (until 2025), medium-term (until 2030), and long-term (from 2030) goals to inform future planning processes, such as Basel's Klybeck-Kleinhüningen district development plan and Weil am Rhein's Integrated Urban Development Concept (ISEK) (IBA Basel, 2020). Finally, the 2012 "Strategy 2030 Trinational Basel Agglomeration" also presents a vision for a compact city-region that is complementary to the 3Land vision (Ohgai & Toda, 2013).

Discussion and conclusion

New settlements along rivers in Germany have faced multiple challenges in the process of development, like flood management, balancing public-private responsibilities, resolving land ownership conflicts, preserving industrial heritage, addressing social and environmental justice issues, maintaining environmental ecology, integrating with the existing urban fabric, achieving critical mass, implementing sustainability practices, navigating urban policy complexities, designing effective public spaces, enabling citizen involvement, developing adaptive infrastructure, and ensuring economic viability. These challenges arise in the context of climate change, and urban growth that seek sustainable and resilient practices in city building. This paper presented three riverfront redevelopment cases: two in Germany and one in a border region between Germany, France, and Switzerland. All three case studies were envisioned as future models for urban development, each with a different focus. The HafenCity aimed to serve as a model for flood resilient and sustainable settlement; The 3Land focuses on improving connections and ecological status of the district and the river area and the Neckarbogen project focuses on improving social resilience while building sustainably. A key objective across all three projects was to improve the respective city's image, particularly given their prominent riverfront locations. This was achieved through strategies like building iconic architecture by renowned architects,

preservation of industrial heritage, creation of high-quality public spaces, and the implementation of compact, sustainable, and innovative architectural solutions.

Comparing all three case studies helped identify some similar objectives and sustainable practices that were given a priority in each of the planning frameworks. Firstly, riverfront redevelopment projects should be part of a long-term integrated vision, like, for example, Hamburg's Spatial Vision 2020 or Basel's Vision 2030, which would effectively connect them with other individual projects. Various sustainable concepts were identified in the planning frameworks for these districts such as "cities of short distances," that would enable the residents to reach necessary function in their neighborhoods and which adds to social resilience of those neighborhoods. Furthermore, walking and cycling are prioritized modes of mobility. The plans also favor green interventions, and design of multifunctional spaces along the rivers that accommodate both social events and flood management.

The analyzed case studies demonstrated several innovative approaches in implementation processes and building processes that contributed to their success so far, and that can provide valuable conclusions and recommendations for stakeholders involved in similar processes. The planning and implementation processes, as shown, are highly complex. Each of the three case studies developed a flexible planning framework in the beginning, followed by either a design manual, or a design handbook, or eco-label certifications for buildings, that could help in behavioral change necessary for achieving long-term sustainability and that would give some restrictions to the existing flexible frameworks. The development process is typically phased so it can adapt to possible changes. Finally, new governance models, public-private partnerships, and funding mechanisms proved crucial for project implementation. To familiarize the public with the projects and public events and exhibitions such as BUGA 2019 or IBA Basel were held.

Finally, real estate plays a key role in these redevelopments. One of the key objectives across all projects was achieving sufficient density to reach critical mass. However, while estate development brings economic benefits, it can also lead to gentrification by displacing lower-income residents. This is reflected in the higher price for properties in Hafencity as private real estate owners are also the ones providing crucial funding for flood management in privately owned buildings. On the other hand, the 3Land and Neckarbogen projects incorporate affordable housing to offset social resilience concerns.

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Energy renovation of cultural heritage buildings at the legislative intersection in Slovenia

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Abstract

Cultural heritage buildings belong to the set of existing buildings, the energy renovation of which is highlighted in EU strategic documents and directives as an essential element of achieving the medium- and long-term goals of decarbonizing the building stock and establishing climate neutrality and sustainability. However, for this category of buildings, significant restrictions are prescribed by law and regulations on the type and scope of technical measures to protect their cultural and historical values. In everyday practice, we encounter numerous, often conflicting opinions – from the idea that energy renovation of cultural heritage buildings is inherently harmful and dangerous and should not be allowed at all, to the idea that it is indeed appropriate, but is prevented by unreasonably strict protection regimes. The purpose of the paper is, among other, to show that such one-sided thinking has no basis and that an interdisciplinary approach is needed to address open issues. We explore and analyze the correlation between current European and Slovenian legislative policies and practices in the energy renovation of buildings, specifically cultural heritage buildings, and the protection of their cultural and historical values. To this end, we provide a comparative overview and synthesis of formal positions and tendencies from both thematic areas. Based on a study of national environmental and cultural protection legislation, we show that an appropriate balance has been achieved in Slovenia, which ensures the protection of cultural heritage buildings while allowing for their meaningful adaptations and improvements. We illustrate that the energy renovation of cultural heritage buildings, designed and implemented in accordance with cultural protection conditions, is a legitimate and logical part of the system of their integrated conservation.

Keywords: legislation, cultural heritage, energy renovation, integrated conservation, sustainability

Introduction

According to research conducted within the framework of the international project Efficient energy for EU cultural heritage (3ENCULT), a good quarter of existing buildings in EU countries date back to before the end of World War II. Approximately two-thirds of buildings were built before the first oil crisis in the 1970s, when energy use in buildings was not yet given special attention. Only 4 % of buildings were built after 2000, i.e. in a period marked by concrete common guidelines for significantly improved energy efficiency of the building stock expressed through EU directives and their transposition into the regulations of the Member States. Efficient energy use is precisely the element of the environmental pillar of sustainable development that is most exposed in buildings.

A study (Artola, I., et al., 2016) published by the European Parliament's Directorate-General for Internal Policies finds that buildings are responsible for 40 % of total energy use, 36 % of CO₂ emissions and 55 % of electricity consumption in EU countries. These figures highlight the importance of the building sector in achieving the objectives of European environmental and energy policy. Considering the above-mentioned age structure of the building stock, we can conclude that energy renovation of existing buildings is of key importance here.

The annual share of new construction in the EU is only around 1 %; these either replace existing buildings that are being demolished or increase the total building stock. Despite the obvious and exploitable potential, the annual share of renovated buildings is currently below 2 %, although the volume of construction activities related to building renovation is estimated in the study at 57 %. Most renovations do not take advantage of the available potential to improve the energy efficiency of buildings.

There are many facts in favour of building renovation, not only in terms of energy efficiency. New construction increases the burden on land and infrastructure and the use of raw materials, while generating additional emissions, waste and other environmental impacts. Some environmental impacts also occur when buildings are renovated, but to a significantly lesser extent and over a shorter period. After renovation, they are usually reduced below the original level.

In the case of cultural heritage buildings, there is of course no dilemma between new construction and renovation. It can be stated that the renovation of these buildings is a sustainable act in itself, considering the four aspects of sustainability that apply to them in an appropriate manner, as outlined in the standard EN 16883:2017.

The summary of the Slovenian Long-term strategy for the energy renovation of buildings (Vlada Republike Slovenije, 2021) states that 70 % of the total area of residential buildings and 60 % of the total area of non-residential buildings in Slovenia were built before 1985. Thus, the technical potential of the national building stock for energy renovation is great. It is the basis for strategic guidelines for achieving long-term goals in the field of efficient energy use and environmental protection both in the building sector and in the broader national framework. Cultural heritage buildings are part of this stock, but their potential is not equal to the potential of unprotected buildings.

The list of buildings contained in the national Register of immovable cultural heritage (Register nepremične kulturne dediščine) does not include data that would allow us to assess their potential for energy efficiency improvements. Heritage is entered into the register by type, regardless of legal or ownership status and scope, but there is no additional detailed data available about it, such as the surface area of individual parts of the envelope, the conditioned surface area, the inventory of protected elements or, as the key information, the list of permissible interventions during renovation. This means that one can extract data from the cultural heritage register on the number of units of individual categories of built heritage, e.g. by status, periods or typology, but these are not sufficient to assess more precisely their actual energy status and prepare detailed projections of the effects of implementing renovation measures.

According to the data from the above-mentioned strategy, approximately 35.200 buildings or 12,5 million m² of net floor space are protected in Slovenia under cultural heritage protection regulations, of which approximately 16.000 buildings are protected as architectural heritage, while the others are in settlement areas. Considering the total number of buildings in Slovenia that are subject to special conditions for the protection of cultural heritage and thus various restrictions on interventions in them, it can be concluded that one cannot expect a significant contribution to improving the national energy or wider environmental picture through their renovation, even if all technically appropriate and cost-effective renovation measures could be implemented. However, this is not the main reason for their energy renovation. The importance of energy renovation is expressed primarily in the preservation of these buildings while considering cultural and historical values and their revival and adaptation to the needs of new generations.

In Slovenia, a relatively large proportion of buildings owned by the Republic of Slovenia or self-governing local communities and used by public sector entities are classified as cultural heritage. This is directly related to the requirements of the Energy Efficiency Directive, EED (Directive (EU) 2018/2002), for the mandatory annual renovation of three percent of the total floor area of buildings owned and used by the narrower public sector (so-called central government) that are heated and/or cooled. Cultural heritage buildings are therefore also relevant in our country in the light of their energy renovation to meet the requirements of EU legislation.

In this context, the harmonization of legislation in at least two areas, cultural heritage protection and efficient energy use, is vital. By defining the possibilities and objectives of energy renovation and appreciating the specific requirements of cultural heritage protection, sensible improvement in the energy indicators of protected buildings can be achieved without compromising their values.

Based on a comparative review of the legislative and strategic framework in the areas of cultural heritage protection and efficient energy use in buildings, the paper examines the alignment of Slovenian policies with European and international ones and explores the level of balance that has been achieved between the principles of cultural heritage preservation and the goals of energy renovation of buildings.

Method

The research work was multidisciplinary in the sense of analysing a common connecting element, energy renovation of cultural heritage buildings, in the cultural-historical, energy in buildings, broader environmental and social, and legal fields. However, since the common or integrated goal of the research in individual areas was to analyse the position and role of cultural heritage buildings within the framework of policies for the energy renovation of buildings, the research work can also be described as interdisciplinary.

Given the nature of the topic under consideration, the research work was primarily based on the desk research method in conjunction with the method of logical connection and thinking. A systematic study of essential sources was followed by an overview, comparative analysis and synthesis of the characteristics, similarities and specificities of approaches to addressing the energy renovation of cultural heritage buildings.

Analysis, synthesis, description and comparison were used when examining European and national strategic and legislative content with an emphasis on modern environmental policies, efficient energy use in buildings and comprehensive preservation of cultural heritage, searching for and highlighting identified national specificities and summarizing the findings.

A review and analysis of selected international climate agreements and related acts of the European Union in the chronological order of their publication provided the basis for understanding the formation of a strategic framework of sustainable development principles with an emphasis on the European space. In the field of efficient energy use in buildings, two key European directives were specifically discussed,

the Energy Performance of Buildings Directive and the Energy Efficiency Directive, and the obligations of the Member States arising from them were summarized.

The analysis of selected international acts on the protection of cultural heritage, which form the basis of a modern approach to the integrated preservation of cultural heritage, and which are also considered when managing it in Slovenia, sought to increase and concretize general awareness of the importance of cultural heritage for the present and for the future.

In a similar way to the European framework, selected Slovenian strategic acts, guidelines, long-term goals and trends in the field of efficient energy use in buildings and their connection to cultural heritage buildings and their energy renovation were reviewed and analysed.

The research also included an analysis of selected national regulations and other acts in the fields of construction, environment, spatial planning and efficient energy use, the content of which directly or indirectly relates to the preservation of cultural heritage buildings and, in a narrower sense, their renovation, which may also include improving energy performance.

The analytical part concluded with a review of the policies, legal and professional framework for the protection of cultural heritage in Slovenia. It examined thematic programme-strategic documents and regulations with an emphasis on the content in which the energy renovation of cultural heritage buildings can be placed.

Results

Selected international climate agreements

In 1997, the Third Conference of the Parties to the United Nations Framework Convention on Climate Change adopted the Kyoto Protocol (United Nations, 1998), which entered into force in 2005. The main objective of the protocol was to maintain greenhouse gas (GHG) emissions at sustainable levels to protect ecosystems and create conditions for sustainable economic development. The climate goal was to reduce GHG emissions by 5% in the first target period between 2008 and 2012 compared to the baseline amounts in 1990, or for countries in economic transition in any most favourable year, i.e. the year with the comparatively highest emissions. In 2012, the duration of the protocol was extended until 2020 with the Doha Amendment to the Kyoto Protocol (United Nations, 2012). The second commitment period was thus defined between 2013 and 2020. The threshold for reducing greenhouse gas emissions was set at 18%. The EU has set a target of reducing emissions by 20% compared to 1990, while Slovenia's national target was to keep the increase in emissions compared to 2005 in sectors not included in the greenhouse gas emission trading system, i.e. excluding energy, industry and aviation, below 4% by 2020.

The adoption of the 2030 Agenda for Sustainable Development (United Nations, 2015a) at the United Nations General Assembly in 2015 can be considered a breakthrough step towards concretizing the principles of sustainable development and in efforts to mitigate climate change. The goals of the Agenda are very ambitious and include eradicating poverty, protecting the planet and ensuring peace and prosperity for all. At its core, the Agenda is an action plan that envisages the creation of progressive policies and regulations in 17 areas, i. e. using 17 indicators. It covers the environmental, social and economic dimensions. In the area of affordable and clean energy, the Agenda lists, among others, the following goals by 2030: universal access to affordable, reliable and modern energy services, a significant increase in the share of renewables in the global energy mix, and a doubling of the rate of energy efficiency improvements at the global level.

In 2015, the Paris Agreement (United Nations, 2015b) was adopted at the 21st Conference of the Parties to the United Nations Framework Convention on Climate Change and entered into force in 2016. Unlike the Kyoto Protocol, which primarily addressed the impact of greenhouse gas emissions on climate change, the agreement defined a limit value for the global increase in atmospheric temperature compared

to the pre-industrial era. This should be kept "well below 2 °C", and if possible, should not exceed 1.5 °C. Countries must step up efforts to reduce greenhouse gas emissions and reach net-zero emissions by 2050. An interim target of reducing emissions by 50% was set for 2030, and a state of even negative emissions should be established in the second half of the 21st century to keep the temperature rise within the desired limits. The rise in temperature was accepted as a reality and with it certain consequences of climate change. The agreement aims to limit them to a level that will allow the world to adapt to them and that the costs of this adaptation can still be covered, also through the principle of solidarity between countries. An important difference compared to the Kyoto Protocol is that all signatory countries are responsible for achieving the goals, with more developed countries supposed to help less developed ones.

3.2 Selected climate- and energy efficiency-related acts of the European Union

The EU's active role was crucial for the Paris Agreement to enter into force in November 2016. Just a few days later, the European Commission published a strategic document entitled Clean Energy for All Europeans (European Commission, 2016), aimed at paving the way for the practical implementation of the agreement by renewing the economy, creating green jobs and accelerating investments in clean energy use in individual sectors. Changes to the legislation on energy efficiency (EE), the use of renewable energy sources (RES), the design of the electricity market, security of energy supply and governance were announced. The three priority objectives are EE, taking the lead at the global level in the use of RES and fair treatment of consumers. Among the most highlighted activities, the document lists the renovation of buildings, which includes innovative solutions for the use of RES. Energy efficiency was defined as the most widely available source of energy. Buildings can make a significant contribution to meeting the Paris Agreement commitments, as they are 75% energy inefficient and together account for 40% of total energy use. Among the obstacles to faster and more extensive renovation, which include social, financial, technical and administrative areas, the document highlights insufficient financial resources, lack of credible information, insufficiently qualified workforce and doubts about the real benefits of measures. The upgraded and tightened provisions of long-term building renovation strategies in individual EU member states are expected to be aimed at decarbonizing the building stock by 2050.

The European Green Deal (European Commission, 2019) was designed based on the principles and objectives of the Paris Climate Agreement and is the first concrete implementation of the Clean Energy for All Europeans document. The implementation of the agreement is expected to enable the EU to become the first climate-neutral continent by 2050. The Green Deal is a comprehensive strategy that pursues long-term climate and environmental goals through initiatives for changed and new policies in different sectors. A specific component of the strategy is the Fit for 55 package (European Commission, 2021), which addresses the legislative changes needed to achieve the aforementioned goals. A special chapter of the agreement deals with energy-efficient construction and renovation of buildings with efficient use of raw materials. Two problems need to be solved, energy efficiency and energy accessibility. The agreement announces a specific strategy, the Wave of Renovation, and the multifaceted nature of the building sector issues must be duly considered and addressed by the Member States in their long-term renovation strategies.

The new Circular Economy Action Plan from 2020, fully titled For a Cleaner and More Competitive Europe (COM/2020/98 final), falls within the framework of the European Green Deal and addresses ways to transition to a regenerative growth model. In this model, growth or progress is decoupled from the consumption of finite resources. The announced strategy for a sustainable built environment is intended to connect and, by considering the life cycle of buildings, include several areas that have so far often been treated separately in the circular economy scheme: climate and energy issues, efficient use of materials, waste management in the construction and demolition of buildings, accessibility, digitalization and stakeholder training. The wave of renovation must be aligned with the principles of the circular economy, and this strategy is the first to explicitly address the issue of waste materials for thermal insulation of buildings, which already comprise a significant portion of construction waste.

Therefore, a revision of the target values for waste from construction and demolition of buildings is also planned.

In 2020, the EC published another strategic document, A Renovation Wave – Greening our buildings, creating jobs, improving lives (COM/2020/662 final). It addresses methods and pathways to increase the energy efficiency of buildings, which is a key step towards achieving climate goals and putting the Green Deal into practice. The renovation rate of buildings is expected to double by 2030, while reusing and recycling natural resources to achieve more efficient use and reduce greenhouse gas emissions.

A doubling of the renovation rate means 35 million renovated European buildings by 2030, which will also significantly reduce the problem of energy poverty, and the well-being and health of users of renovated buildings will improve. To this end, the strategy envisages accelerated digitalization of the construction industry, the creation of new public and private financial mechanisms, the establishment of technical and information assistance, training of contractors, designers and investors, increased use of RES and, very importantly, monitoring the results and analysing the benefits of renovation measures. Priority should be given to the renovation of the least energy-efficient buildings, which largely coincides with the elimination of energy poverty, and public buildings, such as schools, health institutions and administrative buildings. An important innovation envisaged by the Renovation Wave is the gradual introduction of mandatory minimum energy efficiency standards for existing buildings, which can include also heritage buildings.

The regulation establishing a classification or taxonomy system to promote sustainable investments at EU level (Regulation (EU) 2020/852) entered into force in July 2020. It is intended as a support instrument within the framework of the Green Deal, which would, with the help of appropriate technical criteria, facilitate decisions on green investments, primarily for private companies or investors, and thus contribute to achieving common environmental goals and, in the final step, climate neutrality by 2050. In addition to analysing the environmental impact of an economic activity, the regulation also encourages the assessment of the life cycle of the products and services that it provides, including evidence from existing life cycle assessments, by considering their production, use and end-of-life. In simple terms, a sustainable economic activity is one that causes more benefits than harm to the environment. Energy efficiency plays an important role in this and is defined as the more efficient use of energy at all stages of the energy chain from production to final consumption. The framework for classifying economic activities that are considered environmentally sustainable is based on six objectives: climate change mitigation, climate change adaptation, sustainable use and protection of water and marine resources, transition to a circular economy, pollution prevention and control, and protection and restoration of biodiversity and ecosystems.

In 2021, the Fit for 55 package was presented with the aim of reworking, harmonizing and modernizing EU climate, energy and transport legislation and preparing new initiatives so that a common European policy would enable the achievement of the set climate goals, in particular a 55% reduction in greenhouse gas emissions by 2030 in accordance with the European Climate Law or the European Green Deal.

The package is conceived as a framework that not only covers environmental issues, but also enables a smooth and socially fair transition, promotes entrepreneurship and innovation, ensures the competitiveness of the European economy and places the EU in a leading position in climate change mitigation. A prominent role is intended to combat energy poverty, where the Social Climate Fund and revenue from emissions trading systems are the intended sources of financing

In 2022, the EC presented the REPowerEU plan (European Commission, 2022), which proposes tailored measures in the energy and broader environmental fields. The shortage of fossil fuels should not be responded to by changing supplier countries, but by increasing the use of renewable energy sources while simultaneously reducing final energy consumption. Among the measures, the plan highlights the important role of energy renovation of buildings, which could also be an important measure to curb energy poverty. The plan proposes to increase the share of RES from 40% to 45% in 2030 and reduce

final energy consumption by around 5% compared to the original amount foreseen in the Ready for 55 package in mid-2021. In this way, the target of reducing emissions by 55% by 2030 would not be compromised, but if measures in the field of land use, land use change and forestry were added to this, it could even be exceeded.

The fundamental European directives that explicitly or within the broader field of energy efficiency address energy in buildings are the Energy Performance of Buildings Directive (EPBD) and the Energy Efficiency Directive (EED). Since their first publication, the directives have undergone some significant changes, following the development of the profession, analysis of the effects of their implementation, regional and global developments in the economic and political fields, and observation of the dynamics of environmental and climate change.

The original Energy Performance of Buildings Directive (Directive 2002/91/EC), EPBD, was adopted at the end of 2002 and entered into force in January of the following year. It was based, among other things, on the Treaty establishing the European Community and the commitments of the Kyoto Protocol. The directive required Member States, among other things, to set stricter minimum requirements for the energy performance of buildings in new construction and major renovation and introduced the energy performance certificate as a tool for the energy certification of buildings. The method of calculating energy efficiency was not uniformly prescribed, i.e. the decision to choose a methodology was left to national experts and policies, and thematic European standards were prepared to assist.

When formulating energy efficiency requirements, the directive allowed for an important exception or left the decision to individual countries. The exception applies to several groups of buildings or types of buildings, including buildings and monuments that are officially protected as part of a protected environment or because of their special architectural or historical interest, if meeting the requirements would unacceptably change their character or appearance. Cultural heritage buildings can therefore continue to be renovated according to special criteria, i.e. with measures or interventions that the competent authority allows in view of the requirements for preserving the protected heritage values. The wording of this exception is logical, since even before the entry into force of the directive, Member States generally did not set minimum energy efficiency requirements for built heritage, expressed, for example, in terms of energy or broader environmental indicators.

Two versions of the directive followed, which tightened certain requirements and expanded the scope of energy efficiency in buildings. The fourth version of the EPBD (Directive (EU) 2024/1275) is important for cultural heritage buildings. As part of the Ready for 55 legislative package and in the spirit of the Green Deal and the Renovation wave, the EC also prepared a recast of the EPBD Directive. The goal of achieving a net-zero energy level by 2050 is transformed into the goal of achieving a net-zero emission level, first by reducing operational emissions, then emissions from the entire life cycle of the building. The text of the directive brings an important innovation for cultural heritage buildings. They are no longer considered as (complete) exceptions when setting minimum energy efficiency requirements. This option is adjusted, taking into account technical progress, so that measures to improve energy efficiency are allowed or considered that do not change the technical character and appearance of the building.

The EPBD addresses the efficient use of energy in a narrower area, i.e. in new construction and renovation of buildings, and establishes procedures and tools for achieving the set goals. The Energy Efficiency Directive defines the EU's energy policy in a broader sense, addresses energy in all steps from production and distribution to consumption, and lays the foundations for achieving common climate goals. The basic strategic objective of the directive is to increase the EU's energy independence, which I can describe not only as an environmental but also as a geopolitical goal. Dependence on imported energy or energy products also means economic vulnerability and brings long-term risks.

The directive set important requirements for EU Member States. Since energy efficiency at the aggregate level was to improve by 20 % by 2020 compared to the baseline year 1990, countries had to set appropriate national energy efficiency targets. In the construction and renovation of buildings, the public

sector was to set an example for the private sector, and therefore, from 2014 onwards, at least 3 % of the total floor area of buildings owned and occupied by central government that are heated and/or cooled and do not yet meet minimum energy performance requirements should be renovated annually. The requirement initially applied to buildings with a total usable floor area of more than 500 m², but in mid-2015 the limit was lowered to 250 m². The requirement also allows for exceptions, including cultural heritage buildings, as in EPBD.

Selected international acts on protection of cultural heritage

Cultural heritage has been given an important role already in the Treaty on European Union and the Treaty on the Functioning of the European Union (Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union, 2016). The Preamble to the Treaty on European Union states that the cultural, religious and humanistic heritage of Europe has given rise to the universal values of the inviolability and inalienability of human rights, freedom, democracy, equality and the rule of law. The Union shall respect its rich cultural and linguistic diversity and shall ensure that Europe's cultural heritage is safeguarded and enhanced.

The European Charter of the Architectural Heritage (Council of Europe, 1975) was proclaimed at the European Congress on Architectural Heritage in Amsterdam in 1975, having been previously adopted by the Committee of Ministers of the member states of the Council of Europe. The document became known as the Amsterdam Charter and established the concept of the integrated conservation of architectural heritage, and indeed of cultural heritage in general. This was a new milestone in the profession, which is also considered the beginning of the modern approach to heritage protection. An important leap forward in the way architectural heritage is treated was brought about by the fact that for a long time only architectural monuments of the highest cultural and historical value were considered as architectural heritage, and even then, as a rule, without considering their surroundings. Other historical buildings and settlements should be considered equally as architectural heritage. A group of buildings can also reflect a quality worthy of preservation, even if none of the buildings stands out in themselves. Protection and preservation must be an integral part of urban or spatial planning at all levels, with local authorities playing a very important role. To fully implement the integrated preservation of architectural heritage, adjustments to legislation and administrative procedures are necessary.

The concept of integrated conservation of cultural heritage, presented in the Amsterdam Charter, was given additional weight and validity in another resolution, which addresses the necessary adjustments to national legislation (Council of Europe, 1976). These should be designed to stop threats to heritage and its value, limit damage to it and reduce the discrepancy between the current threats and the measures to eliminate them. In addition to the historical aspect, i.e. age as such, additional evaluation criteria were therefore introduced, which are also the basis for the modern treatment of cultural heritage. Integrated conservation is defined in the resolution as a set of measures to ensure the permanent existence of heritage, its maintenance in a suitable natural or built environment, its use and adaptation to the needs of society. The objectives of the measures should be twofold, on the one hand aimed at the conservation of heritage, and on the other hand at its integration into the modern social environment.

If the Amsterdam Charter introduced the concept of integrated cultural heritage conservation, the Granada convention on the protection of the architectural heritage of Europe (Council of Europe, 1985) made it legally binding for the countries that ratified the convention. Slovenia did so in 1993, making integrated cultural heritage conservation a legal concept and obligation in Slovenia as well. In 1999, Slovenia formally transposed the convention into its legal system, specifically in the Cultural Heritage Protection Act adopted at that time. The protection of built heritage must be an integral part of spatial planning, cultural policy and environmental policy. The convention also emphasizes the nurturing and use of traditional activities and materials.

The Faro convention on the value of cultural heritage for society (Council of Europe, 2005) sets human development and quality of life as key objectives of the conservation of cultural heritage and its

sustainable use, and the protection of cultural heritage is a central factor in the common goals of sustainable development, cultural diversity and contemporary creativity.

The Namur Declaration (The Namur Declaration, 2015) is important because it explicitly recognizes and lists contemporary threats and challenges to cultural heritage. It is intended as a fundamental framework for action in the period up to 2025. This four-page document specifically highlights climate and demographic changes, migration flows and numerous crises that mark modern times, especially in the political, economic, financial and social spheres. According to the competent ministers, cultural heritage is a public interest and a key component of a common European identity. The common responsibility of countries is to preserve cultural heritage for future generations. Its fragility, irreversibility and immovability are particularly highlighted.

The European Parliament adopted a resolution (Towards an integrated approach to cultural heritage for Europe, 2017), which promotes, within the framework of a comprehensive approach, contemporary creative innovation in architecture and design, respecting the past and the present, while ensuring high quality and coherence. The economic and strategic potential of cultural heritage is expressed, inter alia, in its contribution to innovative jobs, products, services and processes. It can be a source of creative ideas and a stimulus for a new economy, while, if properly managed, its impact on the environment is low. Europe's cultural heritage should be recognised as a strategic resource for smart, sustainable and inclusive growth, and its cultural and economic value should be determined in such a way that the costs of its conservation are transformed into investments in its value.

The European Cultural Heritage Strategy for the 21st Century (Council of Europe, 2017) addresses three components: a social component promoting social participation and good governance, territorial and economic development considering the principles of sustainable development, and knowledge and education with the contribution of research and training. Strategic engagement with heritage must be comprehensive. When planning an individual activity or direction, we must consider possible synergies with other areas and check mutual influences. The strategy contains emphases that can be linked to the energy renovation of cultural heritage buildings and thus provide additional professional justification. This primarily concerns renovation as a tool for preserving, revitalizing and enriching heritage, taking heritage into account in spatial planning and environmental interventions in general, and measures for more efficient energy use.

The Madrid-New Delhi Document (ICOMOS, 2017) highlights the problematic attitude towards more recent cultural heritage, which is often not treated with the same care and thoroughness as heritage from older historical periods. The document predicts that pressures to make 20th-century cultural heritage more energy-efficient will increase. The topic of energy renovation of cultural heritage buildings is particularly addressed in the chapter on management for environmental sustainability. The text states that care must be taken to ensure that, while preserving cultural significance, an appropriate balance is struck between environmental sustainability and the introduction of energy efficiency measures.

The Davos Declaration (Davos Declaration, 2018) explicitly addresses the culture of construction. The original uses the German term *Baukultur*, which is also mostly used in conversation and writing without translation. The declaration describes the culture of construction as any human activity that changes the built environment, and includes existing buildings, including monuments and other elements of cultural heritage, as well as the planning and construction of modern buildings, infrastructure, public spaces and landscapes. The declaration highlights cultural heritage as an important component of a quality culture of construction. The current state of cultural heritage, namely the way it is used and protected, is key to the development of a quality built environment in the future. The declaration describes the culture of construction as any human activity that changes the built environment, and includes existing buildings, including monuments and other elements of cultural heritage, as well as the planning and construction of modern buildings, infrastructure, public spaces and landscapes.

The New European Agenda for Culture (European Commission, 2018) deals with education and culture in general, but it also explicitly mentions cultural heritage. Among the three strategic objectives with a

social, economic and external dimension, we find the protection and promotion of European cultural heritage as a common resource (social aspect), the promotion of knowledge and skills (economic aspect) and the strengthening of cooperation in the field of cultural heritage (external aspect). All of the above can also be directly linked to cultural heritage buildings and their energy renovation.

The Berlin Call for Action (The Berlin Call for Action, 2018) highlights that cultural heritage must become an equal element in policy-making in all areas of development. This will contribute to the achievement of the long-term goals for a more peaceful, prosperous, inclusive and just Europe, as set out, for example, in Strategy 21. Cultural heritage is described as a key enabler of sustainable development, social cohesion and job creation.

Selected Slovenian strategic and legislative acts on energy efficiency in the building sector

The programme for the implementation of the European cohesion policy in the period 2021-2027 (Program evropske kohezijske politike v obdobju 2021-2027 v Sloveniji, 2022) envisages, among other things, investments aimed at energy renovation measures of public and private buildings, considering sustainable construction and advanced management of systems in and on buildings. Investments in the energy renovation of buildings will be implemented in accordance with the long-term renovation strategy, and support will also be directed at measures to improve energy management. Energy renovation of buildings protected under cultural heritage protection regulations may also be financed. When implementing such measures, mitigation measures and environmental protection guidelines from the National Climate and Energy Plan will be taken into account. Mitigation measures in the field of cultural heritage buildings will also be adjusted accordingly.

The long-term strategy for the energy renovation of buildings until 2050 addresses the renovation of cultural heritage buildings in several areas. The key obstacles and challenges or opportunities in adopting renovation measures include, for example, the cultural heritage protection regime. In the case of buildings protected under cultural heritage protection regulations, there may be significant restrictions on the scope and method of energy renovation when it would involve interference with protected values (external appearance, dimensions, original materials and building elements, etc.). The limited scope and thus smaller effects of renovation in terms of improving energy indicators may raise doubts among owners about the feasibility of the operation, regardless of its positive results, for example in the form of improved living comfort and reduced operating costs. The costs of renovation may be higher compared to the renovation of a building that is not part of the architectural heritage, if the use of special (non-standard, historical) materials or techniques is required to bring the added, replaced or renovated elements as close as possible to the original.

The Slovenian Recovery and resilience plan (Načrt za okrevanje in odpornost, 2021) is the basis for drawing funds from the European Recovery and Resilience Fund. The renovation of buildings will include public buildings, divided into individual groups, such as buildings for special purposes, buildings of exceptional social importance, and already partially renovated buildings and residential buildings. Priority will be given to buildings for which sustainable renovation is necessary and possible, for example, in addition to energy, also earthquake-proof. The energy part of the renovation will include additional thermal protection of the building envelope, the installation of energy-efficient building joinery, efficient heating, cooling and ventilation systems, energy-saving lighting and the installation of control systems. As stated in the text of the plan, any cultural protection requirements for renovation will also be considered for buildings that are part of the cultural heritage.

The Comprehensive National Climate and Energy Plan (Vlada Republike Slovenije, 2024) explicitly emphasizes that one of the principles of the climate strategy is also the preservation of cultural heritage. Sustainable buildings are one of the key areas of research into energy management within the circular economy. This set also includes technological solutions for renewable energy and efficient energy use in cultural heritage. In the design and implementation of NEPN measures, guidelines and recommendations for individual areas are taken into account in addition to sectoral legislation. Solar power plants are located considering the restrictions and protection regimes of cultural heritage units.

In the renovation of cultural heritage, recommendations are to be considered in addition to sectoral legislation, such as the Guidelines for the Energy Renovation of Cultural Heritage Buildings. In the case of financial incentives, cultural protection consent is required in the event of interference with cultural heritage, when required by regulations in the field of cultural heritage protection. Additional burdens in an environment that is already overloaded are not acceptable.

The Energy Efficiency Action Plan for the period 2017-2020 (Akcijski načrt za energetska učinkovitost do leta 2020) describes essential measures to improve energy efficiency, including expected and achieved energy savings, in order to achieve the national target of increasing energy efficiency by 2020 and Slovenia's contribution to the overall EU energy efficiency increase of 20%. A specific measure concerns the public sector, i.e. increasing energy efficiency in public authorities, and addresses the renovation of cultural heritage buildings and other specific groups of buildings. Slovenia has decided to apply certain exceptions allowed by the Energy Efficiency Directive in fulfilling its obligations as an EU Member State, including the possibility of excluding from the annual renovation target of 3% of the total floor area of buildings owned and occupied by central government that are heated and/or cooled, buildings that are officially protected as part of a protected environment or because of their special architectural or historical interest, if meeting certain minimum energy efficiency requirements would unacceptably change their character or appearance. The possibility of the aforementioned exception has not actually been taken into account or used literally in Slovenia. Due to the relatively large share of buildings owned and used by the central government that are protected as cultural heritage, it certainly makes sense to include them in the mandatory annual renovation quota, if possible, but their renovation measures should be adjusted to the protected values, i.e. carried out to the extent approved by the competent conservation service.

The Energy Efficiency Act (Zakon o učinkoviti rabi energije, 2020) defines general measures to promote energy efficiency, measures to increase the efficient use of energy, energy efficiency requirements for products and ensuring the energy efficiency of buildings. It mentions cultural heritage in two places. In the purpose of promoting the efficient use of energy, which includes, among other things, reducing energy consumption and increasing the quantity and share of energy from renewable sources, it is stated that the preservation of cultural heritage is also considered when determining the methods of promotion and the amount of incentives. In the provisions on the long-term renovation strategy, it is stated that buildings that are protected in accordance with the regulations on the protection of cultural heritage are treated separately in the strategy. The law has brought an important change to Slovenian legislation, which concerns the right and obligation to hold an energy performance certificate. A cultural heritage building or a building with the status of a monument no longer requires an energy performance certificate only if it is used for ceremonial purposes or religious activities (sacred heritage). Sale or rental, which would entail the obligation to provide an energy performance certificate, is a more theoretical possibility for such buildings, so the inclusion of an exception in the act is logical. Of course, there is also an obligation to issue and display an energy performance certificate in a visible place in all buildings with a total usable floor area of over 250 m² that are owned or used by public sector entities; this also includes numerous cultural heritage buildings.

The technical guideline on energy efficiency of buildings (Tehnična smernica TSG-1-004:2022), which is used with the Rules on the efficient use of energy in buildings (Pravilnik o učinkoviti rabi energije v stavbah, 2022), explains that the application of these rules is not prescribed for cultural heritage that is not used for other purposes. The rules apply to all other cultural heritage buildings, but to a limited extent. The premises and elements of the building that are defined in their opinion by the service responsible for the protection of cultural heritage are exempt. In practice, this means that when renovating a cultural heritage building, the extent to which the requirements of the rules are taken into account depends on the cultural protection conditions and the consent for the renovation project.

The Guidelines for the Energy Renovation of Cultural Heritage Buildings, first published in 2016 (Vendramin, M., et al., 2016), and extensively updated in 2025 (Tomšič, M., et al., 2025), address all cultural heritage buildings, regardless of whether the individual building is located within the settlement heritage or is protected as a building heritage. This term is used uniformly throughout the document and

covers all buildings protected by regulations on the protection of cultural heritage. It includes the entire gradation of heritage regardless of the type of legal basis, i.e. registered cultural heritage, cultural monuments of local importance, cultural monuments of national importance and buildings protected as an integral part of a cultural heritage area, more precisely built heritage areas and settlement heritage areas. Special rules apply to cultural heritage buildings, which add a broader national interest to the economic and environmental interests, usually expressed in terms of energy and financial indicators. In this case, this is primary and mostly valued with immeasurable quantities or descriptions. It depends on each case what and how much (if any) energy efficiency improvement is possible without affecting the protected values. An approach is encouraged in which all parts of buildings and elements that do not have heritage features are renovated with technological solutions with a high level of energy efficiency, while for building parts or elements with heritage value, energy efficiency improvements are permissible only if the heritage features of the building are not endangered. We are therefore talking about an approach that is primarily based on the renovation of individual building elements and not necessarily on the energy renovation of the building as a whole, as this is the only way to achieve energy renovation while simultaneously preserving cultural heritage.

Recommendations for the installation of photovoltaic devices in areas of architectural and settlement heritage (Gantar, D., et al., 2025) as a separate publication of an informative nature complement the content of the Guidelines for the energy renovation of cultural heritage buildings regarding the installation of photovoltaic and similar devices in areas of architectural and settlement heritage. They are intended for building owners and investors, as they contain information on potential requirements and adjustments arising from the protection of cultural heritage and the characteristics of the building and its location. They are also intended for experts in the field of cultural heritage protection, architectural and urban planning and construction as a guide in their professional decisions.

3.5 Selected national acts related to protection of cultural heritage

The state body responsible for cultural heritage is the Ministry of Culture, more precisely the Directorate for Cultural Heritage within the ministry. The ministry formulates and implements cultural policy in cooperation with municipalities and other ministries. The Directorate for Cultural Heritage prepares regulations and formulates policies for the protection of movable, immovable and intangible cultural heritage. Its activities are financed from the state budget and European funds. The Directorate also includes the Inspectorate for Culture and Media, which is responsible, among other things, for verifying the compliance of interventions in cultural heritage with regulations. At the local level, municipalities are responsible for the protection of cultural heritage. When adopting spatial acts, they must consider the principles of cultural heritage protection, and they can declare a monument of local importance by decree. Municipalities are responsible for the maintenance and management of heritage in local or municipal ownership and the exercise of the right of pre-emption when the subject of legal transactions is privately owned heritage. Where possible, municipalities should also co-finance cultural heritage preservation projects.

The Resolution on the National programme for culture for the period 2022-2029 (Resolucija o nacionalnem programu za kulturo 2022-2029) emphasized that special care should be taken to preserve cultural heritage and its revitalization through cultural programmes and content in a unified Slovenian cultural space, as it is particularly vulnerable and exposed to decay due to the reduction of funds in the past decade. The term revitalization is also interpreted as renovation and revival, so it can be directly linked to the energy renovation of cultural heritage buildings, which ensures better conditions for living and carrying out activities, or for the continued use of these buildings and thus their preservation for future generations. It was noted that there are unwise interventions in space, expanding areas of suburbanization and even scattered construction, erosion of cultural heritage, worrying environmental pollution, entanglement of infrastructure systems and poor urban and architectural solutions that lack the necessary long-term vision. All of the above causes visual, energy and ecological pollution. A specific goal in this area was formulated as care for the culture of design and the built environment, considering heritage, limited natural resources and changed environmental and social conditions. We can add that the energy renovation of existing buildings, including cultural heritage buildings, is a

contribution to achieving this goal and a positive step towards improving the current situation. Of course, renovation cannot solve all problems, e.g. poor urban planning solutions, but it can significantly contribute to reducing the burden on land with new buildings and reducing energy use, emissions and waste in narrower and wider locations. This relieves the existing transport and energy infrastructure and prevents the need to build new ones. Energy renovation is undoubtedly an activity that can successfully prevent the erosion (in the sense of degradation) of immovable cultural heritage.

The current resolution for the period 2024-2031 (Resolucija o nacionalnem programu za kulturo 2024–2031) states that heritage policies contribute to improving the living environment and quality of life of residents and play an important role in strengthening the social cohesion of society. Cultural heritage, with its diversity, is an important social, educational and identification potential for achieving regionally and spatially balanced and sustainable development. Energy renovation and renewable energy sources are explicitly emphasized in this resolution. The cultural sector contributes to sustainable practices by reducing the carbon footprint in the organization of events, by recycling and using renewable energy sources, and by energy renovation of cultural heritage objects. The resolution also highlights the importance of cross-sectoral development cooperation, e.g. in architectural policy and sustainable construction policy with spatial planning and the environment, in the energy renovation of cultural heritage buildings with energy. The designed built environment has a significant impact on the quality of life. This includes both existing buildings and new buildings, planning processes and reuse. The contribution to climate neutrality is achieved by optimising the carbon footprint of cultural activities and the green renovation of cultural heritage and public cultural infrastructure and its protection from the consequences of climate change. The sustainable renovation of cultural heritage buildings reduces the use of space, which can consequently be more dedicated to food independence, reduces the amount of construction waste and emissions due to waste removal and processing, reduces energy consumption due to the production of new materials and their transportation to the construction site, and thus also reduces greenhouse gas emissions.

The Cultural Heritage Strategy 2020–2023 (Ministrstvo za kulturo, 2019) was adopted at the end of 2019. It sets out objectives, development guidelines and measures that realise public interest in the field of cultural heritage. The objectives and development guidelines from this strategy are also the development objectives of the National Programme for Culture for the field of cultural heritage. With the energy renovation of cultural heritage buildings, we can connect the statement in the strategy that heritage protection is inextricably linked to environmental protection and nature conservation. Activities aimed at heritage conservation contribute to a higher quality living environment, better employment opportunities and life for individuals in a more cohesive community, greater understanding between cultures and a more balanced relationship to space and the environment. The same applies to the statement that the key element of sustainable development is the integrated preservation of heritage as a mutual process of interdepartmental cooperation and the implementation of heritage-coordinated policies at all levels. The Strategy also notes that integrated heritage conservation in Slovenia has already been partially established in the area of integrating heritage protection into spatial planning and construction. Heritage is best protected by balancing its modern use with its primary purpose or by activating heritage for an appropriate new purpose. This includes its creative upgrading. However, greater environmental quality as one of the key goals of sustainable development cannot be achieved without the appropriate integration of heritage into related activities of various sectors, especially in spatial planning, construction of buildings, rural development, nature conservation and environmental protection.

In January 2018, the Ministry of Culture issued a publication on Slovenia's architectural policy entitled *Architecture for People* (Ministrstvo za kulturo, 2018). Architectural policy places cultural heritage and its preservation in a prominent place and includes it among national development challenges. Its active renovation is an interdisciplinary project, just like, for example, the efficient use of resources and energy or the energy efficiency of buildings. A special chapter discusses the comprehensive preservation of architectural heritage for the cultural identity of a community and emphasizes that preserved architectural heritage is an important component of creating a quality living environment, which is also one of the goals of sustainable development. Of particular importance is the statement that cultural

heritage only has as much actual value as it is successfully included in development needs and becomes an equal component of the living environment. The text of the document also includes a direct incentive for the energy renovation of cultural heritage buildings, as adaptation and creative solutions enable their reuse and greater energy efficiency.

The Cultural Heritage Protection Act (Zakon o varstvu kulturne dediščine, 2008) considers international conventions ratified by Slovenia. These are the Granada, Valletta and Faro conventions and the 2000 Council of Europe Landscape Convention, also known as the Florence Convention, which addresses the development and protection aspects of landscape management and interventions in it. Heritage protection is defined in the law as a public benefit, which is realized by the widest range of stakeholders from the state or public sphere, represented by the state, provinces and municipalities, to business entities, non-governmental organizations, civil society and, of course, heritage owners. Immovable heritage, which includes buildings, is protected by spatial plans in the case of registered heritage, and by decrees on proclamation in the case of monuments. Each renovation of a cultural heritage building (including energy-related) means the implementation of one or more interventions in the heritage. For this purpose, it is necessary to first obtain cultural protection conditions, and then a cultural protection consent. For interventions in registered immovable heritage or in a spatial planning unit, cultural protection conditions are determined in accordance with the provisions of the spatial act or the act on the designation of heritage protection areas, and for interventions in a monument or its area of influence, in accordance with the act on proclamation or the provisions of the spatial act or the act on the designation of heritage protection areas. The Act also stipulates that when deciding on the issuance of cultural protection consent, the reasons for the intervention and the reasons for preserving the heritage in its existing form must be weighed. The circumstance that the proposed interventions enable the establishment of permanent economic foundations for the preservation of the heritage in its existing form must be considered in favour of approving the intervention. This provision opens space for an appropriate justification of the long-term usefulness of energy renovation measures, also by considering the legal definition of the term renovation, which describes this activity as a set of various activities from the economic, social and cultural fields, which, with appropriate spatial planning, ensure the preservation and revitalization of heritage.

The Rules on the lists of heritage types and protection guidelines (Pravilnik o seznamih zvrsti dediščine in varstvenih usmeritvah, 2010) are an implementing act of the Cultural Heritage Protection Act. They determine the list of cultural heritage types and their protection guidelines for the purposes of classifying immovable, movable and living heritage. The general guidelines, which, in accordance with modern guidelines in the conservation profession, follow the principles of sustainable development and sustainable preservation of cultural heritage, include:

- promoting the sustainable use of heritage, i.e. the use of heritage in a manner and to an extent that does not cause the loss of its cultural properties in the long term,
- promoting sustainable development of heritage, which enables the needs of the present generation to be met without compromising the preservation of heritage for future generations,
- promoting activities and actions that preserve the cultural, social, economic, scientific, educational and other meanings of heritage,
- preserving the characteristics, special nature and social significance of heritage and its material substance,
- interventions in heritage are permitted that consider and permanently preserve its protected values,
- interventions that enable the establishment of permanent economic foundations for the preservation of heritage while respecting its special nature and social significance are permitted.

Discussion

European strategic and legislative framework related to energy efficiency

At the EU level, we can recently see a change in the dynamics of adopting strategic and action acts. In the past, such acts took a relatively long time to develop, the same was true for their transposition into national legislation and strategic guidelines, which was followed by a period of gradual implementation. In unpredictable circumstances, such as a pandemic and war, however, the changed circumstances create the need for faster action or adaptation to the actual situation. An important additional reason, which objectively would be difficult to describe as unpredictable, is also falling behind the set goals.

Even EU Member States, which are considered the most advanced or have a leading role in the environmental field, are facing objective limitations and are finding it increasingly difficult to make up for the shortcomings of other Member States, which would bring the actual quantitative indicators on the European average into line with the target ones. Since the targets are not set only in the short term, but increasingly also in the medium term, e.g. until 2050, we highlight the real danger that, in the event of prolonged or recurring adverse conditions, the difficulties in achieving the immediate targets will only intensify and be reflected in even greater deviations from the currently somewhat distant targets.

The future will show whether the efforts to decarbonize the EU building stock, with repeated tightening of current or intermediate, but also final targets, are caught in a vicious circle, either due to limited financial, technical and logistical possibilities or other, as it turned out, often unpredictable circumstances. On the one hand, we define increasingly strict and ambitious targets, and on the other hand, we find that the trends in achieving them are too slow, either for objective or subjective reasons. Therefore, we set ourselves new, even stricter targets and envisage more intensive targeted activities, where the story repeats itself.

It is necessary to interpret trends in greenhouse gas emissions and energy use very carefully and, especially in the case of significant changes that have occurred in a short period, to examine the boundary conditions that are more or less likely to cause them. Such positive and negative deviations must be taken into account within longer-term trends. This is especially important when assessing the effects of implementing measures, plans and strategies. Each situation should be considered separately. Due to the intertwining and complexity of political and economic factors, it is difficult to predict whether already adopted environmental policies will be able to offset the aforementioned deviations or whether they will need to be adjusted and corrected.

Undoubtedly, environmental and climate goals, expressed e.g. by limiting the increase in air temperature, are necessary and sensible. In parallel, the so-called green growth is mentioned, a growth and development strategy that stimulates economic growth and at the same time allows natural resources to continue to provide the resources and environmental services on which our well-being depends. A green growth strategy must encourage “greener” behaviour of companies and consumers, enable a smooth and fair reallocation of jobs, capital and technology on the way to greener activities, and provide appropriate incentives and support for green innovations. Climate change and its consequences are also not a locally limited problem but ultimately affect the entire international community.

However, there may be doubts as to whether the concepts of growth and conservation of natural resources are truly fully compatible, that is, whether the global ecosystem can withstand the pressure of ever-increasing human activities. If we claim that economic growth, which is predominantly or even entirely based on green technologies and products, is environmentally friendly, we forget that even such growth requires certain resources and causes certain emissions. The greater the growth, the greater the impact on natural resources. Over time, the net effect on the environment can become negative. It is not only the carbon footprint, i.e. greenhouse gas emissions, that is important, but also the material footprint. As long as the consumption of materials and raw materials continues to increase, the economy based on it cannot be described as green or circular. At the same time, this consumption causes greenhouse gas emissions to increase.

It is imperative to remove many administrative obstacles, and above all to ensure a sufficiently large number of appropriately qualified workers and to provide information and education to end users. In this context, we take continuous education and keeping up with innovations on the part of planners and investors for granted. Technologies that enable almost zero-energy and perhaps even zero-emission construction and renovation are on the market, but they can only give the desired result if all of the above is taken into account. This also applies to the building sector in general, as well as to cultural heritage buildings.

European directives in the field of energy efficiency and environmental protection set requirements and objectives that together support the implementation of European strategic guidelines. They complement each other, and in some of the cases already described, they also overlap. Thus, they remain the foundation on which EU member states, by transposing them into their legal order, build national legislation and formulate more detailed requirements, considering specific boundary conditions, possibilities and needs.

In this sense, for example, the Fit for 55 package takes into account the three classic pillars of sustainable development, while at the same time it is undoubtedly aimed at strengthening the geopolitical position of the EU. Among the legislative initiatives of the package that directly or indirectly affect buildings and their renovation, it is worth highlighting the revision of the emissions trading system, the revision of the Renewable Energy Directive, the revision of the Energy Efficiency Directive, the revision of the Taxonomy Directive, the establishment of a Social Climate Fund and the revision of the Energy Performance of Buildings Directive. All of the above also affect the cultural heritage building sector.

Contemporary cultural heritage protection orientation

The general conclusion is that many acts on the protection of cultural heritage, created decades ago, are equally or even more relevant today. Ignorance, obsolescence, decay and neglect are threats to heritage, which are joined by urban planning under economic pressures and the increasing needs of motorized traffic. Heritage can be disastrously affected by inappropriately used modern technologies or real estate speculation. Comprehensive preservation of heritage as a correct and recommended approach depends on legislative, administrative, financial and technical support.

The evolution of the approach to architectural heritage is strongly noticeable. While this concept was once limited to the top representatives of a certain period and architectural qualities, today architectural heritage is considered and valued much more broadly and can include larger areas of the built landscape. The concept of heritage protection is not limited to the strict preservation of the original state but is also recognized as a set of measures for revitalizing heritage and adapting it to both modern living needs and weather extremes and climate change, which are an additional threat to the existence and, above all, the usability of heritage. The essential modern principles of the protection of cultural heritage buildings cover the spectrum from basic conservation rules to economic or financial aspects, social cohesion, good management and participatory governance to adaptation to modern needs while taking into account the boundary conditions of the profession.

There is a strong social note present, also. The renovation of historic areas should be planned and implemented in such a way that major changes in the social structure of the population are not necessary. Buildings built today will become heritage tomorrow, so modern architecture must be of high quality. On the other hand, preserving architectural heritage can also help reduce the need for population migration by assigning a new function. The warnings written in various ways about the environmental importance of preserving architectural heritage, thereby reducing the use of natural resources and the amount of waste, sound quite contemporary. Equally relevant is the mention of the necessity of training workers involved in the maintenance and renovation of architectural heritage. This can be systematically planned when the architectural heritage is inventoried or when an appropriate register is established. Given the necessity of developing and using suitable modern technologies, it is necessary to ensure the

permanent accessibility of original materials while simultaneously preserving and transferring traditional building techniques.

Cultural heritage buildings are now recognized as essential elements of the human environment, so it is essential to include them in social life and, if necessary, assign them a modern function. This must consider modern activities and needs through thoughtful adaptation, which includes the concept of revitalization. In this sense, important professional foundations were laid by the Granada Convention, which emphasizes that the preservation of architectural heritage does not necessarily mean its complete immutability. Taking into account cultural and historical values, states must promote the use of protected assets in the light of modern living needs and the adaptation of old buildings for new purposes, whenever possible. This diction is very important, as it recognizes the fact that not every cultural heritage building necessarily meets modern living and working needs. The possibility, or even better, the acceptability of renovation and adaptation with reference to modern living needs, of course in accordance with the conditions and consents of cultural heritage protection authorities, can also be transferred to the field of energy renovation of architectural heritage.

On this basis, we can formulate the claim that the energy renovation of a cultural heritage building, carried out in accordance with the conditions of its protection and in a technically appropriate manner, is a legitimate and logical intervention in cultural heritage, as it preserves the fabric of the building and its usability, improves the quality of life by upgrading individual functionalities and performances, makes the building more attractive to live and work in, and its lifespan is also extended through use. Finally, cultural heritage is also a reflection of changing and developing values, beliefs, knowledge and traditions of people, which is consistent with the philosophy of preserving architectural heritage for future generations.

Related legislative intersection in Slovenia

Slovenia, as an EU member state, is obliged to consider the set strategic guidelines, and formulates national objectives and adapts national legislation accordingly. This applies both to the area of efficient energy use and, more specifically, the energy renovation of buildings, as well as to the protection of cultural heritage and its energy renovation. The already mentioned relatively large share of cultural heritage buildings owned or used by the public sector dictated the design of their appropriate treatment within the framework of methods for achieving energy renovation objectives.

It is important to emphasize that Slovenia also recognizes the values of cultural heritage in the formulation of the aforementioned goals and pays great attention to their preservation. For example, strategic documents and legislation for the efficient use of energy and the use of renewable energy sources allow for deviations from the minimum requirements if such interventions endanger the values of the architectural heritage or even its existence. A key role in this is given to the conservation profession, which, based on an assessment of the cultural and historical significance of a building or part of it, assesses the suitability of the proposed technical measures and either permits or rejects them.

The Slovenian conservation profession advocates the principle of comprehensive heritage conservation, which is also a key focus of sectoral legislation. The national doctrine of cultural heritage protection states that the future of heritage lies in its use. The use of heritage contributes to its preservation, which also contributes to economic development and a more attractive living and working environment. This type of thinking opens possibilities for well-considered energy renovation measures while simultaneously preserving protected values. Energy renovation as part of a comprehensive renovation can also make a decisive contribution to the suitability of cultural heritage buildings for living and various activities, as well as to the cost-effectiveness and greater environmental friendliness of their operation.

For the above reasons, the Guidelines for the Energy Renovation of Cultural Heritage Buildings were prepared in 2016, which in many ways even surpassed later European and national thematic documents. The second, extensively updated edition was published at the end of 2025. The individual definitions

written in the guidelines reflect a synthesis of modern European and national guidelines in the technical and conservation profession. The key principles in this are:

- Energy renovation of a cultural heritage building must, in accordance with the principles of good management, also include other reasonable measures to improve the condition of the building (e.g. static and seismic reinforcement, moisture protection, fire protection, etc.).
- Energy renovation of a cultural heritage building must seek an appropriate balance between preserving the protected values and improving the energy efficiency of the building.

The described situation and the orientations of the Slovenian profession are the basis for effective interdisciplinary cooperation between energy experts, conservation services, urban planners and research institutions. Such a connecting approach enables the creation of professionally verified and coordinated solutions that combine technical feasibility, energy efficiency, aesthetic coherence and legislative justification, and thus serve as a starting point for the further development of sustainable practices in the renovation of cultural heritage buildings.

Conclusion

This paper demonstrates that energy renovation of cultural heritage buildings is neither inherently contradictory to heritage protection nor merely a technical challenge, but rather a complex interdisciplinary task situated at the intersection of environmental, cultural, legal, and social objectives. The analysis shows that European and Slovenian strategic and legislative frameworks increasingly recognize cultural heritage buildings as active contributors to sustainability goals, rather than as static exceptions to energy policies. In Slovenia, a balanced regulatory approach has been achieved that allows meaningful energy efficiency improvements while safeguarding protected cultural and historical values. The concept of integrated conservation proves to be a crucial theoretical and practical foundation, as it legitimizes carefully designed energy renovation as part of the long-term preservation and use of heritage buildings. Legislative provisions in both EU directives and national laws explicitly allow flexibility, enabling technically appropriate measures that do not compromise the character or appearance of heritage assets. The findings indicate that the primary value of energy renovation of cultural heritage buildings lies not in their aggregate contribution to national energy savings, but in their preservation, revitalization, and continued social use. Slovenian guidelines for the energy renovation of cultural heritage buildings exemplify how interdisciplinary cooperation can translate abstract policy goals into concrete, practice-oriented solutions. The study also highlights the essential role of conservation authorities in mediating between energy efficiency objectives and heritage protection requirements. Overall, the Slovenian case illustrates that legal certainty, clear professional guidance, and cross-sectoral collaboration are key enablers of sustainable renovation practices. Future efforts should therefore focus on strengthening interdisciplinary methodologies, monitoring renovation outcomes, and further aligning heritage protection with climate and energy transition policies.

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Culture as a factor in the preservation of national identity: the slovene minority in the republic of austria and the significance of the austrian state treaty

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**»The limits of my language are the limits of my world.«
(Wittgenstein, 1922)**

Abstract

In the contemporary era, marked by profound social transformation, global influences, and the diversification of values, language and culture have emerged as fundamental pillars in the construction of national identity. This is particularly evident in the context of minority communities, where these elements often compensate for the limitations of legal protection. Despite the provisions set out in Article 7 of the Austrian State Treaty, the Slovene national community in Austria often functions in an environment where legal norms are only partially implemented. In this light, the preservation of language and culture becomes essential for the long-term survival and visibility of indigenous communities. This article examines how cultural and linguistic practices foster the expression, continuity, and reinforcement of national identity—especially within minority contexts, where they serve as key instruments of symbolic and societal recognition.

Keywords: national identity, language, culture, Austrian State Treaty

Uvod

V času hitrih in nenadnih družbenih sprememb, pospešene mobilnosti in večkulturnih stikov, ko marsikdo išče ravnotežje med globalnimi vplivi in lokalno pripadnostjo, sta jezik in kultura osnovna temelja narodne identitete. Nista le sredstvi izražanja ali dediščina preteklosti, temveč živa elementa kolektivnega spomina in družbene kohezije, s pomočjo katerih se ohranja zgodovinski spomin, občutek pripadnosti in kontinuiteta narodne skupnosti. Zlasti za narodne manjšine pomenita simbolno in praktično oporo pri ohranjanju razlikovalnih značilnosti ter pri izgradnji mostov med manjšinskim in večinskim okoljem.

Vprašanje narodne identitete v kontekstu »sodobne« Evrope, ki se sooča z intenzivnimi globalnimi procesi, pluralizacijo družbenih vrednot, vse bolj stopa v ospredje in postavlja osnovna vprašanja pripadnosti, skupnostne kontinuitete in kulturne avtonomije. Evropska unija sicer formalno zagotavlja pravice manjšin in načelo kulturne raznolikosti, a velikokrat prihaja do nasprotij med prakso in teorijo, med deklarativnimi zavezami in dejanskim položajem manjšin.

Teoretska izhodišča za razumevanje narodne identitete so se izoblikovala ob koncu 20. stoletja in so temeljila na različnih teoretskih pristopih glede razumevanju naroda in skupne pripadnosti (Smith, 1991). Novejše študije pa kažejo, da se sodobno razumevanje narodne identitete vse bolj k preučevanju njenega preoblikovanja v kontekstu globalizacije, migracij in večkulturnosti (Castells, 1997; Brubaker, 2006).

Kultura kot dinamičen sistem vrednot, običajev, jezika, umetnosti in kolektivnega spomina ni zgolj izraz narodne pripadnosti, temveč deluje tudi kot zaščitni mehanizem pred asimilacijo. Kulturni dogodki, umetniško ustvarjanje, izobraževalne in jezikovne prakse manjšinske skupnosti povezujejo in tako krepijo notranjo kohezijo ter s tem omogočajo prenos identitete na mlajše generacije (Fishman, 1997). Na ta način kultura ne odraža zgolj preteklosti narodne skupnosti, temveč aktivno oblikuje njen položaj v sedanjosti in prihodnosti. To je še posebej izrazito v primerih, kjer institucionalna zaščita ne zadostuje ali se izvaja neenotno. V takih okoliščinah postane kultura ključni akter ohranjanja narodne identitete. Posebno mesto v tem kontekstu zavzema pravni okvir Avstrijske državne pogodbe (v nadaljevanju ADP), katere 7. člen določa obveznosti Republike Avstrije do slovenske in hrvaške manjšine. Ta člen zagotavlja širok nabor pravic: od zagotavljanja enakopravnosti pripadnikov manjšin z drugimi državljani Avstrije (1. odstavek), do pravice pouka v slovenskem jeziku (2. odstavek). Nadalje opredeljuje pravico do rabe jezika v upravnih in sodnih postopkih na območjih z večjo manjšinsko prisotnostjo (3. odstavek), enakopravno udeležbo v kulturnih, upravnih in sodnih institucijah ter prepoveduje delovanje protimanjšinskih organizacij (4. in 5. odstavek) (Grafenauer et al, 2020). Čeprav so te določbe mednarodnopravno zavezujoče, je njihova implementacija pogosto pomanjkljiva. V tem okviru postajata jezik in kultura dejanska varuha narodne identitete, zlasti v primerih, kjer pravna zaščita ni zadostna. Dolgoročno ohranjanje slovenske manjšine v Avstriji je tesno povezano z učinkovitim javnopravnim zastopanjem ter z vzdrževanjem močne jezikovne, pedagoške in kulturne prisotnosti v javnem življenju.

Članek bo podal analizo določb tega člena ter kritično osvetlil njihovo implementacijo in dejanski vpliv na varovanje slovenske narodne skupnosti. Poleg pravne perspektive bomo obravnavali tudi reprezentacije narodne identitete v slovenskih medijih na Koroškem. Pregled medijskih vsebin bo pokazala, katere teme so izpostavljene in kako se skozi njih krepi ali slabi narodni občutek pripadnosti, zlasti v odnosu do jezikovne in kulturne avtonomije.

Izhajajoč iz tega zastavljamo osrednje raziskovalno vprašanje: Kako jezik in kultura vplivata na ohranjanje narodne identitete slovenske manjšine v Republiki Avstriji? Odgovore na to vprašanje bomo podali z analizo zgodovinskega in pravnega konteksta, teoretičnih opredelitev narodne identitete ter empiričnih primerov iz prakse slovenske manjšine. Poseben poudarek bo namenjen jezikovni in kulturni dejavnosti kot nosilcema skupnostne kontinuitete, v luči določil ADP, zlasti njenega 7. člena.

Predpostavljamo, da sta jezik in kultura pglavitna nosilca narodne identitete, saj nadomeščata pomanjkljivosti pravne zaščite, omogočata medgeneracijski prenos kolektivne pripadnosti ter prispevata k vidnosti in prepoznavnosti manjšine v večinskem okolju.

V članku bodo uporabljene metode deskriptivne in komparativne analize, interpretacije pravnih virov, pregled sekundarne znanstvene literature, študija primera slovenske manjšine v Avstriji ter analiza medijskih vsebin, ob upoštevanju sodobnih evropskih primerov manjšinskih praks.

Jezik in kultura kot temelja narodne identitete

Narodna identiteta je eden temeljnih konceptov pri razumevanju oblikovanja narodov, družbene kohezije in pripadnosti v sodobnih državah. Gre za kompleksno in večplastno konstrukcijo, ki vključuje zgodovino, jezik, kulturo in simbole (Smith, 1991; Anderson, 1983).

Razumevanje narodne identitete kot družbeno-kulturnega konstrukta, v katerem imata jezik in kultura osrednjo vlogo, temelji na številnih prispevkih uveljavljenih teoretikov. Ti pristopi se razlikujejo glede na teoretično izhodišče, vendar vsi poudarjajo pomen simbolne in komunikacijske funkcije jezika ter kulturnih praks pri oblikovanju kolektivne pripadnosti. Omenimo samo nekatere: Anderson (1983) narode opredeljuje kot zamišljene skupnosti (imagined communities), ki obstajajo kot rezultat kolektivnega zamišljanja pripadnosti na podlagi skupnih zgodb, simbolov in jezika. Nacionalna zavest se po njegovem oblikuje predvsem prek medijev, izobraževalnih sistemov in zgodovinskih narativov, ki ustvarjajo občutek enotnosti tudi med posamezniki, ki se nikoli ne bodo srečali. Gellner (1983) poudarja pomen institucionalne standardizacije jezika kot ključnega orodja pri oblikovanju moderne narodne zavesti. Po njegovem mnenju narodna identiteta nastane šele ob prehodu v industrijsko družbo, ko postane potreba po komunikacijski enotnosti gonilo nacionalnega povezovanja. Smith (1991) predstavlja etno-simbolni pristop, v katerem nacionalna identiteta izhaja iz pred obstoječih etničnih jeder. Skupna zgodovina, mitologija, religija in kulturne prakse predstavljajo simbolno osnovo, iz katere se oblikuje narod kot zgodovinska kontinuiteta in kulturna enota. Nadalje Hall (1996) narodno identiteto opredeljuje kot diskurzivno konstrukcijo, ki nastaja skozi reprezentacijo in se stalno preoblikuje v razmerju do "drugega". Identiteta po njegovem ni dana, temveč proizvedena znotraj specifičnih zgodovinskih in kulturnih praks, kar poudarja njeno fluidnost in kontekstualnost.

Sodobnejši pristopi dodatno poudarjajo vpliv globalizacije, migracij in večkulturnosti na redefinicijo narodnih pripadnosti. Levisen in Waters (2017) raziskujeta pomen kontekstualne rabe jezika in diskurzivnih praks pri oblikovanju identitetnih pomenov.

Ti teoretski pristopi so v zadnjem času dobili pomembne dopolnitve v okviru sodobnih konceptualizacij, ki narodno identiteto obravnavajo z vidika institucionalne zaščite manjšin in aktualnih izzivov evropskih demokracij. Fink (2023) osvetljuje pomen sistematičnega javnopravnega zastopanja narodnih manjšin in izpostavlja ključno vlogo izobraževanja, medijev in kulturnega delovanja pri ohranjanju manjšinske identitete. Zlasti avtohtone narodne manjšine so v tem kontekstu posebej ranljive, saj njihov obstoj in prepoznavnost temeljita na aktivnem ohranjanju jezika in kulture kot osrednjih nosilcev identitetnega okvirja.

Jezik in kultura nista zgolj izraza narodne identitete, temveč predstavljata njena temeljna gradnika in orodji (re)produkcije. Jezik deluje kot simbolna os, ki omogoča kognitivno in čustveno povezanost med pripadniki skupnosti, kultura pa kot dinamičen sistem praks, simbolov in pomenov, ki zagotavlja notranjo kohezijo in zunanjo prepoznavnost.

Bourdieu (1991) utemeljuje, da je jezik tudi simbolni kapital, ki omogoča ali omejuje dostop do moči, prestiža in družbenega priznanja. V pogojih manjšinske izpostavljenosti, kjer je institucionalna podpora omejena ali neučinkovita, postajata jezik in kultura ključna mehanizma ohranjanja zgodovinske kontinuitete, medgeneracijskega prenosa vrednot in simbolne razpoznavnosti skupnosti.

Jezik in kultura sta osrednja elementa narodne identitete, saj omogočata posameznikom in skupnostim, da prepoznajo, izražajo in ohranjajo svojo narodno pripadnost. Delujeta kot simbolna nosilca kolektivnega pomena, preko katerih se vzpostavljata zgodovinska kontinuiteta in občutek pripadnosti. Oba elementa sta ključna za oblikovanje notranje kohezije skupnosti ter za njeno razpoznavnost v širšem družbenem in političnem prostoru.

Jezik v kontekstu narodne identitete presega svojo funkcijo, saj ne deluje zgolj kot orodje sporazumevanja, temveč tudi kot nosilec skupne zavesti, kolektivnega spomina, zgodovinskih mitov in narativov. Skupni jezik spodbuja občutek enotnosti in prispeva k simbolni prepoznavnosti naroda, hkrati pa vzpostavlja mejo med »našim« in »drugim«. Fishman (1991) meni, da brez jezikovne kontinuitete ni mogoče govoriti o dolgotrajnem ohranjanju narodne identitete, zlasti v večjezičnih in pluralnih okoljih, kjer manjšinske skupnosti pogosto nimajo dostopa do institucionalne jezikovne zaščite.

Vloga kulture je prav tako neločljivo povezana z identitetno konstrukcijo. Kultura vključuje raznolike simbolne in materialne prakse, ki strukturirajo vsakdanje življenje in oblikujejo vrednotni sistem skupnosti. Po Smithu (1991) je kulturna zgodovina tista, ki skupnosti omogoča občutek zgodovinske

globine, kontinuitete in posebnosti. Kultura torej ne odraža le narodne identitete, temveč aktivno sodeluje pri njenem nastajanju in prenosu med generacijami.

Sodobni konceptualni pristopi temeljijo na konstruktivističnem in diskurzivnem razumevanju, ki poudarja, da je identiteta vedno pogojena z družbenim kontekstom in zgodovinskimi okoliščinami (Hall, 1996). V tem okviru jezik in kultura nista več razumljena kot pasivna nosilca pomenov, temveč kot sredstvi aktivne (re)produkcije identitetnih pozicij, ki se oblikujejo v vsakokratnem družbenem in političnem kontekstu.

Jezik je v tem pogledu simbolna praksa, ki ne le artikulira kolektivno pripadnost, temveč strukturira pogled na svet ter določa razmerja moči znotraj in zunaj skupnosti. Kot ugotavlja Bourdieu (1991) je jezik tudi simbolni kapital, ki vpliva na dostop do družbenega priznanja, legitimnosti in vpliva. Jezikovne izbire tako odražajo širše razmerje moči – med prevladujočimi in marginaliziranimi kodami – kar postane še posebej pomembno v kontekstu večjezičnosti in globalizacije.

Tudi kultura je v sodobnem diskurzu razumljena kot procesualna, odprta in večplastna. Ni več statična zbirka izročil, temveč polje vsakodnevnega oblikovanja pomenov, kjer se kulturni elementi reinterpreterajo, prevzemajo ali zavračajo glede na potrebe posameznika in skupnosti. Kultura deluje kot prostor identitetnega pogajanja, kjer se ustvarja razmerje med kontinuiteto in spremembo, med tradicijo in sodobnostjo (Woodward, 2002).

Vloga jezika in kulture v sodobnem razumevanju narodne identitete je torej dvojna: deluje kot sredstvo identitetne artikulacije navzven ter kot notranja opora občutku pripadnosti in kontinuitete. Prek njiju se vzpostavljajo meje, izraža skupinska samopodoba in omogoča vzdrževanje identitete tudi v pogojih negotovosti in sprememb. Na tej podlagi pridobivata njuna prisotnost in raba poseben pomen v okoljih, kjer so narodne skupnosti v manjšini in izpostavljene pritiskom večinske kulture. Tam, kjer institucionalni okviri niso samoumevni ali dovolj učinkoviti, postajata jezik in kultura ključna dejavnika za ohranjanje identitetnega jedra in za zagotavljanje dolgoročne vidnosti ter prisotnosti narodne skupnosti v širšem političnem prostoru.

Zgodovinsko-pravni okvir: Slovenska manjšina v Avstriji in člen 7 ADP

Razumevanje vloge jezika in kulture kot temeljnih nosilcev narodne identitete postane še izrazitejše, ko analiziramo zgodovinski in pravni položaj slovenske manjšine v Avstriji. Odločilni trenutki preoblikovanja kolektivne pripadnosti segajo v čas po plebiscitu leta 1920, ko je bilo na Koroškem prvič institucionalno postavljeno vprašanje jezika kot osrednjega merila pripadnosti (Kustec, 2009). V tem času so se okrepili pritiski na rabo slovenskega jezika v javnem prostoru, kar je bistveno vplivalo na dinamiko kulturnega izražanja in oblikovanja identitetne zavesti med pripadniki slovenske skupnosti.

Drugo svetovno vojno in njene posledice je zaznamovala okrepljena potreba po vzpostavitvi pravnega varstva za manjšine, ki se je institucionalno uresničila z vključitvijo določb v besedilo ADP iz leta 1955. Sedmi člen te pogodbe, ki je eden od temeljnih členov na področju manjšinskih pravic, vsebuje vrsto določb, namenjenih zagotavljanju enakopravne obravnave slovenske in hrvaške narodne skupnosti v Avstriji.

Vsebinsko 7. člen določa:

- da imata slovenska in hrvaška manjšina pravico do enakopravne uporabe svojega jezika v sodnih in upravnih postopkih na območjih, kjer živita v znatnem številu;
- da morajo biti šole na teh območjih organizirane tako, da se v njih omogoči pouk v slovenskem oziroma hrvaškem jeziku;
- da imajo pripadniki manjšin pravico do lastnih organizacij, političnih strank, društev in tiskanih medijev;
- da mora biti zagotovljena njihova enaka obravnava v vseh sferah javnega življenja, vključno z dostopom do zaposlitve v javnem sektorju (Grafenauer et al, 2020).

Te določbe, čeprav formulirane v relativno splošnem jeziku, imajo pomemben simbolni in praktični pomen. Medtem ko na simbolni ravni predstavljajo priznanje obstoja manjšine in njenega zgodovinskega prispevka k avstrijski družbi, pa na praktični ravni zagotavljajo osnovne pogoje za ohranjanje in razvijanje narodne identitete, zlasti prek jezikovne in kulturne udeležbe.

Vendar je določbe 7. člena ADP treba razumeti v širšem kontekstu zaščite kolektivnih pravic narodnih manjšin. Posebej pomembna je določba o uporabi jezika v sodnih in upravnih postopkih, saj jezik

priznava ne le kot komunikacijsko orodje, temveč tudi kot simbolno priznanje identitete in prisotnosti manjšine v javnem prostoru (Košnjek, 2025).

Enako pomembna je pravica do šolanja v maternem jeziku, ki ni zgolj vprašanje dostopa do izobraževanja, temveč ključni mehanizem medgeneracijskega prenosa jezika in kulturnih vrednot. Vse te pravice so vzajemno povezane in tvorijo pravni okvir, namenjen omogočanju trajnostnega ohranjanja in razvoja narodne identitete v smislu polne družbene in kulturne participacije. Jezik se kot dinamičen družbeni fenomen razvija zgolj skozi aktivno in stalno rabo v vseh življenjskih okoliščinah, v katerih se sodobni posameznik udelejuje. Le kadar je prisoten v različnih družbenih domenah – od izobraževanja, uprave in medijev do umetnosti in vsakdanjega komuniciranja – lahko govorimo o visoki stopnji njegove funkcionalnosti. Ta funkcionalnost odraža ne le uporabno vrednost jezika, temveč tudi njegovo usklajenost s stopnjo družbenega razvoja in kulturne integracije skupnosti (Destovnik, 2002).

Zgodovinski pomen člena 7 ADP presega zgolj njegovo pravno-formalno naravo. Predstavlja tudi simbolno priznanje obstoja in legitimnosti slovenske skupnosti v Avstriji ter njeno vez z matično državo Slovenijo. S tem 7. člen deluje kot institucionalna garancija za ohranjanje jezika in kulture kot dveh ključnih gradnikov narodne identitete, ki sta bila v preteklosti pogosto marginalizirana ali potisnjena na rob javnega življenja.

Ocena implementacije 7. člena ADP kaže na izrazit razkorak med pravnimi določbami in njihovo dejansko uresničitvijo v vsakdanjem življenju slovenske manjšine na avstrijskem Koroškem. Čeprav člen formalno zagotavlja uporabo slovenskega jezika v upravi in sodstvu, dostop do dvojezičnega šolstva ter možnost organiziranja kulturnega življenja, številna poročila kažejo, da je bila njegova implementacija pogosto selektivna, nepopolna ali celo zanemarljiva (Kustec, 2009; Svet Evrope 2020). Primer tega je dolgoletno nasprotovanje postavitvi dvojezičnih krajevnih napisov, ki so bili kljub odločbi avstrijskega Ustavnega sodišča (npr. odločba iz leta 2001 v zvezi z občino Sankt Kanzian/Škocijan) dolgo časa omejeni na strogo določeno območje in število. Podobno velja za področje šolstva, kjer se število otrok, ki obiskujejo dvojezične razrede, dolgoročno zmanjšuje, kar nakazuje pomanjkanje spodbud in sistemske podpore dvojezičnemu izobraževanju (Kustec, 2009).

Tudi Svet Evrope je v več priporočilih izrazil zaskrbljenost zaradi omejene uporabe slovenščine v javnem sektorju in pomanjkljive prisotnosti manjšine v medijih in lokalnih institucijah. V Poročilu o izvajanju Evropske listine o regionalnih in manjšinskih jezikih (2020) ostaja Avstrija pod drobnogledom glede dejanske dostopnosti manjšinskih pravic v vsakdanji praksi. Poleg institucionalnih izzivov pa slovenska manjšina opozarja tudi na simbolno neenakost, saj pomanjkanje vidnosti jezika in kulture v javnem prostoru prispeva k občutku marginalizacije. Kljub obstoju določb člena 7 ADP so napredki večinoma rezultat civilne iniciative in mednarodnega pritiska, ne pa notranje politične volje. To dodatno potrjuje, da sta jezik in kultura v razmerah pomanjkljive pravne zaščite še vedno ključni orodji za ohranjanje narodne identitete. Kljub formalni zavezi k zaščiti manjšin se je v desetletjih po podpisu pogodbe izkazala uresničitev teh določb za pogosto nepopolno, selektivno ali odvisno od politične volje na regionalni ravni (Kustec, 2009). Jezikovna raba v javnosti, razpoložljivost dvojezičnega šolstva ter dostop do kulturnih institucij v slovenskem jeziku ostajajo področja, pri katerih je razkorak med normativno zaščito in dejansko izkušnjo manjšine še vedno prisoten.

Sklepamo lahko, da je v kontekstu vloge jezika in kulture kot nosilcev narodne identitete očitno, da prav ti elementi določajo stopnjo uresničenosti manjšinskih pravic. Na to je opozorila tudi sodna praksa, kot na primer odločba avstrijskega Ustavnega sodišča iz leta 2001, ki je ugotovila neskladnost med obstoječo prakso in obveznostmi iz 7. člena ADP glede postavitve dvojezičnih napisov. Poleg tega tudi številni pravniki, poudarjajo, da je brez sistematičnega uresničevanja teh pravic ogrožena ne le pravna varnost manjšin, temveč tudi dolgoročna vzdržnost njihove narodne identitete. Iz navedenega izhaja, da tam, kjer je raba jezika omogočena, kjer se kultura podpira in institucionalizira, ima manjšinska skupnost pogoje za obstoj, razvoj in polno participacijo v družbi. Zato člen 7 ADP ni zgolj pravno določilo, temveč odsev širšega razumevanja jezika in kulture kot temeljev narodne identitete ter kot pogojev za demokratično in trajnostno vključevanje manjšin v družbeni okvir večinskega naroda.

Vloga kulture in jezika v življenju slovenske manjšine v Avstriji

Pomen jezika in kulture v vsakdanjem življenju manjšinskih skupnosti je tesno povezan s procesi ohranjanja, prenosa in krepitve narodne identitete (Smith, 1991). Pri slovenski manjšini v Avstriji je ta dvojna vloga še posebej izrazita, saj jezik in kultura predstavljata ključna temelja občutka pripadnosti, ohranjanja medgeneracijske kontinuitete in razpoznavnosti znotraj večinske družbe. Življenjski konteksti, v katerih manjšina deluje, razkrivajo, kako se simbolne in praktične razsežnosti jezika in kulture prepletajo z institucionalnimi okviri, prostorskimi omejitvami ter družbenimi pričakovanji.

Kulturne prakse slovenske manjšine v Avstriji predstavljajo pomembno vezivo narodne identitete, saj omogočajo kontinuiran prenos tradicij, običajev, jezika in vrednot. Kulturna društva delujejo kot prostori srečevanja, izmenjave in ustvarjalnosti ter obenem kot nosilci simbolne reprezentacije skupnosti. Organizirajo številne prireditve, gledališke predstave, razstave in koncerte, s katerimi ohranjajo in krepijo občutek pripadnosti ter prisotnost slovenske skupnosti v širšem javnem prostoru. Pri vzpostavljanju in ohranjanju jezikovne in kulturne kontinuitete imajo posebno vlogo tudi dvojezične šole, ki – kljub izzivom, kot so kadrovska podhranjenost ali upad zanimanja – ostajajo ključne za prenos jezika in kulturnih vzorcev na mlajše generacije.

Literatura, tako ustvarjalna kot strokovna, igra pomembno vlogo kot arhiv kolektivnega spomina in orodje artikulacije identitete. (Smith, 1991). Objave slovenskih avtorjev na Koroškem prispevajo k bogatenju kulturnega prostora in krepijo vezi s širšim slovenskim književnim poljem. Kulturne dejavnosti tako aktivno soustvarjajo identitetne oblike slovenske manjšine v razmerah večinskega pritiska in omejene institucionalne podpore.

V kontekstu obravnave jezikovne politike in kulturne identitete slovenske narodne skupnosti je mogoče ugotoviti, da slovenski jezik deluje kot nosilec zgodovinske kontinuitete, simbolne razpoznavnosti in kolektivne zavesti. Kljub formalnim določbam 7. člena ADP in priporočilom mednarodnih organizacij se njegova prisotnost v javnem prostoru pogosto zmanjšuje. Vendar pa primeri dobrih praks, kot je občina Šmihel, kjer se uspešno izvaja dvojezična komunikacija z občani, potrjujejo, da je enakopravna raba jezika izvedljiva ob ustrezni politični volji in podpori lokalne skupnosti. Poleg institucionalnih oblik izobraževanja pomembno vlogo pri ohranjanju jezika in kulturne identitete igrajo tudi neformalne dejavnosti – jezikovni tečaji, pevski zbori in mladinske pobude – ki prispevajo k utrjevanju jezikovne samozavesti ter preprečujejo postopno asimilacijo slovenske skupnosti.

Omeniti velja Slovensko glasbeno šolo na Koroškem, ki predstavlja več kot zgolj umetniško-izobraževalno ustanovo. Njeno delovanje je preplet izobraževanja, kulturnega poslanstva in simbolnega pomena, saj šola s poučevanjem v slovenskem jeziku ne omogoča le razvoja glasbenih veščin, temveč bistveno prispeva k ohranjanju jezikovne kontinuitete, krepitvi kulturne samozavesti ter utrjevanju pripadnosti slovenski narodni skupnosti. V kontekstu manjšinske realnosti, kjer so formalne varovalke pogosto nezadostne ali nedosledno izvajane, lahko sklepamo, da se takšne ustanove kažejo kot ključni akterji pri zagotavljanju trajnostne narodne navzočnosti in simbolne vidnosti v večinskem prostoru.

Pomembno vlogo ima tudi tradicionalna prireditev »Koroški kulturni dnevi«, ki že več desetletij predstavlja pomembno platformo in povezuje slovenska društva v Avstriji ter s kulturnimi dogodki spodbuja rabo slovenskega jezika v javnem prostoru (Novice, 2024). Takšni primeri kažejo, kako se skozi vsakdanje kulturne prakse oblikuje simbolni prostor skupnosti, ki omogoča intergeneracijski prenos identitete in ustvarja občutek varne pripadnosti v širšem, pogosto neugodnem družbenem okolju. Z vidika simbolnega pomena se zdi, da slovenski mediji v Avstriji, kot sta tednik Novice in Radio AGORA, delujejo kot pomembni nosilci kolektivne identitete. V skladu z uredniško usmeritvijo se tednik Novice opredeljuje kot nadstrankarski in dialogu odprt medij, namenjen obravnavi političnih, kulturnih in družbenih tem v slovenskem jeziku. Njegovo poslanstvo presega zgolj informativno funkcijo, saj se razume kot instrument demokratičnega oblikovanja mnenj in kot podpornik težnje slovenske narodne skupnosti po ohranjanju identitete in enakopravnosti na Koroškem. Takšna uredniška zasnova potrjuje, da medij deluje kot komunikacijski most med skupnostjo in širšim družbenim okoljem (Trampusch, 2023).

Radio AGORA predstavlja pomemben primer večjezičnega in večkulturnega medija, ki od leta 1998 deluje kot prostor svobodnega izražanja in enakopravnega sobivanja jezikov in kultur na Koroškem. S programi v slovenščini, nemščini, angleščini, španščini in ruščini uresničuje načelo večglasnosti ter prispeva k ohranjanju slovenskega jezika in kulture v širšem družbenem prostoru. Posebno pozornost namenja lokalnim in manjšinskim temam, ki jih večinski mediji pogosto prezrejo, s čimer krepi kulturno

vidnost in prepoznavnost slovenske skupnosti na Koroškem. Sodelovanje številnih ustvarjalk in ustvarjalcev daje radiu značaj skupnostnega medija, ki spodbuja participacijo, dialog in medkulturno razumevanje (Lipuš, 2023).

Iz zgoraj napisanega vidimo, da njihovo delovanje presega zgolj informativno funkcijo, saj omogočajo artikulacijo skupnih izkušenj, krepitev pripadnosti ter vzpostavljanje skupnostnega diskurza. Vsebina teh medijev pogosto odraža aktualna družbena vprašanja in prispeva k oblikovanju narativnega ogrodja, v katerem se skupnost prepozna in predstavlja navzven. V tem kontekstu slovenski mediji prevzemajo tudi nadomestno funkcijo formalnih institucij, saj ustvarjajo simbolni prostor prisotnosti manjšine v javnem prostoru in tako krepijo njeno vidnost ter kulturno kontinuiteto.

Skupaj torej jezik, kultura in mediji oblikujejo vitalno jedro narodne identitete slovenske manjšine. Njihova prisotnost in delovanje predstavljata temeljne pogoje za ohranjanje skupnostne kohezije, medgeneracijske kontinuitete in simbolne prepoznavnosti v večinskem okolju. Ob tem je treba poudariti, da njihova vzdržnost pogosto presega okvire kulturnih dejavnosti, saj delujejo kot mehanizmi odpora proti asimilaciji in kot ključni dejavniki pri zagotavljanju manjšinske vitalnosti. V razmerah, kjer institucionalna zaščita ne dosega želenih učinkov, ravno vsakodnevna raba jezika, kulturna ustvarjalnost in prisotnost v medijskem prostoru omogočajo obstoj manjšinske skupnosti kot samostojnega in prepoznavnega akterja. Kot je bilo že prikazano v okviru obravnave 7. člena Avstrijske državne pogodbe, ostaja razkorak med njegovimi določbami in dejanskim položajem jezika ter kulture ključen izziv za prihodnost slovenske manjšine v Avstriji. Ravno ta razkorak poudarja, da jezik in kultura nista le vsebinska spremljevalca narodne identitete, temveč njena nosilca v najglobljem smislu: prek njiju se skupnost (re)definira, ohranja in predstavlja. Zato je vsaka omejitev njune javne prisotnosti neposredno povezana z erozijo identitetnih temeljev. Primeri iz vsakdanjega življenja manjšine jasno dokazujejo, da so jezikovne in kulturne prakse ne samo izraz pripadnosti, temveč tudi pogoj njenega preživetja.

Zavedanje, da sta jezik in kultura bistvena temelja narodne identitete, mora ostati v središču vseh prizadevanj – tako na ravni manjšinskih skupnosti kot pri državnih politikah. Brez aktivnega vlaganja v jezikovno izobraževanje, kulturno ustvarjalnost in medijsko vidnost ni mogoče zagotoviti trajnostnega obstoja narodne skupnosti v sodobnih, pluralnih družbah.

Sklep

Z analizo zgodovinskih, pravnih, kulturnih in jezikovnih vidikov je mogoče jasno potrditi izhodiščno hipotezo, da sta jezik in kultura pglavitna nosilca narodne identitete slovenske manjšine v Republiki Avstriji. Kljub temu da Avstrijska državna pogodba zagotavlja pravni okvir zaščite, zlasti v 7. členu, empirična analiza kaže, da je izvajanje teh določb pogosto nepopolno, selektivno ali simbolno omejeno. Prav zato prevzemata jezik in kultura nadomestno vlogo, s katero zapolnjujeta vrzeli pravne zaščite in hkrati utrjujeta notranjo kohezijo skupnosti.

Jezik kot nosilec kolektivnega spomina, identifikacijskih simbolov in medgeneracijskega prenosa izkušenj ter kultura kot polje vsakdanjih praks, umetniške ustvarjalnosti in družbene reprezentacije, skupaj tvorita temeljno ogrodje, prek katerega se manjšina opredeljuje in ohranja svojo prepoznavnost v večinskem okolju. Posebej pomembno je, da oba elementa omogočata vzpostavljanje razlikovalne identitete brez potrebe po teritorialni avtonomiji, kar je za razpršeno in demografsko ogroženo manjšino ključnega pomena.

Kljub temu so pred slovensko manjšino v Avstriji številni izzivi. Slabljenje rabe slovenskega jezika v javni sferi, pomanjkanje ustrezne učiteljske infrastrukture, omejeni medijski viri in nezadostno politično zastopstvo kažejo na potrebo po celovitih ukrepih. Med ključnimi prioritetami prihodnosti izstopajo:

- sistematična institucionalna podpora na področjih izobraževanja, kulturne produkcije in javne rabe jezika, vključno z dosledno implementacijo določb ADP;
- spodbujanje dvojezičnosti na simbolni in praktični ravni, z večjo prisotnostjo slovenskega jezika v javni upravi, medijih in urbanem prostoru in
- krepitev kulturne samozavesti.

V znanstvenem smislu ta raziskava potrjuje pomen večdimenzionalnega pristopa k obravnavi narodne identitete: pravna zaščita sama po sebi ni zadostna brez jezikovne in kulturne uveljavljenosti. Za prihodnje raziskave se odpira prostor za podrobnejše empirične študije lokalnih praks, longitudinalno spremljanje učinkovitosti političnih ukrepov in primerjalne analize različnih modelov zaščite narodnih manjšin.

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Ensuring reliable electricity supply: legal aspects of capacity mechanisms in the eu

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Abstract

Ensuring long-term security of electricity supply in the European Union requires balancing competitive market principles with the need to guarantee adequate generation and flexibility. Capacity remuneration mechanisms (CRMs) have emerged as a response to the “missing money” problem, complementing the energy-only market when investment signals are insufficient. This paper examines the EU legal and policy framework governing CRMs, focusing on Regulation (EU) 2019/943 on the internal electricity market, state aid control under Article 107 TFEU, and the 2022 Climate, Environmental Protection and Energy Aid Guidelines (CEEAG). It analyses key market models — strategic reserves, capacity obligations, and market-wide capacity auctions — and reviews their implementation in several Member States (France, Germany, United Kingdom, Italy, Poland), highlighting how European rules require technological neutrality, transparency, and cross-border participation. Special attention is given to Slovenia and the existing Load-Frequency Control block Slovenia–Croatia–Bosnia (LFC SHB), formally integrated into the EU balancing and congestion management framework in 2020. The paper argues that Slovenia could establish a legally compliant CRM but that a joint regional auction with Croatia would be more cost-efficient and market-friendly, leveraging shared infrastructure (including the jointly owned Krško nuclear plant) and increasing liquidity. Such an approach could serve as a model for smaller, interconnected markets aiming to align national security-of-supply policies with the EU’s decarbonisation and internal market objectives.

Keywords:

Capacity mechanisms; EU law; State aid; Internal electricity market; Regulation (EU) 2019/943; Technological neutrality; Demand-side response (DSR); Cross-border participation; Security of supply; Capacity market auctions.

Introduction

Ensuring a reliable electricity supply is of great importance for the stability of European economies today. Without a stable and predictable flow of electricity, the functioning of critical infrastructure, industrial production, and everyday life would constantly be at risk. Member States have faced numerous challenges in recent years, such as the increasing share of renewable energy sources, decarbonisation, ageing infrastructure, and the need for energy security. The integration of intermittent renewables such as wind and solar has brought new technical and market complexities, requiring flexible backup capacity and robust grid management systems (ENTSO-E, 2020). To ensure supply stability, Member States have introduced various capacity mechanisms (CMs) to support adequate generation capacity during peak demand and in unforeseen circumstances. These mechanisms range from strategic reserves and capacity payments to market-wide capacity auctions, each with distinct advantages and challenges (ACER, 2021). Their introduction reflects a broader recognition that energy markets alone may not always incentivise sufficient investment in reliable generation capacity, especially in the context of ambitious climate policies and rapidly changing energy mixes.

Our study analyses the existing EU legal framework for capacity mechanisms, their effects on competitiveness and cross-border cooperation among Member States, and compliance with EU law. This includes a thorough review of relevant EU directives, regulations, and European Commission guidelines, as well as key judgments of the Court of Justice of the European Union (CJEU) that clarify the legal boundaries for state intervention in electricity markets. The objectives include analysing EU and Member State legal provisions on capacity mechanisms, assessing the effectiveness of different models in ensuring reliability, and examining their impact on market competitiveness and innovation. In particular, the research focuses on how these mechanisms interact with the EU's long-term goals under the European Green Deal and the "Fit for 55" package, as well as ongoing electricity market design reforms. The paper uses a combination of methods (literature review, legal analysis, statistics, and case studies) to ensure a comprehensive and evidence-based approach. The author raises key research questions about the compliance of capacity mechanisms with European rules (particularly state aid), their impact on competitiveness and innovation, the effectiveness of capacity mechanisms in different countries, and opportunities to strengthen cross-border cooperation. These questions are of both theoretical and practical relevance, given the European Commission's increasing scrutiny of national energy policies under the internal market rules.

The study explains how national energy policies and the capacity mechanisms introduced must be aligned with the European legal order, which rests on the principles of the single internal market, competitiveness, and technological neutrality (European Commission, 2016). It also highlights that compliance is not merely a formal legal requirement but a prerequisite for ensuring fair competition, avoiding market distortions, and fostering investor confidence. In addition, alignment with technological neutrality ensures that capacity mechanisms do not discriminate in favour of specific generation technologies, thus encouraging innovation and efficiency improvements across the energy sector. The findings unify EU case law and secondary legislation and emphasize that capacity mechanisms are not merely technical measures for reliability but are deeply intertwined with legal requirements (state aid rules, free movement, the principle of proportionality, etc.) (European Commission, 2016). Furthermore, they underline the importance of designing CMs in a way that promotes cross-border participation, thereby enhancing the efficiency of the European power system as a whole. By synthesising both legal and technical perspectives, the introduction sets the stage for an in-depth exploration of how capacity mechanisms can reconcile national security-of-supply objectives with the overarching goals of EU energy-market integration and decarbonisation.

The Legal Framework for Capacity Mechanisms in the EU

Development of capacity mechanisms

Capacity mechanisms in the EU developed in response to structural changes in the energy sector—rising demand, market liberalisation, and the integration of renewable sources (European Commission, 2016). These mechanisms are a policy response to the so-called "missing money" problem, where market prices do not provide sufficient incentives for investment in firm capacity, especially in periods of low

wholesale prices (Cramton & Ockenfels, 2012). Liberalisation and market mechanisms have led to greater price volatility and reduced investment in new generation capacity (European Commission, 2016), as market players tend to delay or avoid capital-intensive projects without clear long-term revenue certainty. The increasing share of intermittent renewables (solar, wind) has raised the demand for reserve capacity, since renewables themselves do not provide a constant supply (Chestney, 2025). This intermittency requires additional flexibility services—such as fast-ramping gas plants, demand response, and large-scale storage—which are not always rewarded adequately by energy-only markets (IEA, 2024). Growing peak demand (e.g., in winter for heating, in summer for cooling) has further revealed systemic deficiencies, prompting the adoption of capacity mechanisms (ENTSO-E, 2025). Climate change has amplified these peaks, with more frequent extreme weather events causing simultaneous stress on supply and spikes in demand (IPCC, 2023). Therefore, the EU has developed various models: strategic reserves, capacity obligations (flexible capacities), competitive auctions, and other schemes designed to ensure reliability while maintaining market competitiveness (Norton Rose Fulbright, 2016). Each model reflects different national preferences and market conditions: for example, strategic reserves are often used in Nordic countries to address rare but severe shortages, while market-wide auctions—such as those in the UK—create a competitive process for securing future capacity at the lowest possible cost (ACER, 2021).

Key EU legislation

Regulation (EU) 2019/943 on the internal market for electricity is the fundamental legal framework for capacity mechanisms, aimed at ensuring a sustainable, reliable, and competitive supply of electricity (European Parliament and Council, 2019a). This regulation forms part of the “Clean Energy for All Europeans” package, which redefines the relationship between national energy security measures and the integrated EU market. The regulatory framework provides that capacity mechanisms are a measure of last resort, used only when the market itself does not ensure reliability and only after a thorough resource adequacy assessment at both national and regional levels. Member States must conduct detailed assessments of the adequacy of generation capacity and consider the inclusion of cross-border resources in their capacity mechanisms (European Commission, 2020). The methodology for these assessments is coordinated through the European Network of Transmission System Operators for Electricity (ENTSO-E, 2020), ensuring a harmonised approach and comparability of results across the EU. The Regulation requires technological neutrality and prohibits the participation of units with emissions above 550 g CO₂/kWh in capacity mechanisms after 2025 (European Parliament and Council, 2019a), which promotes the transition to low-carbon sources and discourages investments in high-emission generation. Moreover, the rules promote cross-border cooperation: capacity mechanisms must be open to providers from other countries, optimizing capacity utilisation and reducing supply costs (European Parliament and Council, 2019a). This reflects the understanding that security of supply in a highly interconnected European grid is a shared responsibility, and that isolating national markets can lead to inefficiencies and higher consumer costs. This Regulation is complemented by Directive (EU) 2019/944 on common rules for the internal market for electricity, which establishes general principles and national obligations, particularly regarding market-based dispatch, transparency, and non-discrimination in access to support schemes (European Parliament and Council, 2019b).

Role of the TFEU and subsidiarity

Article 194 TFEU defines the EU’s energy policy, which includes the internal market, reliable supply, and the promotion of renewable sources (Treaty on the Functioning of the EU, 2012). It states that Member States may look after energy security themselves, but they must not, through measures such as capacity mechanisms, unduly restrict the internal market or impede energy imports (European Commission, 2016). This provision is critical, as it balances national sovereignty in energy policy with the need to maintain the integrity of the EU’s single energy market. The subsidiarity principle allows Member States to design national capacity mechanisms flexibly, but only provided they are consistent with the goals of the Energy Union—especially the rules on free movement in energy, competitiveness, and support for climate targets (ENTSO-E, 2025). The European Commission monitors the compliance of national schemes (for example, checking whether capacity mechanisms allow access to foreign

capacity providers) to prevent market distortions. In practice, this has led to several in-depth state aid investigations, where the Commission has required modifications to ensure that schemes are proportionate, non-discriminatory, and do not provide overcompensation (European Commission, 2018a; European Commission, 2018b). Taken together, secondary legislation and EU legal principles ensure that capacity mechanisms are implemented transparently, fairly, and in line with the goals of the energy transition (AKD, n.d.). The legal framework is thus both a safeguard against protectionist measures and a tool to align national interventions with the EU's broader climate and market integration objectives, creating a coherent environment for investment in clean, reliable, and cost-effective capacity across Europe.

State Aid and Regulation of the Energy Market

EU state aid rule

State aid is generally prohibited under Article 107 TFEU, unless it falls under certain exemptions (e.g., for services of general economic interest, SGEL) (AKD, n.d.). This prohibition reflects the core EU principle that market competition should not be distorted by selective public financial advantages. Since capacity mechanisms typically involve financial support or subsidies (capacity payments), they are treated as state aid. The aim of such support is often to address market failures—for example, to encourage long-term investments in reliable and sustainable capacity that the market alone might not provide (Norton Rose Fulbright, 2016). In the energy sector, aid is common (e.g., for renewables and energy efficiency), but it must align with EU rules to avoid granting undue advantages and to prevent unfair competition (European Commission, 2022). The rationale is that while state intervention may be justified to safeguard energy security, it must not be used as a tool for disguised industrial policy favouring domestic companies. The European Commission therefore exercises comprehensive supervision over aid allocation and ensures that capacity mechanisms do not function as disguised subsidies without prior EU approval (AKD, n.d.). This oversight ensures that support measures are temporary, proportionate, and targeted at genuine security-of-supply concerns, rather than locking in outdated, carbon-intensive generation.

EU Guidelines (CEEAG)

The European Commission issued the Climate, Environmental Protection and Energy Aid Guidelines 2022 (CEEAG), which, among other things, require that capacity mechanisms be technologically neutral, include demand-side response (DSR), and be open to cross-border providers (European Commission, 2022). These guidelines reflect a shift in EU policy towards integrating flexibility and innovation into security-of-supply measures. The updated guidelines prohibit support for high-carbon sources and require states to review existing options before introducing capacity mechanisms (such as improved grid integration, greater imports, and smart demand management) (European Commission, 2022). The CEEAG also emphasize that capacity mechanisms should be designed to complement, rather than replace, market reforms. For example, before resorting to subsidies, Member States must explore structural solutions such as enhancing interconnections, developing storage facilities, and removing regulatory barriers to demand response (ACER, 2023). By embedding these conditions, the guidelines aim to prevent “over-procurement” of capacity and ensure that the decarbonisation pathway remains on track. This regulatory framework effectively treats capacity mechanisms as any other state aid measure—meaning they must be notified in advance to the Commission and approved based on a demonstrated need, proportionality of the measures, and clear evidence that the mechanism addresses a specific, proven adequacy gap.

Impact on competition

In-depth legal analysis and case law (e.g., the assessment of the UK Capacity Market, the Hinkley Point C case) have shown that the Commission requires strict adherence to competition rules. In the UK Capacity Market case, for instance, the Commission insisted on open, competitive auctions with equal access for new entrants and foreign providers, ensuring that the scheme did not merely reward

incumbents (European Commission, 2014). Similarly, in the Hinkley Point C nuclear plant aid case, the Commission scrutinized the terms of state guarantees to ensure they were proportionate and transparent (Vaughan, 2018). If national capacity mechanisms unduly privilege certain providers (e.g., existing fossil-fuel plants) over others, this triggers Commission scrutiny and possibly penalties. This risk is particularly high when schemes offer long-term contracts to specific technologies without sufficient competition, which can discourage innovation and lock in inefficient assets. The paper emphasizes that the EU regulatory framework is designed to spur innovation and market efficiency: aid is allowed only if it contributes to energy market efficiency, promotes sustainable solutions, and does not cause long-lasting distortions. Achieving energy stability requires balancing state intervention with competitive market mechanisms—through transparent rules and alignment of EU and Member State policies. This balance is not merely a legal requirement but a strategic necessity to ensure that Europe’s energy transition remains affordable, technologically dynamic, and resilient against both short-term shocks and long-term systemic changes in the energy landscape.

Market Competitiveness and Cross-Border Flows

Market competitiveness

The EU, through the liberalisation of the energy sector, has gradually dismantled monopoly structures and promoted a competitive environment in which prices reflect supply and demand (European Parliament and Council, 2019a). This liberalisation was achieved through successive legislative packages—the First, Second, and Third Energy Packages—culminating in the “Clean Energy for All Europeans” reforms, which aim to complete the internal energy market. Greater market competition fosters innovation in the generation, distribution, and storage of energy, and accelerates the transition to clean energy sources. It also encourages operational efficiency, as companies must continually adapt to remain competitive, whether by investing in new technologies, improving customer service, or reducing costs (ACER, 2023). By introducing market-based price formation, the EU has increased transparency, reduced opportunities for rent-seeking behaviour, and improved investor confidence. These effects are particularly important in the context of decarbonisation, where capital-intensive projects such as offshore wind farms or grid-scale storage require predictable and competitive market conditions to attract financing (IEA, 2024).

Capacity mechanisms and market distortion

Capacity mechanisms are essential for reliability, but if poorly designed they can impede competitiveness. If capacity mechanisms reward existing fossil capacities or favour certain producers, this creates market distortion, as those actors gain an unfair advantage (European Commission, 2016). This problem can be amplified when contracts for capacity payments are long-term and exclude emerging clean technologies, effectively locking the market into outdated infrastructure. For example, subsidising aging thermal power plants can slow the transition to renewables and reduce incentives for innovation. Historical experience from several Member States has shown that when capacity mechanisms are not technology-neutral, they tend to overcompensate conventional producers while under-representing demand-side solutions such as demand response, energy efficiency measures, or battery storage (Simoglou & Biskas, 2023). The European Commission has therefore repeatedly emphasized that capacity mechanisms must be technologically neutral and designed to avoid hindering the development of renewables, instead promoting flexibility by ensuring the inclusion of demand response, storage solutions, and cross-border resources in the same competitive process (European Commission, 2020). Well-designed capacity mechanisms can, conversely, enhance competition by lowering entry barriers for innovative companies, creating transparent bidding processes, and setting clear and predictable market rules. Such designs stimulate investment in advanced grid technologies, decentralised generation, and digital energy platforms, thereby accelerating both security of supply and the clean energy transition (ENTSO-E, 2025).

Cross-border cooperation

Market competitiveness is also strongly affected by the integration of energy markets across borders. Cross-border flows enable better utilisation of existing resources (for example, demand for wind and solar energy can be balanced across countries) and increase grid stability through enhanced flexibility of supply and demand (Thomas, 2025). Integration also reduces the need for costly national overcapacity, as countries can rely on imports during peak demand periods and export surplus when domestic demand is low. Greater integration tends to lower consumer prices, as countries with lower production costs can export energy to higher-cost markets. This effect is particularly visible in well-connected regions such as the Nordic market, where interconnectors allow countries to benefit from each other's generation mix by balancing hydropower, wind, and thermal generation. Capacity mechanisms can thus promote the inclusion of foreign resources if they are open to imports, thereby reducing the overall cost of supply reliability. Conversely, if capacity mechanisms operate as closed national schemes without involving foreign capacity, they risk perpetuating market fragmentation, leading to higher prices and resource inefficiencies in less well-connected markets. Such fragmentation can also undermine the EU's decarbonisation targets by incentivising investment in carbon-intensive domestic generation instead of cleaner imports. Therefore, EU rules generally require that national capacity mechanisms enable cross-border participation and do not exclude foreign suppliers (European Parliament and Council, 2019a). To facilitate this, Regulation (EU) 2019/943 sets out detailed provisions for cross-border participation, including the need for coordination between transmission system operators, standardised certification of foreign capacity, and transparent allocation of transmission rights for capacity contracts (ACER, 2023). Ultimately, a well-integrated and competitive internal electricity market—with capacity mechanisms designed to be open, transparent, and technology-neutral—can deliver both security of supply and economic efficiency. This dual achievement is central to the EU's long-term vision of a decarbonised, interconnected, and innovation-driven energy system.

Analysis and Evaluation of Capacity Mechanisms

Classification of Capacity Mechanisms

Capacity mechanisms in the EU can be classified into several categories: strategic reserves (backup capacities kept outside the market), capacity obligations (certificate systems for suppliers), and market-wide auction-based schemes (Norton Rose Fulbright, 2016). Each model reflects a different philosophy of balancing reliability with market efficiency. For example, Germany's strategic reserve ("Kapazitätsreserve") consists of designated power plants that operate only in emergency situations, thereby avoiding distortions to wholesale price signals while offering limited integration with normal market operations (BMWK, 2023). The French model is based on *capacity obligations*, where suppliers must secure capacity certificates from producers or demand-side response (DSR) providers before the winter period. It is a decentralised system that encourages trading of capacity certificates and places the primary responsibility for ensuring adequate capacity on suppliers. In contrast, the Italian model uses *reliability options*, designed as centralised market-wide capacity auctions. In this system, capacity is procured through competitive auctions in which a wide range of technologies—including DSR, storage, and cross-border providers—can participate. Other variations exist as well—Belgium's Capacity Remuneration Mechanism (CRM) combines auction-based procurement with strong incentives for new, low-carbon capacity, while Spain historically relied on targeted capacity payments to ensure availability, which were eventually phased out due to EU competition concerns (European Commission, 2016). The diversity of models shows that no single approach fits all; instead, design choices depend on national market structures, interconnection capacity, and the political priority given to decarbonisation versus immediate security of supply. The Table 1 below summarises these main CRM types and provides representative examples from EU Member States.

Table 1. Overview of Capacity Mechanisms in the EU

Category	Description & Key Characteristics	Example Countries
1. Strategic reserves	Capacity kept outside the market, activated by the transmission system operator (TSO) only in emergency situations; no impact on regular price formation; often includes fossil-based units; limited flexibility compared to market-based solutions.	Germany (DE) – <i>Kapazitätsreserve</i> (dedicated portfolio of reserve plants, activated only in crisis);
		Sweden (SE) – <i>Special Power Reserve</i> (winter reserve, activated only under scarcity);
		Finland (FI) – similar reserve model within the Nordic market;
		Austria (AT) – elements of reserves but not a fully developed CRM.
2. Capacity obligations	Suppliers or large consumers must procure a certain amount of certified capacity (via certificates or bilateral contracts). Decentralized approach with market-based trading of obligations.	France (FR) – <i>Obligation de capacité</i> (suppliers must secure capacity certificates from generators or DSR before winter);
		Spain (ES) – historical capacity payments, now largely phased out;
		Poland (PL) – initially obligation-based, later transitioned towards auctions.
3. Market-wide capacity auctions	Centralized competitive auctions for all required capacity; open to generators, demand-side response (DSR), storage, and cross-border providers; most consistent with EU principles of technological neutrality and cross-border participation; supports investment in new low-carbon resources.	United Kingdom (UK) – <i>Capacity Market</i> with annual auctions, includes new and existing capacity, DSR, and interconnectors;
		Italy (IT) – <i>Reliability options</i> with multi-year auction-based contracts;
		Belgium (BE) – CRM with reliability options, technology-neutral auctions open to foreign providers;
		Ireland (IE) – <i>Capacity Remuneration Mechanism</i> with long-term contracts;
		Poland (PL) – now largely auction-based;
		Latvia(LT) – considering a joint regional auction-based CRM (Latvia, Lithuania, Estonia - Baltics);
		Slovenia (SI) – potential candidate for a regional CRM (with Croatia under the LFC SHB block) based on market-wide auctions and cross-border participation.

Legal compliance of schemes

National capacity mechanisms designed as market-oriented models (competitive auctions) are generally more consistent with European rules than opaque payment systems. Transparent, competitive auctions are better aligned with EU state aid requirements, as they minimise the risk of overcompensation and ensure that support is proportionate to the identified adequacy gap (European Commission, 2020). For example, the UK Capacity Market introduced in 2014 (its first auction) was initially considered proportionate by the Commission, but it was later suspended and adjusted following the *Tempus Energy* case—where the General Court found procedural shortcomings in the Commission’s state aid approval process. As a result, reforms included stronger participation rights for demand response and more rigorous adequacy justifications. Schemes that offered long-term contracts for new capacity (e.g., up to 15-year contracts in the UK) also faced legal challenges due to alleged discrimination against demand-side providers (Norton Rose Fulbright, 2018). This demonstrates that equal treatment of different capacity resources is both a legal and an economic necessity. Transparency and a clearly demonstrated need (through robust adequacy analysis) are key to legal compliance, as is openness of capacity mechanisms to a wide range of technologies and providers, which prevents bias. Furthermore, mechanisms must be designed to avoid implicit discrimination against cross-border capacity, in line with the requirements of Regulation (EU) 2019/943.

Effectiveness of capacity mechanisms

Countries with auction-based capacity mechanisms (such as the UK, Poland, and Italy) have generally secured adequate reserves at lower cost than those relying on inflexible payment schemes. For example, Italy’s centralised capacity auction system has attracted both new-build low-emission plants and demand-side resources, reducing reliance on emergency measures and supporting the transition to cleaner generation (Terna, 2023). Poland’s capacity market, while initially criticized for its heavy reliance on fossil-fuel units, has gradually incorporated stricter emission performance standards and opened the door to cross-border participation. Germany’s strategic reserve approach ensures high reliability but allows for less flexible response to market signals. While it avoids the “missing money” problem for the plants assigned to reserves, it does not stimulate competition for new flexible capacity or actively integrate demand-side response. Comparative studies (ACER, 2023) indicate that dynamic, multi-year capacity auction models—especially those with transparent participation rules, open cross-border access, and technology-neutral criteria—are the most effective. These models allow the market to determine the price of capacity, incorporating bids from demand response and foreign imports, thus better balancing security and competitiveness. We conclude that capacity mechanisms should be seen as temporary and adaptable tools, since long-term subsidies can unnecessarily burden the market and consumers. Periodic reviews are essential to ensure that mechanisms remain proportionate, responsive to changing market conditions, and aligned with decarbonisation objectives. In addition, gradual phase-out strategies—combined with deeper market integration and investment in system flexibility—can help ensure that capacity mechanisms serve as a bridge to a more resilient and market-driven energy system, rather than becoming a permanent feature of national policy.

Legal Practice

Fundamental principles of EU law:

Capacity mechanisms must comply with the fundamental principles of EU law. Through landmark rulings (*Van Gend en Loos*, *Costa v. ENEL*, *Simmenthal*), the CJEU has developed the principles of direct effect, primacy, and uniform interpretation of EU law. This means that national capacity mechanism schemes must respect internal market requirements (for example, avoiding discrimination against imports under the free movement of goods and services) as well as EU state aid rules. The principle of primacy ensures that if a national measure on capacity mechanisms conflicts with EU law—such as a rule that restricts cross-border participation—then the EU law prevails (Craig & de Búrca, 2021). In the context of energy security, case law (e.g., *Federutility*, *Castelnou*) has shown that

objectives like universal service and security of supply may justify state intervention, but only as exceptions and with strict respect for proportionality. This means that capacity mechanisms are acceptable under EU law only if they are necessary to address a clearly identified adequacy risk, and if less restrictive measures (e.g., market reforms or improved interconnections) would not achieve the same objective. The principle of proportionality thus serves as a safeguard against overregulation, ensuring that state intervention does not exceed what is necessary to remedy the problem identified. Moreover, the principle of non-discrimination requires that capacity mechanisms treat domestic and foreign providers equally in terms of eligibility and remuneration. The Court has repeatedly emphasized that energy security measures must be compatible with the free movement of goods (Articles 34–36 TFEU) and services (Articles 56–62 TFEU), and that any derogation from these fundamental freedoms must be interpreted narrowly (European Commission, 2016).

Effect of case law

An analysis of past cases reveals that each national capacity mechanism arrangement must be tested against EU law. For example, the Court has annulled national measures that unjustifiably restricted competition (as in the *Tempus Energy* case concerning the UK Capacity Market) or that failed to respect the rights of foreign producers (in cases concerning cross-border trade restrictions). In *Tempus Energy*, the General Court highlighted procedural shortcomings in the Commission’s state aid approval, prompting reforms in how capacity mechanisms are assessed and justified. Similarly, in disputes over cross-border participation, the Court confirmed that excluding foreign capacity without objective justification is contrary to Treaty principles and internal market rules (ACER, 2023). It is important to note that judicial precedents, together with secondary EU legislation (electricity market rules, state aid guidelines, etc.), form a coherent framework within which capacity mechanisms must be implemented transparently and fairly. These sources of law not only clarify the boundaries of permissible state intervention but also shape the design features of national schemes—such as transparency in capacity auctions, technological neutrality, and periodic reassessment of necessity. We find that harmonised implementation of capacity mechanisms across the EU is a prerequisite for legal certainty: Member States are responsible for ensuring that when introducing capacity mechanisms, they follow the Court’s guidance (e.g., principles of equal treatment and proportionality), which in turn strengthens investor confidence in the single market. Legal certainty, in turn, reduces the risk premium for investments in new generation and storage capacity, thereby facilitating the energy transition while safeguarding security of supply. A consistent legal approach also supports the EU’s strategic goal of achieving an integrated, decarbonised, and competitive electricity market by mid-century.

Examples of Capacity Mechanism Implementation by EU Countries

To better understand the diversity of capacity remuneration mechanisms (CRMs) across Europe, it is useful to group them into three main categories according to their design and market impact: strategic reserves, capacity obligations, and market-wide capacity auctions. Each category reflects a different regulatory philosophy — from emergency-only reserves outside the market, to supplier obligations, to fully competitive auctions that are open to all technologies and cross-border participation.

France

The French model (“obligation de capacité”, established in 2017) is based on a decentralised capacity market, in which electricity suppliers must obtain capacity certificates from generators or demand response providers to cover their peak demand obligations in winter. This scheme, approved by the European Commission after an in-depth investigation, combines bilateral trading with centralised auctions and offers longer-term contracts for new capacity, providing both flexibility and investment security. One key strength lies in its dual approach—suppliers can meet their capacity obligations either through bilateral contracts or by buying certificates in organised auctions—which fosters liquidity and diverse participation (RTE, 2023). The model emphasizes technological neutrality and the inclusion of demand response, ensuring that capacity can be provided not only by generation units but also by

consumers reducing demand during peak periods. Nonetheless, France had to accelerate measures to boost competition in the capacity market due to concerns about market concentration, as a few large utilities initially dominated the certificate trading. Reforms have since introduced stricter transparency requirements, more frequent auction sessions, and stronger incentives for new entrants, especially in electricity storage and distributed generation.

Germany

As part of its *Energiewende* strategy, Germany employs a strategic reserve system (“Kapazitätsreserve”) separate from the regular electricity market. These reserves consist of power plants kept on standby and activated only by the grid operator in emergencies when market-based supply is insufficient. This approach greatly enhances grid security by ensuring emergency capacity is available without interfering with normal market price formation. However, it is also relatively rigid, since reserve plants are contracted for fixed terms and cannot respond to short-term market signals. Germany’s strategic reserves have often included older fossil-fuel units, raising debate about their long-term sustainability and compatibility with national climate goals. In response, Germany has tightened emissions limits for reserve plants and accelerated investments in electricity storage, green hydrogen, and demand response to reduce the size and carbon footprint of the reserve over time (BMWK, 2023). Additionally, Germany has expanded cross-border interconnections to reduce reliance on purely domestic reserves, reflecting a gradual shift toward a more integrated European approach to security of supply.

United Kingdom

The UK (before Brexit) introduced a market-wide Capacity Market in 2014, featuring annual auctions in which generators, demand-side response (DSR) providers, and interconnector operators compete for capacity agreements. The scheme was among the first in the EU and was initially hailed as a model of good practice, expected to deliver adequate capacity at lower cost. The auction format, with both one-year contracts for existing capacity and up to fifteen-year contracts for new capacity, provided clear price signals for investment while also rewarding flexible resources such as DSR. However, legal challenges emerged: initially, the scheme did not allow direct participation by certain DSR providers, leading to the *Tempus Energy* lawsuit and a subsequent annulment of the Commission’s state aid approval (the General Court found that the Commission had not properly assessed the role of DSR, amounting to discrimination) (Vaughan, 2018). This ruling forced a suspension and redesign of the scheme, which subsequently allowed full DSR participation and committed to opening future auctions to foreign capacity providers. In addition, the UK expanded opportunities for low-carbon technologies (e.g., battery storage, renewables paired with storage) to participate, ensuring better compliance with EU principles of technological neutrality and market openness.

Italy

The Italian system historically relied on capacity payments (so-called “capacity fee” or *rendita di capacità*), which were eventually halted amid legal uncertainty and EU competition concerns. In 2018, Italy launched a new market-based mechanism known as “reliability options,” whereby capacity providers participate in competitive auctions to secure option contracts (with two- to fifteen-year terms, depending on the type of resource). The design shares similarities with the UK model but incorporates features tailored to Italy’s context, such as locational price signals to address grid congestion and the eligibility of renewable hybrid plants (Terna, 2023). This model focuses on transparent auction procedures with multi-year agreements, promoting investment in cleaner generation and flexible resources. Italy also maintains a strategic reserve for exceptional situations, but experience has shown that the auction-based mechanism better reveals the true market cost of reliability and fosters competition among a wider range of technologies, including storage and aggregated demand response. Furthermore, Italy has been proactive in enabling cross-border participation (particularly with France, Slovenia, and Austria), which has helped optimise capacity resources at a regional level.

Poland

In 2017, Poland legislated a market-wide capacity mechanism, with the first auctions held at the end of 2018 (European Commission, 2018a). The Polish model is a centralised capacity market where power plants (predominantly coal-fired, given Poland's generation mix), demand response providers, and new investors compete for capacity contracts of up to five years (PSE, 2018). In 2018, the European Commission approved Poland's capacity market under EU state aid rules, concluding that it would ensure security of supply while preserving competition in the single market, subject to several conditions (European Commission, 2018a; European Commission, 2022). Among other things, Poland had to ensure technological neutrality (opening auctions to all capacity types, including DSR and foreign participants) and to comply with the EU's new environmental limits—specifically, after 1 July 2025, high-emission units (over 550 g CO₂/kWh) will no longer be eligible to receive capacity payments (European Parliament and Council, 2019a). These conditions compelled Poland to design its auctions in line with EU law—for example, capacity contracts awarded to older coal-fired plants include clauses that terminate support if emission limits are exceeded (Forum Energii, 2020). Poland's capacity market, now operational, has largely achieved its short-term resource adequacy goals, but its continued compliance will be reviewed as stricter EU climate rules take effect (Dentons, 2025; ClientEarth, 2018). The Polish example illustrates how EU oversight can shape a national mechanism—allowing its implementation but with safeguards to align it with internal market integration and decarbonisation objectives (AKD, n.d.; Craig & de Búrca, 2021; ENTSO-E, 2025).

Slovenia and the LFC SHB Block (Slovenia–Croatia–Bosnia and Herzegovina)

Slovenia, together with Croatia and Bosnia and Herzegovina, has for many years cooperated within the LFC SHB block, established in 2014 to ensure coordinated frequency control and the provision of system reserves. In 2019, the block was formally recognized and aligned with European network codes, notably the *Electricity Balancing Guideline (EBGL)* and the *Capacity Allocation and Congestion Management Regulation (CACM)*, making it an officially integrated part of the EU internal electricity market.

Building on this existing cross-border technical and regulatory structure, Slovenia could develop a capacity remuneration mechanism (CRM) fully compliant with Regulation (EU) 2019/943 and the Guidelines on State Aid for Climate, Environmental Protection and Energy (CEEAG, 2022). The most economically rational approach would be a joint mechanism with Croatia (and, in the longer term, potentially with Bosnia and Herzegovina), because such cooperation would bring:

- greater market liquidity and competition,
- lower capacity prices due to economies of scale,
- improved access to cross-border resources (e.g., Austria, Hungary, Italy).

This model could be designed around:

- a joint regional Resource Adequacy Assessment (RAA) following the ENTSO-E ERAA methodology,
- technology-neutral, market-wide capacity auctions open to demand-side response (DSR), storage, and cross-border providers,
- strict application of the 550 g CO₂/kWh emissions threshold after 2025, and the possible use of reliability options to reduce costs and avoid market distortions.

Although Slovenia could establish a stand-alone national CRM, such a mechanism would likely be less competitive and more expensive due to the country's small market size, limited pool of providers, and higher marginal capacity prices. A joint CRM with Croatia is far more sensible and cost-efficient, as it would create a larger, more attractive market for new investments and enable better integration of low-carbon technologies.

Importantly, Slovenia and Croatia each hold a 50% ownership stake in the Krško Nuclear Power Plant (NEK) — a unique arrangement in the EU — and NEK also forms the technical and strategic backbone of the SHB block. This shared asset makes close cooperation in ensuring long-term security of supply even more mutually beneficial and strategically significant. Development signals and national energy planning documents also indicate a high likelihood that Croatia would participate with its share of the market in a joint CRM, as this would enhance its own security of supply and reduce costs for consumers.

Bosnia and Herzegovina could join such a mechanism later, once its political and regulatory barriers — especially those arising from the internal complexity of its governance — are resolved. Until then, a special tailored agreement could be designed to respect BiH's internal constraints while ensuring it cannot block or delay CRM development between Slovenia and Croatia.

This approach would be fully compliant with the EU legal framework (Regulation 2019/943, CEEAG 2022) while ensuring cost-effective security of supply, stronger market integration, and accelerated decarbonisation. At the same time, it would strengthen Slovenia's role as a driver of regional cooperation on smaller electricity markets and provide a practical example of how EU-compliant capacity mechanisms can be developed even in politically complex regional settings.

Common features

Reviewing these national practices shows that most countries have opted for competitive auctions with multi-year contracts and participation by both supply and demand-side resources, including foreign capacity. This reflects the EU's policy emphasis on openness, transparency, and proportionality in capacity mechanism design (European Commission, 2022). Despite differences in energy systems and policy priorities, national schemes have had to meet common European criteria: EU rules require a clearly demonstrated adequacy need, technological neutrality, and inclusion of cross-border resources. The examples of France, the UK, Poland, Italy and others demonstrate that compliance with these rules often necessitates significant adjustments—such as broadening eligibility criteria, improving auction transparency, or facilitating access for foreign providers. In the longer term, further harmonisation of capacity mechanisms could be achieved through coordinated adequacy assessments, unified cross-border capacity certification, and even shared strategic reserves among groups of Member States. Recent discussions in smaller, interconnected markets — such as Slovenia and Croatia within the LFC SHB block — show that regional cooperation can be an efficient alternative to purely national capacity markets. Building a joint CRM on top of an existing operational block would improve market liquidity, reduce costs, and enhance compliance with EU rules on cross-border participation and technological neutrality. Overall, the evidence points to the need for ongoing alignment of national policies, continued investment in interconnection and storage infrastructure, and the reinforcement of EU-level frameworks so that capacity mechanisms can more effectively support competitiveness, innovation, and security of supply in the future.

Conclusion

In conclusion, EU law plays a pivotal role in shaping capacity mechanisms, which are essential for ensuring electricity supply reliability. Each national energy policy (and any capacity mechanism it introduces) must operate within the unified EU legal order, which enforces compliance with the principles of the internal market, equal treatment, technological neutrality, and legal certainty. These principles are not merely abstract ideals but practical constraints that influence the design, implementation, and evaluation of every capacity mechanism in the Union (Craig & de Búrca, 2021). Capacity mechanisms address critical challenges of energy security and the integration of renewable sources, but they are also deeply intertwined with issues of state aid, non-discrimination, and proportionality—meaning that any deviation from European rules can prompt legal action or the suspension of the scheme. The interplay between legal oversight and market design ensures that such mechanisms do not become vehicles for unjustified protectionism or permanent subsidy schemes, but remain targeted, temporary, and proportionate responses to clearly demonstrated adequacy concerns (European Commission, 2022).

European courts have set important milestones in this area: cases like *Federutility*, *Hinkley Point C*, and *Tempus Energy* have been assessed against strict criteria, confirming that a state cannot arbitrarily support energy producers without considering broader European interests and rules. In *Federutility*, the Court clarified the conditions under which public service obligations in the energy sector may justify intervention; *Hinkley Point C* tested the limits of long-term state support for large generation projects under state aid law (Case C-594/18 P, ECLI:EU:C:2020:742); and *Tempus Energy* reinforced the principle that demand-side response must be treated on an equal footing with supply-side capacity in

capacity markets. Together, these cases form a jurisprudential backbone that national legislators and regulators must heed when crafting or reforming capacity mechanisms

Meanwhile, secondary legislation (regulations, directives, and guidelines) has established transparent procedures—such as mandatory resource adequacy assessments, restrictions on payments to high-emission generators, and the inclusion of DSR and cross-border resources—to ensure that capacity mechanisms align with the EU’s long-term green transition goals (European Commission, 2022). These requirements link short-term security-of-supply measures with broader EU strategies, including the European Green Deal and the “Fit for 55” package, ensuring that reliability measures do not undermine decarbonisation objectives. In effect, EU law serves as a coordinated framework for the stable operation of the common electricity market. It guides Member States to implement capacity mechanisms in a manner that boosts market participants’ confidence, enhances transparency, and encourages investment in a sustainable energy future. By fostering openness and competition, this framework supports innovation in clean technologies and grid flexibility solutions—such as battery storage, green hydrogen, and advanced demand-side management.

Within this legal framework, capacity mechanisms can provide necessary support to ensure security of supply without undermining competition or climate goals. The challenge ahead lies in continuously adapting these mechanisms to evolving market conditions, integrating them more fully into cross-border adequacy planning, and ensuring that they serve as transitional tools towards a fully decarbonised, market-driven, and resilient European electricity system. By doing so, the EU can maintain security of supply while leading the way in building an integrated, low-carbon energy market that fosters both economic growth and environmental sustainability.

For smaller and interconnected markets such as Slovenia, the most rational and economically sound approach would be to establish a regional market-wide CRM together with Croatia within the existing LFC SHB block. This would leverage the already established technical and regulatory framework (formally recognized in 2019 under EBGL and CACM), increase market liquidity, attract new investments, and reduce the overall cost of ensuring capacity adequacy. A particularly important factor is that Slovenia and Croatia each own 50% of the Krško Nuclear Power Plant (NEK), which also forms the technical and strategic backbone of the LFC SHB block — a unique arrangement in the EU that makes deeper cooperation on long-term security of supply especially beneficial for both countries. Although Slovenia could establish a stand-alone national CRM, such a mechanism would likely be less competitive and more expensive due to the small market size and limited pool of providers. A bilateral CRM with Croatia would therefore be more cost-effective and fully compliant with EU rules, remaining open to cross-border participation, technology-neutral, and fully aligned with Regulation (EU) 2019/943 and the CEEAG guidelines (2022). Bosnia and Herzegovina could join such a mechanism later through a specially tailored agreement, designed to respect its internal political and regulatory context while ensuring that it cannot block or delay the development of a Slovenian–Croatian model.

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From Housing to Tourist Accommodation ; Architectural Transformations in the City of Struga

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Abstract

Problem Statement: The rapid increase in tourism in the city of Struga has led to growing pressure on the existing and upcoming individual housing stock. Individual residential buildings, originally designed for single-family living, are increasingly being repurposed for tourist accommodation. This shift has significantly influenced the architectural character and spatial organization of these buildings, often occurring outside of coordinated urban planning strategies. The transformation poses challenges to architectural identity, spatial coherence, and the residential integrity of urban neighborhoods.

Purpose of Study: The purpose of this study is to explore the architectural “consequences” and typologies of converting individual residential buildings into tourist accommodation in Struga. The goal is to analyze the nature of these changes and understand how they reflect to the architectural function and typology of the individual residential building, a trend driven by economic and tourism-related pressures.

Methods: The study is based on quantitative methods including on-site observations, architectural documentation, and comparative analysis of architectural drawings from a private residence into a tourist accommodation facility. By documenting and comparing the spatial distribution before and after the change, the research identifies how the interior program was restructured to accommodate new functions.

Findings and Results: The research reveals significant transformations in the internal spatial layout, including subdivision of interior spaces the addition of private bathrooms in the accommodation units, modified entrances. These architectural changes directly respond to the functional demands of tourist accommodation, resulting in a departure from the original domestic spatial hierarchy and use.

Conclusions and Recommendations: The conversion of residential buildings into tourist facilities is reshaping the urban landscape of Struga. The study recommends the development of clearer architectural and urban guidelines that address the intersection of housing and tourism, ensuring that future transformations are both functionally effective and architecturally coherent.

Keywords: Individual residential buildings, Tourist accommodation, Transformative typologies, Struga

Introduction

In the urban context of Struga, the building stock is largely defined by profane architecture, most distinctly manifested in individual residential buildings. In the transition period, particularly in the last two decades, these buildings have undergone functional and morphological transformation, as the traditional role of the private residence has increasingly been reconfigured into tourist accommodation.

The phenomenon of transforming individual residential buildings into tourist accommodation has been examined by several authors (Collado Baldoquín et al, 2020; Guttentag D, 2015; Russo, A.P. 2002; Agyeiwaah, E. 2019;), who underline not only its effects on housing markets and socio-spatial dynamics, but also its architectural consequences and its impact on the city as a whole. Such studies emphasize that the reconfiguration of private residences into tourist lodging extends beyond the domestic scale, influencing urban form, neighborhood character, and the broader processes of city transformation.

According to Zuo et al. (2022), the primary function of traditional houses has been transformed from residential and agricultural use into commercial use for tourists, within the context of rural commodification driven by economic capital, furthermore, they emphasize that following the development of tourism, the living space of residents has been commodified, and their private space has been converted into public space. Wachsmuth and Weisler (2018) emphasize that, in general, short-term rentals of apartments or other non-conventional accommodation spaces, led by “Airbnb,” generate unequal urban transformation, resident displacement, the commercialization of everyday life, regulatory conflicts, and new forms of insecure labor, all of which call for further research and appropriate policy responses.

Tourism, as a multidisciplinary activity, exerts a profound influence on social values and multiple domains, including architecture and urbanism. As C. N. Schulz (1980) observes, ‘Architecture means to visualize the *genius loci* (the spirit of place), and the task of the architect is to create meaningful places, thereby assisting human beings in their act of dwelling. In this light, the increasing adaptation of individual residential buildings into tourist accommodation in Struga illustrates how tourism extends its impact from social and economic dimensions into the architectural fabric and the urban context as a whole, reshaping both the domestic sphere and the city’s spatial identity.

Individual housing, as the primary form of living in both urban and rural environments, has in recent decades increasingly been subjected to processes of transformation under the influence of tourism. The conversion of individual residential buildings into tourist accommodation facilities has become a visible phenomenon in many cities, resulting in changes to their functional, architectural, and urban structure. This process is neither isolated nor unique to the city of Struga but forms part of broader global trends in which tourism exerts ‘pressure’ on the residential fabric across diverse architectural contexts.

The architecture of individual residential buildings with a primary housing function is characterized by a spatial organization directed towards meeting the permanent needs of family dwelling. It is based on a stable functional structure, with a morphological expression harmonized with the local context, reaffirming the private and intimate dimension of space. In contrast, the architecture of individual residential buildings under conditions of tourist accommodation represents a modified form determined by the requirements of temporary service functions. In this case, spatial organization is adapted to increased capacity and flexibility, the morphological expression is subjected to changes that emphasize attractiveness and recognizability, while the typological structure is transformed into a hybrid form that departs from the original residential model. The difference between the two forms of dwelling arises from their distinct purposes: the first is focused on continuous habitation, while the second is oriented toward the market logic of tourism and temporary lodging. This distinction leads to a redefinition of their function, morphology, and role within the urban fabric.

The transformation of individual housing under the influence of tourism represents a global phenomenon that has given rise to hybrid architectural forms and evolving urban morphologies. Residential space is

increasingly commercialized and partially opened to the public, which in turn contributes to the fragmentation of traditional spatial and social structures. Through processes of adaptation, restoration, or new construction, individual houses are reconfigured into multifunctional structures that renegotiate the relationship between dwelling, hospitality, and tourism. From an urban planning perspective, this dynamic generates significant challenges for regulation, spatial governance, and the sustainable development of the residential urban fabric.

Such interventions also carry urban implications, as the accumulation of repurposed buildings generates increased density and additional pressure on urban infrastructure, while regulatory gaps allow for the expansion of informal practices and architectural compromises, **underscoring the need for further research into their impact on architectural integrity, design quality, and the long-term transformation of the built environment.**

Materials and Research method

This research is based on quantitative comparative methods and focuses on a detailed case study of an individual residential building in Struga that has been adapted for tourist accommodation. Data have been collected through direct surveying and architectural documentation, including the analysis of original blueprints on which the building was constructed and used for several years, compared with the current adapted condition. The focus is placed on measurable changes in form, function, and spatial organization, allowing the quantitative approach to provide an objective and systematic assessment of the transformation process.

The residential building selected for this research (Figure 1), is **situated near the central urban core of Struga, in close proximity to the shoreline of Lake Ohrid**. Commonly referred to as the “**Морска Куќа**” (Sea House), it represents a **characteristic residential typology** that was **commonly manifested across the surrounding neighborhood during the same period**. Constructed in **1985**, the building was originally designed to function as an **individual family dwelling**, reflecting the residential planning and architectural tendencies of its time.

The “Морска Куќа” (Sea House), originally conceived as a residential structure with a pronounced and complex programmatic composition, was designed to accommodate multiple generations within a single dwelling. At the time of its construction, the spatial program was organized to include living areas, bedrooms, guest rooms, bathrooms, storage spaces, and garages, complemented by a spacious terrace overlooking Lake Ohrid, which served as a key seasonal living area predominantly used during the summer months.

Figure - 1: “**Морска Куќа**” (Sea House) - Individual house with tourist facilities in Struga, source: author (2024)



Below (Figure 2), are presented the architectural plans of the original structure at the time of the building's construction, along with the digitized plans, in order to provide a clearer understanding of the initial spatial organization.

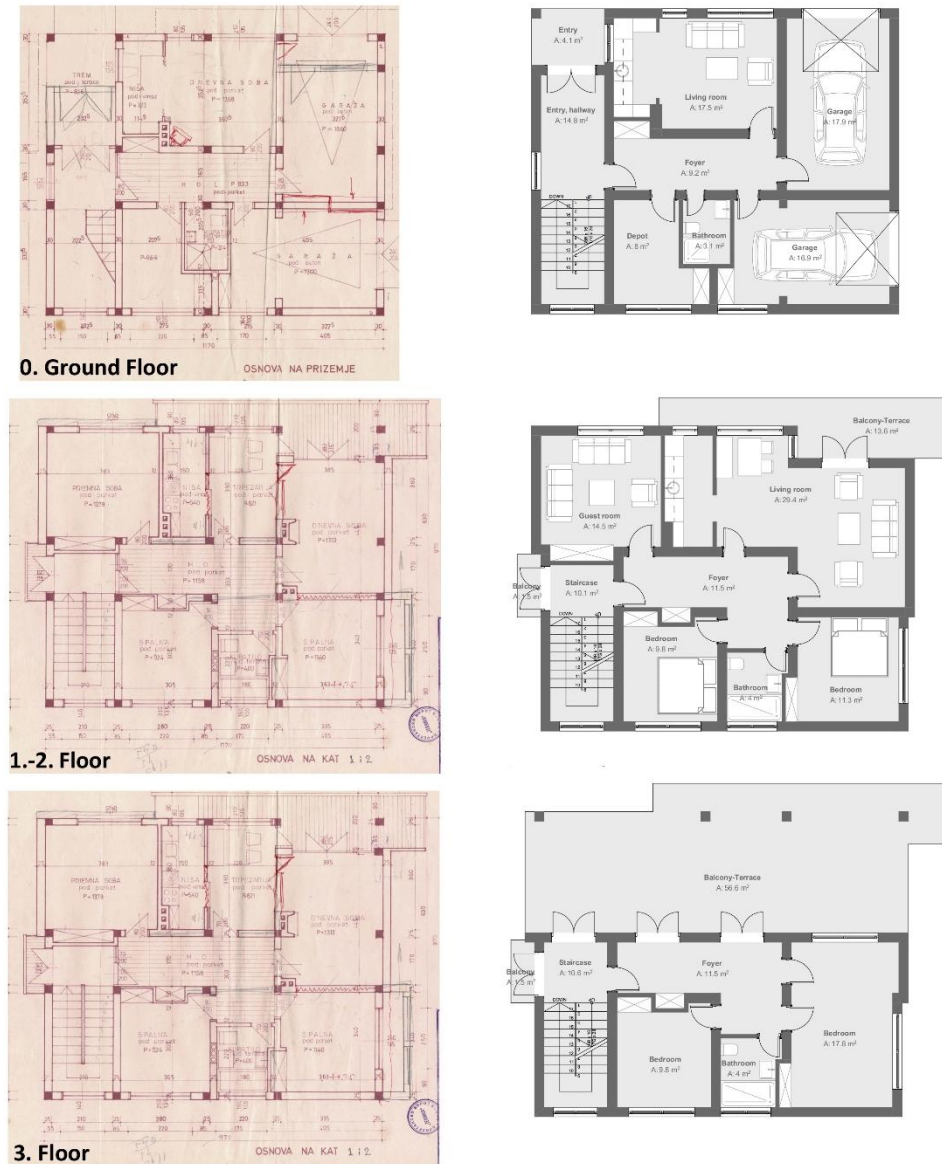


Figure - 2: Plans of the original structure at the time of the building's construction along with digitized plans (right), before the transformation , source: author (2025)

The original built situation, completed in 1985, maintained its initial residential function and spatial organization until approximately the year 2000. During this period, the dwelling operated as a conventional single-family house, characterized by a clear separation of living, sleeping, and service zones.

However, after year 2000, gradual spatial and functional transformations began to emerge, driven by changing socio-economic conditions and the growing demand for tourist accommodation within the urban context of Struga.

This adaptive process occurred progressively space by space, as homeowners introduced new partitions, redefined circulation paths, and created additional walls and access points to accommodate temporary guests. These architectural interventions enabled the coexistence of two distinct yet interconnected spatial programs: one reserved for the permanent residents, and another adapted for short-term tourist use. As a result, the house evolved from a purely residential structure into a hybrid dwelling, combining private domestic functions with spaces intended for touristic accommodation.

The current situation (Figure 3), presents a comprehensive view of the spatial transformation process, illustrating how the original residential structure has been progressively adapted to meet the requirements of tourist accommodation.

Figure - 3: Current housing layout after the transformation for tourist accommodation, source: author (2025)

In the following chapter, a comparative quantitative method will be applied to evaluate the



transformation of the original residential structure into its current form adapted for tourist accommodation. The analysis will focus on measurable differences in spatial organization, functional distribution, and architectural modifications, highlighting how these quantitative changes reflect the building's shift from private residential use to a tourism-oriented function. This approach will provide

an objective basis for assessing the degree and characteristics of the architectural transformation within the examined case.

Results

From the analyzed example of “Μορσα Kyka” (Sea House), the comparative visualization between the pre-transformation and current adapted condition will be presented through two complementary diagrams: an integrated spatial model (Figure 4), illustrating the building in its unified form, and an analytical exploded model (Figure 5), revealing the spatial and functional structure of the transformation.

Figure 4. Integrated spatial model between the pre-transformation (left) and current adapted condition (right), source: author (2025)

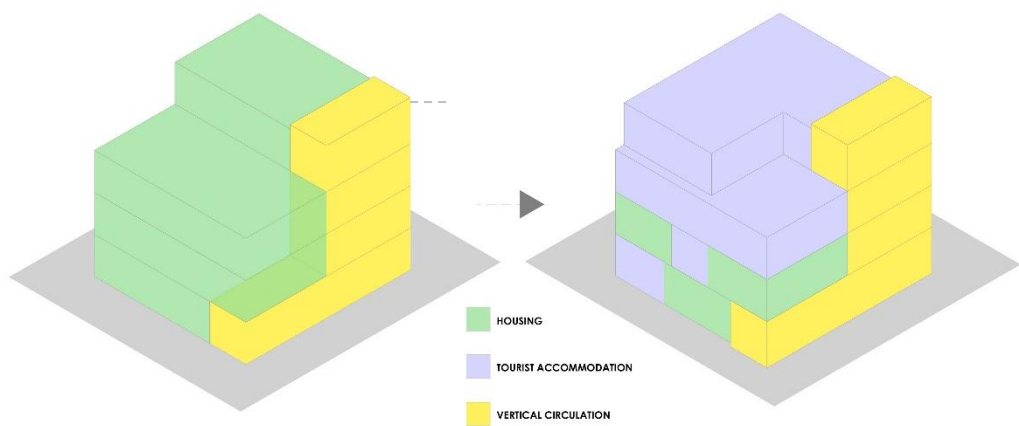


Figure 5. Exploded axonometric spatial model between the pre-transformation (left) and current adapted condition (right), source: author (2025)

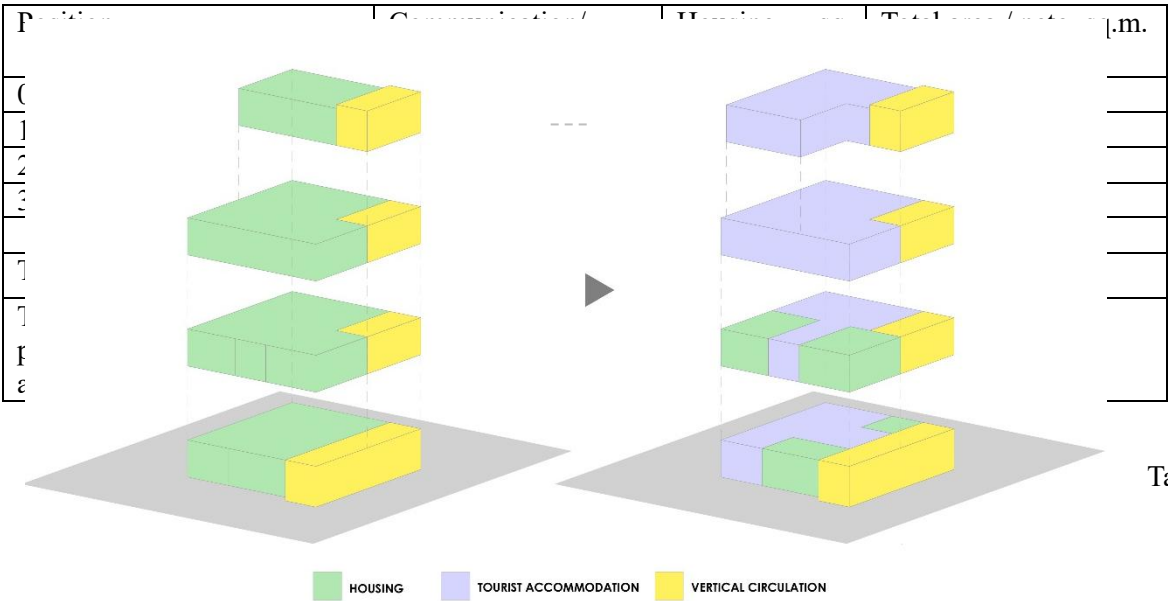


Table 1.

Tabular presentation of the distribution of net floor area percentages (%) by functional purpose, distinguishing communication and housing functions in the pre-transformation period.

Position	Communication/ circulation sq. m.	Housing sq. m.	Tourist accommodation sq. m.	Total area / neto sq.m.
0.Ground Floor	19.04 m ²	25.6 m ²	47.38 m ²	101.26 m ²
1.Floor	10.08 m ²	35.13 m ²	45.98 m ²	98 m ²
2.Floor	10.08 m ²	/	81.11m ²	99.3 m ²
3.Floor	10.63 m ²	/	55.65 m ²	71.21 m ²
Total area / neto sq.m.	49.83 m ²	60.7 m ²	230.12	340.65 m ²
Total Average neto percentage per functional area %	14 %	18 %	68 %	100 %

Table 2. Distribution of net floor area percentages (%) by functional purpose — communication, housing, and tourist accommodation, current adapted condition.

Regarding the distribution of functional purposes before and after the transformation, as presented in the tabular results and comparative diagrams, significant changes can be observed in the functional typology and morphology of the building. Certain segments of horizontal circulation are not fully integrated within either the housing or tourist accommodation zones, as they serve as shared transitional spaces accessible to both functional groups.

In the tabular percentage presentation (Table 1), the building in the pre-transformation period functioned exclusively as a housing typology utilized by the homeowners. Excluding the vertical circulation areas, approximately 84 % of the total net floor area was utilized directly by the residents.

In the post-transformation period (Table 2), excluding the vertical circulation area, approximately 18 % of the total net floor area remains designated for residential use, while the newly introduced tourist accommodation facilities account for around 68 % of the total space.

Through gradual and targeted modifications, certain areas of the dwelling have been redefined to support short-term stays, including the introduction of new partitions, independent access points, and functional reorganization of interior zones. These changes demonstrate the homeowners' adaptive response to emerging economic opportunities within the local tourism market, while simultaneously striving to preserve essential elements of private domestic life. The resulting spatial configuration represents a hybrid model, in which private and touristic domains coexist within the same architectural framework. This figure visually emphasizes the relationship between the original layout and its contemporary adaptations, revealing the ways in which spatial flexibility, incremental construction, and functional diversification have enabled the transformation of the dwelling for touristic purposes.

In the third storey, terraces have been enclosed and reconfigured to create additional guest rooms or semi-private leisure zones, while the garage has been transformed into an accessible unit intended for short-term rental. These adaptive interventions demonstrate the homeowners' pragmatic response to the growing tourism market and reveal how peripheral architectural elements can acquire new functions when integrated into a broader framework of spatial transformation.

The increasing demand for tourist accommodation has also influenced the use of secondary spaces within the dwelling, including the garage and upper-level terraces. Over time, these auxiliary areas, originally designed for parking, or outdoor domestic activities, have been gradually converted into functional tourist facilities.

It is also important to note that this type of transformation from housing to tourist accommodation predominantly occurs during the summer season, when the demand for short-term stays is at its peak. During this period, the original residential areas are significantly reduced, while the majority of the building is utilized for tourist purposes. The permanent residents or stakeholders typically “own” only a limited portion of the dwelling, which are reserved for family use.

As time has passed, the spatial configuration of the dwelling has gradually shifted, resulting in a noticeable reduction of the homeowners private area in favor of spaces adapted for tourist accommodation. Several parts of the house now serve dual purposes, functioning as shared spaces accessible to both residents and guests, which demonstrates a high level of spatial overlap and multifunctional use within the dwelling. The evolving spatial relationship between private and touristic domains highlights the flexibility of the original structure and its capacity to accommodate changing socio-economic conditions and seasonal needs.

Conclusions

The transformation of individual residential buildings in Struga from traditional housing typologies into tourist accommodation units represents a significant shift within the city’s architectural and spatial development. This process, primarily driven by the expansion of seasonal tourism and the absence of comprehensive regulatory mechanisms, has resulted in substantial modifications to the spatial organization, functional composition, and morphological characteristics of many existing structures.

The analyzed example belongs to the category of buildings that have been adapted from their original residential function to serve the needs of tourist accommodation. In parallel, other building types have been conceived and constructed exclusively for tourism purposes from the beginning, reflecting a clear orientation toward short-term occupancy and visitor-based use. This distinction illustrates two concurrent transformation pathways: one characterized by functional adaptation of existing dwellings, and the other by purpose-built tourism-oriented architecture.

The comparative quantitative analysis indicates a considerable reduction in the spatial share of permanent housing areas, accompanied by a notable increase in zones designated for short-term occupancy. Circulation spaces, particularly shared vertical and horizontal elements, have acquired a transitional role, mediating between private residential and commercialized areas within the same structure.

These architectural and spatial transformations reveal an ongoing redefinition of the residential environment, reflecting broader socio-economic changes associated with tourism-driven development. The findings underscore the necessity for context-sensitive planning and design strategies that acknowledge these evolving spatial practices and ensure a balanced coexistence between permanent habitation and temporary accommodation within the urban fabric of Struga.

This transformation presents both opportunities and challenges for the urban development of Struga. While it enables property owners to gain economic benefits from tourism activities, it often occurs through informal practices that fall outside regulatory control and generate negative impacts on the city’s spatial structure. To address these issues, local authorities, civil organizations, and urban professionals should enhance collaboration in researching, monitoring, and managing this process, ensuring that the growth of tourist accommodation supports the public interest, urban integrity, and the sustainable development of Struga.

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Gentrification and touristification of the Old Square in Ljubljana

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In recent decades, historic city centres have been facing various processes of social, functional, and spatial transformation, with gentrification and touristification having a particularly significant impact on their development and appearance. Over the past two decades, Old Square in Ljubljana has also undergone considerable social and functional transformation, largely because of contemporary urbanisation processes. This paper presents the processes of gentrification and touristification, which we have confirmed—based on various methods—even in such a small area as Old Square. Since residents are moving out mainly due to the negative impacts brought by tourism and the increasing number of visitors, we can also speak of the process of tourism gentrification. The influence of tourism is also evident in the functional structure, as the number of hospitality and accommodation establishments has increased significantly over the past two decades. Nevertheless, the results of a survey on living conditions show that most residents consider living in Old Square to be of high quality.

Keywords: gentrification, touristification, tourist gentrification, social and functional transformation, Old Square in Ljubljana

Introduction

The old town centre of Ljubljana, as it exists today, did not emerge from a single nucleus but from a combination of geographical, economic, and social conditions that shaped several smaller settlement nuclei. Over time, these merged into three walled areas—Old Square, City, and New Square—that formed medieval Ljubljana (Vilfan, 1956; Korošec, 1991). Although there are differing theories about the sequence in which these “three towns” were established, Old Square is generally considered the oldest, dating back to no later than the 12th century. Located between the Ljubljanica River and Castle Hill, it was the first to be granted the right to hold a weekly fair (Kos, 1955; Korošec, 1991; Štih, 2010).

In this paper, the term Old Square refers to one of the three historical parts of Old Ljubljana, which was enclosed by city walls in the Middle Ages. The area extended from Tranča, where the walls separated it from the City, through the central part—St. James Square, today’s Levstik Square—where the three main streets (Old Square, Upper Square, and Levstik Square) converged, and further towards Rožna, Hrenova, and Vožarski pot streets, where the walls marked the boundary towards Prule. Over the centuries, various historical events have altered its appearance, while in the last two decades it has experienced significant social and functional transformations, largely because of contemporary urbanisation processes affecting historic city centres.

The purpose of the research presented in this paper was to determine whether gentrification and touristification processes are occurring in the Old Square area and to assess their impact on residents’ quality of life. The analysis employed several methods developed as part of a previous bachelor’s thesis^[1]. Functional transformation was assessed by comparing the current land use with that of twenty years ago, while a survey of residents provided insights into living conditions in the area.

Contemporary urbanization processes

Gentrification

The term *gentrification* was first introduced in 1964 by British Marxist sociologist Ruth Glass to describe the changes occurring in Islington, London. The renovation of older housing stock led to rising property prices and an influx of higher-income residents, forcing many of the original, predominantly working-class, lower-income inhabitants to leave (Shaw, 2008; Slater, 2011). Gentrification is generally understood as a tool, objective, outcome, or unintended consequence of revitalisation processes in declining urban neighbourhoods characterised by physical decay, concentrated poverty, and ethnic segregation. Its principal consequences include the physical renovation of deteriorated housing and infrastructure, as well as shifts in the social composition of the population. In recent decades, gentrification has become a global phenomenon—both increasingly widespread and locally specific—manifesting in diverse forms that spatially, physically, demographically, and economically transform neighbourhoods. These transformations often result in the displacement of long-standing residents (Zuk et al., 2018; Ploštajner et al., 2019). Gentrification frequently occurs in successive “waves”. The first wave often consists of migrants with relatively low incomes but higher levels of education, who are attracted by affordable housing, distinctive architectural character, and greater ethnic diversity. They are followed by more affluent, highly educated residents who move in once the neighbourhood has already undergone partial renovation and reinvestment. Subsequent phases of physical upgrading drive up property values and living costs, ultimately displacing residents unable to afford the increased expenses (Zuk et al., 2018).

The concept of gentrification has broadened considerably and today encompasses more than changes in the local population structure and the renovation of the housing stock. It also includes the construction of new residential and non-residential buildings. Correspondingly, several subtypes have emerged, including commercial gentrification, tourist gentrification, state-led gentrification, and environmental gentrification (Shaw, 2008; Pelko, 2013; Ploštajner et al., 2019; Čigon, 2023). Gentrification no longer occurs exclusively in areas inhabited by low-income populations; it is also present in high-income

neighbourhoods. While traditionally regarded as an urban phenomenon, it is now observed in suburban districts, coastal towns, and rural settlements (Shaw, 2008; Zuk et al., 2018). Its drivers extend beyond purely economic factors to include shifting values, lifestyles, and patterns of consumption. These changes have given rise to new social groups for whom living in central urban areas is attractive due to proximity to workplaces, cultural institutions, and restaurants. Such groups often consist of young, single- or two-person households, typically employed in business sectors or liberal professions (Rebernik, 2008; Shaw, 2008).

Today, gentrification is a global phenomenon, also present in Slovenia—particularly in larger cities such as Ljubljana and in tourist destinations like Bled and the coastal areas. In certain parts of Ljubljana with predominantly lower-income and older, substandard housing stock, renovation and the construction of new, mostly above-standard residential and commercial buildings have become increasingly common. Due to their central location, these developments attract wealthier residents. The resulting high demand drives up real estate prices, ensuring substantial returns for investors but displacing residents who can no longer afford to live there (Rebernik, 2008; Pelko, 2013). Historically, Old Ljubljana, including Old Square, was inhabited by residents with lower educational attainment, less prestigious occupations, and modest incomes, while housing conditions were generally poor. Today, renovated apartments and the area's central location attract higher-income individuals, as reflected in changes in the educational and occupational structure of the population (Rebernik, 1999).

In Ljubljana, gentrification is primarily evident in the relocation of residents, changes in the social composition of the population, and alterations to the local environment, including urban morphology and the range of services. Although these processes are less intense than in many European or global cities, they are nonetheless significant. In Ljubljana, gentrification is largely expressed through the beautification of the city centre and the transformation of its services and public spaces. A key step in this process was the closure of the city centre to motor traffic in 2013, which contributed to a marked increase in restaurants and other service-oriented businesses targeting tourists and visitors. This transformation has boosted visitor numbers and, consequently, the potential rental value of central properties. Private investors have taken advantage of these conditions by developing or renovating high-end apartments, particularly in culturally significant areas that attract both tourists and consumers, thereby influencing property values and accelerating the gentrification process (Ploštajner et al., 2019).

Touristification

Tourism has become an increasingly important economic activity and a significant agent of spatial, economic, social, and cultural transformation worldwide (Sequera & Nofre, 2018). These transformations can yield both positive and negative consequences. The term *touristification* broadly encompasses all the impacts tourism has on a given area and the resulting changes. It extends beyond the construction or renovation of tourism-related infrastructure to include rising prices for food, beverages, and rents, which affect the daily lives of residents. In some cases, tourism can come to dominate an area to such an extent that local traditions are altered or commodified, leading to a convergence in how both tourists and residents perceive them (Zgrinskić, 2019). In Ljubljana's city centre, touristification is manifested through the growing number of bars, restaurants, shops, and commercial events that attract visitors. This area exhibits the highest prices and rents for both housing and services, as well as the most active real estate market—trends driven by the combined effects of touristification and gentrification (Ploštajner et al., 2019). Although Ljubljana receives fewer visitors than many other European cities, tourism is nonetheless reshaping the city's image and influencing residents' lives. As visitor numbers increase, especially in the historic old town, long-term residents are gradually being displaced. The practice of renting rooms and apartments to tourists inflates property values and rents, reducing affordability for local inhabitants. This process diminishes the social diversity of the city centre, which becomes increasingly dominated by visitors and tourism-oriented services. Over time, such overcrowding may also negatively affect tourists, who often seek authentic experiences and insights into local life and traditions. The changing service landscape reflects this dynamic: many hospitality business owners prioritize short-term profits from tourists, which can lead to overcrowding, deteriorating service quality, and rising prices. These factors risk discouraging repeat visits and may

undermine the long-term sustainability of tourism in the city. The seasonal nature of tourism presents an additional challenge, with most visitors arriving during the summer months—often at the expense of Croatia’s coastal destinations—while the city remains relatively empty from October to April. However, strategic initiatives aimed at extending the tourist season have begun to attract visitors during off-peak months and to redistribute tourist flows to other parts of the city (Daugul, 2018).

Tourist gentrification

Tourism can cause population displacement and often acts as a form of gentrification, making it difficult to clearly distinguish between touristification and gentrification. Displacement is driven not only by wealthier, more educated residents but also by tourists, which is why tourism can itself be understood as a gentrification process (Cócola-Gant, 2015, 2018a). Kevin Fox Gotham, in his research on the Vieux Carré neighbourhood in New Orleans, defined tourist gentrification as the transformation of a middle-class neighbourhood into an exclusive enclave dominated by entertainment venues and tourist facilities (Gotham, 2005). Agustín Cócola-Gant interprets touristification as gentrification caused by tourism, while reserving tourist gentrification for the transformation of a residential area into a tourist centre (Cócola-Gant, 2018b). Similarly, Luis Mendes observes that historic districts in southern European cities, once inhabited by the working class, have been transformed into tourist areas where traditional housing and commerce have been replaced by leisure activities and tourist accommodation, accompanied by the emigration of the local population (Mendes, 2018). Tourist gentrification thus describes a process in which tourism accelerates the gradual outmigration of residents. The arrival of visitors stimulates the real estate market, often building on earlier gentrification driven by affluent newcomers. Apartments are converted into tourist accommodation, and formerly residential districts become tourist hubs catering to visitors. Local businesses may be displaced or repurposed, while increased noise, congestion, and other disturbances reduce the quality of life for remaining residents. Platforms such as Airbnb exacerbate the process by reducing the supply of long-term housing, raising property prices, and making both housing and commercial rents less affordable. As a result, local craftsmen and traders are often replaced by enterprises aimed primarily at tourists (Cócola-Gant, 2018a). Although Ljubljana cannot be directly compared to southern European cities, where tourist gentrification is more pronounced, similar trends can be observed. The old town centre experiences overcrowding during peak tourist seasons, and the number of short-term rentals is steadily increasing. This drives up real estate prices and reduces housing availability for locals, contributing to gradual population displacement.

Methodology

We applied several research methods, some of which were adapted to the small scale of the study area: (a) We analysed both international and domestic scientific and professional literature on gentrification, touristification, and tourist gentrification. Additionally, we reviewed literature concerning the functional structure of the study area.

(b) We examined statistical data from the Statistical Office of the Republic of Slovenia for the 2002, 2011, and 2021 censuses. For the Old Square area (including Old, Upper, and Levstik Square streets, as well as Rožna and Hrenova streets), we obtained data on population by major age groups, household size, education, and citizenship. Income data at this spatial level were unavailable.

(c) Using data from the Surveying and Mapping Authority of the Republic of Slovenia and the GisKD viewer, we investigated building ages and renovations. Although these datasets sometimes differ from current field observations, they provided a sufficiently accurate overview, particularly of roof and facade renovations, which were crucial for assessing building conditions.

(d) We examined the real estate portal Nepremicnine.net, identifying nine apartments for sale in Old Ljubljana, and compared their prices to the Ljubljana average.

(e) Due to the absence of official tourism statistics at the Old Square level, we analysed accommodation offerings, guest demographics, and satisfaction via individual accommodation websites and the online travel agency Booking.com.

(f) Using ArcGIS Map Viewer, we created four maps showing the distribution of activities in Old Square, marking restaurants, shops, hotels, private accommodations, and other services. We compared these with a map of activities in Old Ljubljana from 2000 to identify changes.

(g) We conducted a survey among Old Square residents by distributing online questionnaire links via mailboxes. Although participation was limited, the survey provided insight into living conditions. The questionnaire included 18 questions—6 closed-ended and 12 open-ended, allowing respondents to share their opinions.

4 Results

The following section presents the results of our study, which address the research question of whether gentrification and touristification are occurring in the Old Square area of Ljubljana and how these processes affect the quality of life of the local population.

4.1 Social composition of the population

Data on the population by major age groups indicate that the total population of Old Square decreased by 13.5% between 2002 and 2021. This decline is noteworthy given that Old Ljubljana has been experiencing reurbanization since the 1990s (Rebernik, 1999), suggesting that the decrease may be linked to the negative impacts of tourism. As shown in Table 1, the working-age population (15–64 years) remains the largest group, yet it declined by 16.5% over the same period. The number of young people aged 14 and under decreased even more sharply, by 34%. Meanwhile, the population aged 65 and over dropped by 11.6% between 2002 and 2011 but then increased significantly by 44% between 2011 and 2021.

Table 1: Residents of Old Square by major age groups in 2002, 2011 and 2021.

	2002	2011	2021
0–14 years	141	114	93
15–64 years	668	623	558
65 years and older	120	106	153
total	929	843	804

Source: Statistical Office of the Republic of Slovenia (2023a).

Despite the overall decline in population in the Old Square area, the number of households increased by 10% between 2002 and 2021 (Table 2). Single-person households dominate, comprising over 55% of all households in 2021, with their number rising sharply by 64.6% during this period. Two-person households increased by 16.9% between 2002 and 2011 but then declined by 12.4% by 2021. The number of three-person households remained relatively stable, increasing slightly by 4.5% between 2002 and 2011 and remaining unchanged thereafter. In contrast, households with four or more members decreased significantly, from 24.7% of all households in 2002 to just 8.6% in 2021—a decline of 61.5% over the two decades.

Table 2: Households in Old Square by size in 2002, 2011 and 2021.

	2002	2011	2021
single-member	144	214	237
two-member	83	97	85
three-member	66	69	69
four or more members	96	53	37
total	389	433	428

Source: Statistical Office of the Republic of Slovenia (2023b).

Between 2002 and 2021, the number of residents with no education or incomplete primary education in Old Square decreased dramatically by 75% (Table 3). Those with only primary education declined by 45.3%, and residents with lower or secondary vocational education fell by 47.9%. The number of individuals with secondary vocational or general secondary education increased slightly by 3.5% between 2002 and 2011 but then decreased by 8.1% from 2011 to 2021. Notably, the proportion of residents with higher vocational or tertiary education rose significantly, from 28.5% in 2002 to 45.3% in 2021—an increase of 43.1%. When compared to the national trend, this rise in higher-educated residents in Old Square is more pronounced. For instance, in Slovenia overall, the share of the population with higher or tertiary education was 17.5% in 2011 and increased to 25% in 2021 (Razpotnik, 2021).

Table 3: Residents of Old Square by education in 2002, 2011 and 2021.

	2002	2011	2021
no education, incomplete primary education	24	14	6
primary education	170	125	93
lower vocational, secondary vocational	142	99	74
secondary technical, secondary general	227	235	216
higher vocational, higher education	225	256	322
total	788	729	711

Source: Statistical Office of the Republic of Slovenia (2023c).

The population of Old Square is predominantly Slovenian, but their numbers have been declining. Between 2002 and 2021, the Slovenian population decreased by 19%. Conversely, the share of foreign citizens increased from 3.4% in 2002 to 9.6% in 2021. Although foreign citizens still represent a small proportion of the total population, their numbers have grown significantly, rising by 140.6% over this period (Table 4).

Table 4: Residents of Old Square by citizenship in 2002, 2011 and 2021.

	2002	2011	2021
Slovenian citizens	897	804	727
foreign citizens	32	39	77
total	929	843	804

Source: Statistical Office of the Republic of Slovenia (2023d).

By comparing the social composition of the population across census years, we found that the population of Old Square is declining, with single-person households predominating and a significant decrease in households with four or more members. Notable changes are also evident in the educational attainment of residents, with a marked increase in the proportion of people with higher education. Additionally, an interesting trend is the decline in the number of residents with Slovenian citizenship, accompanied by a simultaneous rise in the proportion of foreign citizens.

Real estate renovation

In addition to changes in the social structure, real estate renovation is also a key indicator of the gentrification process. We examined how many and which buildings in Old Square (including Old, Upper, and Levstik Square streets, as well as Rožna and Hrenova streets) have been renovated in recent decades, using data from the Prostor portal (Surveying and Mapping Authority of the Republic of Slovenia, 2020), the GIsKD viewer, and our own photographic field observations. Our analysis showed that 50 buildings were renovated or constructed between 1980 and 2000, accounting for 42.5% of the total 118 buildings studied. Prior to 1980, 12 buildings (10.2%) underwent renovation. After 2000, 30

buildings (25.4%) were renovated, while no renovation data was available for 26 buildings, which we therefore consider not yet renovated. Overall, 78% of buildings have been renovated, with approximately 25% of renovations occurring after 2000, confirming ongoing gentrification in the Old Square area. However, the intensity of renovations here is lower than in other gentrifying parts of the city. Furthermore, no luxury residential buildings are being constructed in Old Square due to its status as a cultural monument, which restricts such developments. Renovations must comply with cultural heritage protection regulations, and the associated high costs deter many owners from undertaking refurbishment.

Value of old-town apartments

Gentrification in the Old Square is also evident in high real estate prices. It was not possible to obtain direct data on apartment prices in the Old Square, so we examined real estate values for the entire area of Old Ljubljana. Table 5 shows the data we obtained for nine apartments in the Old Ljubljana area from the real estate portal Npremicnine.net. Regardless of whether the apartment has been renovated or not, apartment prices are above the Ljubljana average (in 2019, the average price per square meter in Ljubljana was €3,100; Ploštajner et al., 2019) and average €4,915/m². Only apartment 3 is below average, but in this case, it is an unfinished attic apartment, which means that the price is still quite high. Apartments 4, 5, and 8 are well above average, costing between €6,000 and €7,000 per square meter.

Table 5: Value of apartments in the Old Ljubljana area.

	Year of construction	Year of adaptation	Price	Size	€/m ²
apartment 1 (Old Ljubljana, Old Square)	1600	2017	€427,500	95m ²	€4,500m ²
apartment 2 (Old Ljubljana)	1855	2020	€620,000	113m ²	€5,487m ²
apartment 3 (Old Ljubljana, Town Square) – unfinished attic	1827	1922	€329,000	124m ²	€2,653m ²
apartment 4 (Old Ljubljana)	1520	2010	€1.250.000	174,4m ²	€7,167m ²
apartment 5 (Old Ljubljana)	1520	2010	€1.080.000	176,9m ²	€6,105m ²
apartment 6 (Old Ljubljana)	1800		€828.000	180m ²	€4,600m ²
apartment 7 (Old Ljubljana, Old Square)	1600		€650.000	207m ²	€3,140m ²
apartment 8 (Old Ljubljana, Town Square)	/	2012	€1.250.000	206,5m ²	€6,053m ²
apartment 9 (Old Ljubljana, Old Square)	1600	2023	€298.000	65,8m ²	€4,528m ²

Source: Npremicnine.net (2023).

Most of the buildings on the Old Square have already been renovated, 25% of them in the last two decades. In addition, real estate prices are quite high and above the average for Ljubljana. Based on these findings and the changed social composition of the population, we can confirm that a process of gentrification is taking place in the Old Square area.

Tourism in the Old Square

The old town centre, which includes the Old Square, is one of the most visited tourist areas in Ljubljana. Historic parts of cities, such as medieval Old Ljubljana, are interesting to tourists because of their connection to the past, different stylistic periods, and walking trails, which together create the special character of these parts of cities. Historic cities offer visitors a mix of cultural attractions and leisure activities. Although visitors have different desires and needs, they all come with certain expectations, from the standard of accommodation and services to cultural attractions and shopping opportunities, all of which must be of high quality and unique. The overall context of a historic city is as important as individual attractions, with infrastructure, amenities, and transportation networks also being important factors (Orbaşlı & Shaw, 2004). Touristification in the old town centre, and thus also in the Old Square, is reflected in high real estate prices, partly due to the renting of rooms and apartments to tourists, and in overcrowding with tourists, especially in the summer. In addition, touristification in the Old Square is also reflected in the numerous accommodation facilities and services intended primarily for visitors. Since statistical data on tourism for Old Square were not available, we analysed accommodation facilities, guest structure, and guest satisfaction with their chosen accommodation using websites and the online travel agency Booking.com.

There are three hotels in Old Square, two with four stars and one with three stars. In addition, there are 16 private accommodation establishments that rent out holiday apartments and rooms. The hotels offer a total of 39 rooms, while private accommodation offers 34 rooms. Based on guest reviews on the Booking.com travel agency website for individual accommodations, we can see that the average length of stay in hotels is around 2.2 nights, while in private accommodations it is 2.6 nights.

Table 6: Characteristics of accommodation facilities in the Old Square.

	Number of facilities	Total number of rooms	Average length of stay
hotels	3	39	2.2
private accommodation	16	34	2.6

Source: Booking.com (2023).

Based on comments posted by guests on the Booking.com website for each accommodation, we can see that in terms of the type of travellers, most are couples and families, followed by individual travellers and groups of friends, with business travellers being the least numerous. In terms of nationality, guests from Germany, Italy, Austria, France, Great Britain, and the USA predominate, with many guests also coming from Switzerland, the Netherlands, Belgium, Croatia, and Serbia. Based on the ratings given by guests for individual accommodations, we can say that they are mostly satisfied with the offer and services provided by accommodation facilities in the Old Square. Most guests rated the accommodations as excellent or good, with only a small percentage rating them as poor or very poor. In most cases, guests praised the excellent location for exploring Ljubljana, the friendly and helpful staff, clean, spacious, and nicely decorated rooms, comfortable beds, and a rich and beautifully served breakfast. Some praised the quiet and privacy despite the location in the city centre. However, they mainly complained about noise, busy parking lots, and some had a bad experience with breakfast, small and poorly furnished rooms, and uncomfortable beds (Booking.com, 2023).

Functional transformation

In addition to social transformation, old city centres are also undergoing functional transformation. As part of the old city centre of Ljubljana, Old Square has been an area dominated by trade and crafts since the Middle Ages, but it also had a strong residential function (see Golec, 2021). Due to gentrification, touristification, and other contemporary urbanization processes affecting the wider urban area, the functions of even the oldest, most historic parts of cities are changing. In the case of the Old Square, tourism has a major impact on this, which is also reflected in the functional structure. It is an area with very good accessibility and is also a historically important part of the city, which is why activities that

suit such a location and bring greater profits have settled here. The ground floors of the buildings are predominantly non-residential, while the upper floors are mostly apartments, some of which are intended for rental to tourists. Although the residential function is still quite strong in the Old Square, it may be threatened in the future by increasing tourist demand. Through mapping, we have determined that the Old Square is dominated by hospitality businesses, as we counted a total of 35 hospitality establishments (19 restaurants, 7 cafés, 6 bars, a bakery, a tearoom, and a pastry shop). Catering establishments are scattered throughout the Old Square area, with most of them located on Old, Upper, and Levstik Square streets, while there are significantly fewer on Rožna and Hrenova streets. In addition to catering, retail is also an important activity. Of the total of 35 shops, only three are focused on short-term supply (two grocery stores and a magazine shop), while the rest are focused on medium- and long-term supply: eight clothing stores, four gift shops, a bookshop, a hemp shop, two wine shops, two toy shops, a home furnishings shop, a record shop, a shop and bookshop run by the Ljubljana Institute for the Deaf and Hard of Hearing, a shoe shop, a bedding store, a boutique selling leather goods, a fashion accessories store, an art supplies store, a children's equipment store, and 5 antique shops. The stores are therefore more geared toward visitors than toward supplying the local population. Most of the shops are located on Old Square Street, with significantly fewer on Upper Square Street and Rožna and Hrenova streets. Given the small size of the Old Square, there are also quite a few accommodation facilities, namely 3 hotels and 16 private accommodations (e.g., holiday apartments, etc.), which are scattered throughout the Old Square area. In addition to restaurants, shops, and accommodation facilities, there are also some other activities in the Old Square area, namely four hair salons, a beauty salon, a tattoo and piercing studio, a watchmaker, a violin maker, three tourist/travel agencies, seven associations, three churches, four galleries, the Special Education Centre Janez Levec, a kindergarten, and the Archives of the Republic of Slovenia. If we compare the current functional structure with the situation in 2000 (Pak, 2004), we can see quite a few changes. In 2000, there were 46 shops in the Old Square, 6 of which were for short-term supplies, which is half as many as today, and there were also many more services. On the other hand, there were significantly fewer restaurants at that time, but their number has almost doubled today. In addition, there are also many more accommodation facilities today.

Although Old Square is characterized by a diverse functional structure, the hospitality and tourism sector dominate, with many restaurants and accommodation facilities. There are also many shops, but their number has been decreasing over the years. In addition, they are mostly focused on selling products to visitors rather than supplying the local population. The residential function is still important, but it is threatened by excessive tourist demand and the decline of trade.

Living conditions in the Old Square

Since residents have the best insight into life in a particular area, we used a survey to analyse the living conditions in Old Square. The respondents were between 25 and 72 years old, with most of them having moved to Old Square in the last two decades, while one person responded that they had been living in Old Square for more than 40 years. Sixty-seven percent of respondents believe that living in Old Square is of high quality. They cited the location in the city centre, proximity to the forest, proximity to shops, and the pedestrian zone without motorized traffic as advantages of living there. Some also cited the fact that they can have a garden in the city centre as an advantage. The disadvantages mentioned were the excessive concentration of restaurants and bars, limited delivery services, noise from tourists and events, crowds, lack of parking spaces, and old buildings with poor signal reception, mould, insufficient natural light, and frequent repairs and renovations.

Table 7: Respondents' answers about the advantages and disadvantages of living in Old Square.

Advantages of staying in the Old Square	Disadvantages of staying in the Old Square
– living in the city centre	– too many restaurants and bars
– proximity to the forest	– limited delivery options
– proximity to shops	– noise (tourists, events)
– living in the centre and having a garden	– crowds, too many people
– pedestrian zone, no motorized traffic	– lack of parking spaces
	– old buildings (no signal, mould, lack of natural light, constant repairs and renovations needed)

Source: Kolar (2023).

All respondents noticed an increase in the number of tourists and tourism-related activities in the Old Square area. Half of the respondents said that tourists bother them and that tourism has a negative impact on the quality of living conditions. One person wrote: *“The concentration of tourists during a certain period is certainly disturbing for residents; in the much-praised tourist year of 2019, it was almost impossible to get to your front door.”* Another wrote: *“Sometimes it takes 10 minutes to get to the end of the Old Square because you are moving in a column of tourists.”* They also cited as a disadvantage the fact that many apartments are rented out through Airbnb rather than being sold or rented out. In addition, about half of the respondents believe that tourism is the reason for the increase in real estate prices in the Old Square. On the other hand, they also see certain advantages in tourism, such as supporting the local economy, shops, and restaurants, and increasing the variety of offerings.

Table 8: Respondents' answers about the advantages and disadvantages of increasing the role of tourism in the Old Square.

Advantages of increasing the role of tourism	Disadvantages of increasing the role of tourism
– supporting the local economy, shops, and restaurants	– excessive concentration of tourists during certain periods
– increasing the variety of offerings	– crowds that hinder the movement of residents
	– noise
	– negative impact on the quality of living conditions
	– apartments that could be sold or rented out are instead listed on Airbnb

Source: Kolar (2023).

Most respondents are not bothered by hospitality, business, and other service facilities and believe that they do not have a negative impact on living conditions. One person wrote: *“I don't think these establishments have a negative impact on the quality of life. Advantages: you can enjoy your morning coffee nearby, visit a shop...”* Another wrote: *“The bars and restaurants are not a nuisance; they add to the charm of Old Ljubljana.”* Similarly, most respondents are not bothered by the opening hours of catering establishments: *“Only one bar is disturbing, as it is open until 2 a.m. in the summer months and plays loud music, but you can't open the windows in the evening anyway because of the noise from tourists, so it doesn't matter how late they are open.”*

Most respondents believe that traffic accessibility and parking options in Old Square are inadequate. The main problem is the lack of parking spaces: *“We don't have enough parking spaces; in the afternoon (after work), you can't find a parking space.”* Another respondent wrote: *“The parking situation is disastrous. You must park in Trnovo and walk home.”* They have a similar opinion about parking permits: *“It's a waste of money. You can't find a parking space anyway. The space for residents is often occupied by visitors to the city (parked inappropriately). Then you call the traffic wardens, who often don't even come... in short, constant problems. You pay, but you get nothing, and then you may end up in a conflict with your neighbour or get a fine for parking in the wrong place.”* Another person wrote: *“It would be understandable that if you buy a permit, you are then guaranteed a parking space, but in practice this is not the case.”*

We also asked the residents of Old Square whether they had ever renovated their property, given that Old Square is a cultural monument and that interventions in it are restricted. Almost 70% of respondents said they had not yet renovated their properties because, despite possible subsidies, renovation costs are very high, making it difficult for residents to afford renovations.

At the end of the questionnaire, we asked respondents to provide some suggestions or measures for improving the quality of life in Old Square. Respondents suggested a parking garage for residents of Old Square, the possibility of parking outside the pedestrian zone, the possibility of extending parking permits online, and more greenery and trees.

Conclusion

Over the past two decades, Old Square has undergone a significant social and functional transformation, largely because of contemporary urbanization processes affecting the development of old city centres. Gentrification as a global phenomenon is also present in Slovenian cities, especially in Ljubljana. By analysing the social composition of the population in different census periods, we found that single-person households predominate in the Old Square area, while the proportion of residents with higher education has increased significantly. Most of the buildings have already been renovated, and real estate prices significantly exceed the Ljubljana average. Based on these findings, we have confirmed that the process of gentrification is also present in such a small area as Old Square. In addition to gentrification, we are also seeing a process of touristification in the city centre of Ljubljana. Tourism is becoming an increasingly important economic activity, as evidenced by the growth in the number of tourist arrivals and overnight stays, the lengthening of the average length of stay, the increase in the number of rooms and beds in accommodation facilities, and the increase in the number of catering and tourist establishments. Although tourism has a positive impact on the economy and the recognition of the city's local characteristics, it also has several negative side effects, especially for the local population. The old city centre is the most affected, with residents gradually moving away due to high real estate prices and tourist overload. Since residents are moving away mainly because of the negative effects of tourism and the increased number of visitors, we can talk about the phenomenon of tourist gentrification. In this case, the local population is no longer being displaced by a more educated, higher-income segment of the population, but by tourists. Prices and rents are rising as apartments are increasingly being converted into tourist accommodation. The quality of life is further deteriorating due to the crowds and noise caused by visitors. Cultural heritage plays an important role in the development of tourism in the Old Square. Historic parts of cities, such as medieval Old Ljubljana and the Old Square, are attractive to tourists because of their connection to the past and the different stylistic periods reflected in their urban planning and architecture. Historic cities offer visitors a mix of cultural attractions and leisure activities, which is why Old Ljubljana is one of the most visited tourist areas in Ljubljana. The impact of tourism is also evident in the functional structure. A comparison of the current functional structure of the Old Square with the situation in 2000 shows a significant increase in the number of catering and accommodation establishments. In addition to its predominant catering and tourism function, the Old Square still has an important residential function, which is threatened by the consequences of excessive tourist demand and the decline of trade. The results of the survey on living conditions showed that most residents consider living in the Old Square to be of high quality. They cite the location in the city centre, which allows quick access to all necessary services, as the biggest advantage. Most respondents are not bothered by the presence of restaurants and bars, as these contribute to the attractiveness of the old town centre. Nevertheless, they cite the excessive concentration of tourists in certain parts of the year and the lack of parking spaces as disadvantages. Gentrification and touristification are therefore

contemporary urbanization processes that significantly influence the transformation of space, regardless of whether it is a city, suburb, or rural area. They are already present throughout the world, even in small areas such as Old Square. Although the processes of gentrification and touristification are not as pronounced in Old Square as elsewhere, they are nevertheless present, as evidenced by changes in the population structure, building renovations, rising real estate prices, and the gradual exodus of residents due to the pressures of tourism.

Notes

^[1] This paper is based on a bachelor's thesis entitled *Historical and spatial development of the Old Square in Ljubljana*, supervised by Prof. Dr. Dejan Rebernik and Asst. Prof. Dr. Renata Novak Klemenčič at the Faculty of Arts, University of Ljubljana, in 2023.

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The Property Management of Shopping Centers from the Modernist Era in the case of GTC, Skopje

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Abstract

Problem Statement: Over the past three decades, new concept of shopping facilities was introduced, such as the enclosed shopping malls, which significantly contributed to the growth of the retail market in Skopje. Due to inconsistencies in privatization, transformation in private ownership of retail stores for instance, introduced the problem of real estate management. Problems such as tenant mix, retail store leasing appear to be the biggest problem for the facility management also. The 20th-century shopping centers are no longer considered part of the modern retail market facilities in Skopje.

Purpose of Study: The study aims to explore the possibilities, new scope of Property Management (PM) of former modernistic shopping center in new market-oriented society. Considering the livability, social sustainability It focuses on the transition from open public shopping mall toward more controlled forms of publicity under private management. The focus of the study is on a particular case, City Trade Centre (GTC) in Skopje.

Methods: The study undergo an exploratory quantitative research to investigate possibilities of Facility Management (FM) methods to repurposing of retail area of GTC, Skopje. In this study a survey is used as qualitative tool for valorization of current tenants mix.

Findings and Results: The findings reveal that real-estate and management reforms in Macedonia have significantly altered shopping facilities' spatial and financial performances. The results will emphasize the way financial sustainability of a shopping facility depends on a comprehensive analysis of the overall socio economical context in which it is situated. On the case of GTC-Skopje should be demonstrate influential factors of spatial and program transformation of former retail premises.

Conclusions and Recommendations: The study concludes that former shopping centers needs an integrated approach of real-estate management regarding the physical infrastructure, services, and operational processes to ensure its functionality, safety, comfort, and efficiency. To be able to sustain in contemporary real estate market this research emphasizes the possibility how former shopping malls such as GTC-Skopje should transform by choosing the correct facility management.

Keywords: trade centre, facility management, mixed-use, economic reforms, spatial transformation.

Introduction

During the second half of the 20th-century, the City Trade Centre (GTC) in Skopje has shown to be the marvel of contemporary success and innovation in the modernistic consumer society. Department stores such as NAMA, free standing buildings downtown the city of Skopje were anchor trade points before the earthquake in 1963. Soon after the earthquake a new modern shopping mall was built named City Trade Centre (GTC). The department stores previously recognized as individual shopping facilities were integrated in the open shopping center becoming the leading anchor points beside the retail shops increasing consumers' interest for shopping in this new type of commercial building. New model of consumerism from craftsmanship to mass production of commodity was introduced.

Over the past three decades, ownership structure, new methods of real estate management, and contemporary tenant mix principles have meant that these 20th-century shopping centers are no longer regarded as part of the modern retail market in Skopje.

The breakup of Yugoslavia significantly impacted the economic market, leading to changes in wealth distribution and an increase in social inequality. This transition notes a shift toward greater market control and reduced state control, allowing private entities to set prices based on their interests.

Transformation of land property ownership imposes competitive condition on the market. While many inherited public buildings are now privately owned, a substantial portion remains under state ownership (Real Estate Registry Agency, 2022). This duality makes it challenging for these facilities to find their place in the commercial real estate market regarding buying and selling (Fortonmka, 2021).

This study aims to explore the importance of Property Management (PM) for successful transformation of City Trade Centre (GTC) toward market driven privatization. In the last two decades, GTC has struggled with facility operations, currently utilizing between 70% - 90% of its capacity without positive incomes.

The study is organized into three chapters. The first chapter provides a literature review of theories and practices related to facility management, highlighting methods and practices to enhance FM in a shopping center. The second chapter describes the methodology, detailing the materials and methods in this research. It presents the case study and gives a detailed overview of the FM of the City Trade Centre (GTC) in Skopje.

The third chapter analyzing and summarizing the data collected from the case study as well as the social outcomes through a survey. The fourth chapter includes the discussion and presents the final observations.

Conclusion in fifth chapter emphasizes the potential and insufficient attempts of actual management to keep up with market trends. Also emphasizes the possible strategies in Facility Management to overcome the continuous negative financial trend of GTC.

Literature review

Facility management

Facility management (FM) in shopping centers ensures the functionality and efficiency of a building, enabling an integrated management of the operational processes, services, and the building's infrastructure. To be more specific, FM includes the maintenance of the buildings' systems, such as energy use, waste management, security, cleaning, managing public spaces, communications, etc. The FM is often guided by an organization (Keith, 1996). According to Price (1999) FM is a business sector, where firms with backgrounds in construction, property, engineering services, catering and domestic services, are seeking, various positioning as FM providers.

However, the role of facilities management is broader than the shopping center design or built process. It is more than the physical aspect. Therefore, organizations must remain adaptable to change and embrace technological innovation. FM develops and applies methods to improve and increase value and deliver consistent support services. This includes developing effective strategies, negotiating service level agreements, and continuously evaluating services for quality, value, and risk — all while responding to user needs and contributing to overall business success (Keith, 1996). Nowadays, consumer behavior plays a central role in shaping shopping centers management strategies. One of the preferences is the priority toward experience and entertainment rather than the traditional shopping

consumption. Furthermore, technology integration and demographic changes, especially generation shifts, also shape shopping centers offerings. These groups value sustainability and social responsibility, where, marketing through social media drives consumer decisions. The COVID-19 pandemic further accelerated change, where outdoor formats have again become more popular (PW Consulting, 2024). Therefore, shopping centers must continuously adapt to evolving consumer behavior by embracing technology, demographic shifts, health measures, and social media to remain competitive and relevant.

The new anchors in retail space

In the United States, the hypermarket comes before the city. Moreover, it doesn't just serve the city, it shapes it. The hypermarket creates a new kind of commercial space, unlike the traditional markets that were central points in the cities. It refers to an expansive, commodity-driven environment that fosters an entirely different kind of social interaction (Baudrillard, 1994; Fischer, 2023). The hypermarket as a concept helps illustrate what Baudrillard (1994) calls the "end of modernity." Between 1850 and 1950, large, modern stores emerged in cities due to rapid advancements in transportation.

In contemporary real estate market, the role of hypermarkets has declined and no longer function in their traditional way. They have lost their original purposes and have become symbolic structures. These are spaces of simulation, giving off the illusion of utility while serving to neutralize and control the surrounding environment.

The architecture of shopping malls began in US of America at the beginning of the Vietnam War. At this point, open shopping centers in downtown cities were rapidly replaced by closed shopping malls (Wall, 2005, pg. 99).

With the shift of generation and technology, the traditional anchors such as hypermarkets or the once very popular department stores are no longer the dominant influential factors in retail. Therefore, shopping center owners and FM operators are challenged to identify new types of anchors that align with evolving consumer expectations and urban dynamics. While food, beverage, and leisure are gaining importance, as consumers prefer experience over material goods, emerging trends suggest that the future anchors may extend beyond retail entirely. Mixed-use developments are creating opportunities for a broader range of consumers and increasing the shopping center's relevance. New anchor possibilities now include health clinics, co-working spaces, sports facilities, and cultural or educational uses such as dance schools. With the shift of generations and the increasing interest in healthy lifestyles, the demand for services like medical centers, fitness hubs, wellness spas, healthy restaurants, and organic food stores is increasing. A 2024 report by international retail real estate company Sonae Sierra, highlights these possibilities. The company notes that identifying the right anchors will increasingly involve the presence of shopping centers in shifting demographics, lifestyle preferences, and will integrate the non-retail functions within urban communities (Sonae Sierra, 2024).

Materials and methods

Through a descriptive analysis of financial data, this study investigates the confluences of factors that management of the City Trade Centre depends on. The theoretical elaborations from the literature review are the basis for revising the existing doctrine of real estate management in our case study.

Through survey and observations the case study gathers data for qualitative research. The direct observation method incorporates two sources of data: analysing the program mix in correlation with spatial characteristics of the shopping center, illustrated by diagrams and graphs. Secondly, analysing the socio-economical aspect of the attractiveness of the shopping center, that is crucial for its management strategy. The significance of hypothesis question should be verified through a survey. The respondents' satisfaction is assessed through the statistical technique - Analysis of Variance (ANOVA).

The City Trade Centre (GTC) in Skopje, N.Macedonia – a case study

The City Trade Centre (GTC) is built in 1973, as a multifunctional main city trading centre in a monocentric hierarchical system of local centers in Skopje. (fig. 1)

The need to establish a regional center is closely connected to the significant changes in the city after the devastating earthquake in 1963. The focus on building residential areas during that time, along with the growth of industry, population increase, and improved living standards, boosted the purchasing power of residents, which also led to the development of new commercial facilities. The main factor that created the need for a regional center of this size was selecting the appropriate location (Arsovski et al., 1981). Historically, places where trade occurred later became known as trading centers. Additionally, land and buildings within these centers have become real estate (Wenzlick, 1965). Therefore, location was crucial in planning the City Trade Centre (GTC), which helped build a regional shopping hub that serves the needs of many consumers in a busy central area. Even today, the chosen location of GTC remains highly important because it meets interactions and urban needs, supports spatial relationships, and provides various services aligned with modern and contemporary trading practices.



Figure 1: Map of municipality centers in Skopje, left. Location of “GTC” in City center, right.
Source: Skopje resurgent, 1970.

GTC program consists of combination of existing and newly designed content in full volume integrity. A notable feature for the period of its planning and construction in the 1970s is the inclusion of 3 double floor department stores within its organizational structure of retail shops, as a key anchor points for the City Trade Centre. These department stores are large trade organizations in combination with groups of smaller craft shops (Arsovski et al., 1981).

Skopje in the 1960s, 70s, and 80s had several stand alone modern department stores, which were precursors to the anchor units found in later shopping malls. However, the concept of traditional department stores has since been abandoned.

Management of City Trade Centre – GTC, 1971-1996

During the period of its opening till 1996 City Trade Centre and its stocks were managed by the state. In 1971, the GTC administration was established, which is responsible to oversee and manage the operations in the shopping center and leads the complete organization in its maintenance. The administration and facility management team successfully addressed commercial businesses including the regular upkeep of the facility, equipment, and installations, as well as hygiene, cleaning, security, and fire protection. To ensure these tasks were handled effectively, a specialized team of qualified workers was formed. The organization of the Administration was divided into organizational units, such as: security service, fire protection, maintenance, hygiene, garage management, dispatch center, legal, commercial, and financial services. Such an organization of facility management existed until 1979, when the Basic Community for Business Space in the City was formed. The professional service of the

Basic Community retained the organizational structure of the previous GTC administration and continued to manage the facility until the early 1990s.

Management of City Trade Centre - “GTC A.D.”, 1996 – today

The period following the breakup of Yugoslavia introduced significant socio-economic transitions toward liberalization of the market. Moreover, urbanization as a component of social transition is associated with the process of urban changes, where a high level of urbanization does not necessarily correlate with high levels of economic development. In the newly independent states of the region, privatization emerged as a key priority. Most privatization efforts concerning public properties involved selling public houses to existing tenants, as well as restitution processes that aimed to compensate individuals for properties confiscated by the state before 1944. State-owned construction enterprises were privatized through various methods, including sales to foreign investors, distributing vouchers to citizens to purchase shares, or allocating shares to employees (Tsenkova, 2008).

City Trade Centre Joint Stock Company for Leasing Business Space – Skopje is a Company established by a Decision of the Board of Directors of the Public Enterprise for Management of Residential and Business Space of the Republic of Macedonia in 1996. In accordance with the Law on Transformation of the Public Enterprise for Management of Residential and Business Space of the Republic of Macedonia (2009), 97.58% management share package was transferred to the Joint Stock Company for Management of State-Owned Business Space i.e. GTC A.D. – Skopje is with dominant state capital.

Over the years, the company does not receive budget funds. From 1996 significant spatial and program transformations have occurred in the GTC especially in department stores area. These large retail spaces occupied most important areas in the initial layout of the building, and used to be anchor points in the Trade Centre. After the dissolution of large trade companies, tenants of department stores in the GTC, new retail shops were formed for easier leasing and to enable a higher selling price in the real estate market. (fig. 2)



Figure 2: Spatial and program transformation of department store in “GTC” in retail shops.
Source: Author, 2010.

From now on, the company is financed from its own revenues, through agreements concluded with the owners of business premises to regulate the relations for the use and maintenance of common parts and functions of the City Trade Centre, as well as through the leasing of business premises. (Table 1)

Table 1: Overview of the current state of the total commercial space in “GTC A.D” in 2024, including shopping stores, administration, food services, fun and culture:

Commercial area – GTC A.D.	Number of units:	Area:
Leased	70	7 370,16 sq m.
Soled	479	35 654,52 sq m.
Vacant commercial space	45	3 403,84 sq m.
In total:	594	46 428,52 sq m.

The main activity of the company is the management and leasing of commercial and retail premises. The management and administration bodies of “GTC A.D.” – Skopje include the Company Assembly, the Board of Directors, and the Executive Director structured in several sectors. (fig. 3) Management of “GTC A.D.” has established several services, including those for legal affairs, security, fire protection, hygiene, financial and technical work, commercial affairs, and marketing, as well as the maintenance of a garage, cinema, conference hall and bowling alley (GTC A.D., 2025).

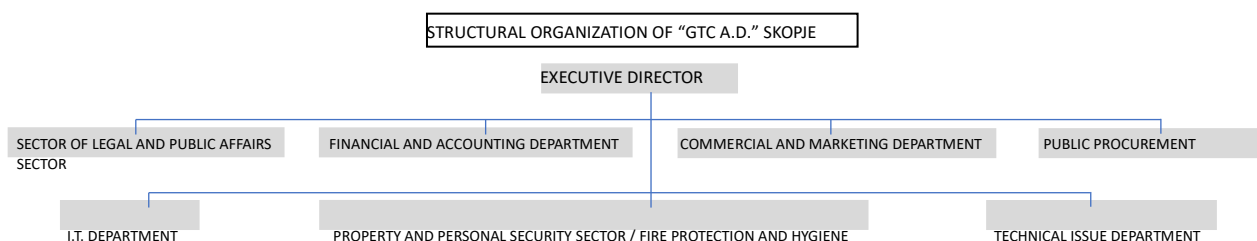


Figure 3: Structural organization of GTC A.D. Source: “GTC A.D.”

Analysis of financial data (2023-2024)

Analyzing the Financial Performance Report for 2023 in comparison with previous 2022 there is indications of continuous negative income during the both fiscal years. (Table 2)

Table 2: Determination of the income and expenses:

Year	2023	2022
Operating income	4.084.072,00 EU.	
3.819.915,70 EU.		
Operating expenses	4.524.203,00 EU.	4.466.258,00 EU.
The realized loss	458.131,00 EU.	646.342,00 EU.

In terms of total revenues, the largest share of 77% is recorded by revenues from services, which amount to 3,026,511.20 euros, which refers to the services provided to the users of business premises based on consumed electricity, heat, air conditioning, consumed water, garbage collection and ongoing maintenance of the purchased business premises.

Income from rent for business premises, warehouses and terraces, in relation to total income, participates with 9% and amounts to 367,835.30 euros. It is considered that the income realized from renting out business premises, as the core business of GTC AD, should take a larger share in the total income. However, the fact is that with the sale of some of the most attractive business space, the main source of income has decreased. During 2023, several tenders for the lease of business space have been announced with the expectation that the income on this basis will be within the planned limits.

-From the attached overview of financial report, it can be concluded that the costs for consumed electrical and thermal energy as well as fuel amount to 1,356,698.20 euros. This cost represents a high percentage of 30% of the total operating costs and has increased by 3% compared to the previous year, 2022.

-The depreciation costs of the facility amount to 602,914.50 euros and account for 13% of the total operating costs for 2023.

The success of management for the previous year could be realize from the data presented in the Financial Performance Report for 2024. In total expenses, the largest share of 49% is recorded by material operating costs in the amount of 2.260.038,20 eu. which also includes the costs of the calculated depreciation of the facility and equipment and energy costs. Energy costs for electricity, fuel and heat is 1.298.158,50 eu. In terms of material costs, it participates with 58%. The depreciation cost is 565.975,10 eu. In terms of material costs, it participates with 25%. (Table 3)

Table 3: Overview of the operating income and expenses for 2024 "GTC A.D." – Skopje

I. Operating income for 2024		4.257.079,00
EU.		
1. Income from services	(73%)	3.103.492,60
- ongoing maintenance		
1.273.035,40		
- utility services		
1.830.457,20		
2. Income from rent - leasing	(24%)	1.000.747,52
- office space, shopping center, terraces, warehouses		382.515,00
- parking garage and driveway		
541.710,00		
- bowling alley and conference hall		13.538,41
- space for advertisement		61.959,85
3. Other income	(3%)	152.838,898
EU.		
II. Operating expenses for 2024		4.653.357,50
EU.		
A. Material costs	(49%)	2.260.038,20
EU.		
1. Energy costs (electricity, fuel, heat)	(58%)	
1.298.158,50		
2. Depreciation expense	(25%)	565.975,10
3. Current maintenance and investments	(9%)	200.702,00
4. Cost of services (utilities, water consumption, etc.)	(7%)	163.125,80
5. Intangible costs	(9%)	
411.259,70 EU.		
1. Employee benefits	(2%)	92.927,60
B. Gross pay	(40%)	1.866.200,77
The realized loss for 2024	396.278,50 EU.	(1 EU. - 61.5117
den.)		

After deducting the total expenses in the amount of **4.653.357,50** eu. from the total revenues in the amount of **4.257.079,00** eu., the realized loss before tax for the business year 2024 amounts to **396.278,50** eu. and, according to legal regulations, is allocated as a loss for the current year.

From the data presented in the Financial Performance Report, the Joint Stock Company "GTC A.D." ended the current year 2024 with a negative financial result. The company's determination for the coming period is to be more successful and, despite the current sources of income generation, to take measures to cover the loss:

- Full leasing of vacant business premises;
- Renovation and adaptation of unattractive or dilapidated business premises;
- Investing in free, unused spaces to create new business spaces, and investing in existing business spaces with large areas, to be divided into smaller business units, which will be more accessible for management and leasing;
- Finding new sources of income by management.

One can realize that beside the spatial transformations the actual measures of facility management can't answer the challenges of market trends. The energy and depreciation costs directly impact the financial sustainability of the building.

Survey (One-Way ANOVA)

In this study, a survey method uses the ANOVA technique to investigate the satisfaction of two groups of users. The primary group of respondents are the citizens who visit the shopping center. The survey should show their satisfaction with the goods and services offered in the GTC. The purpose of the first set of questions should identify the attractiveness of shopping regarding: retail stores diversity, entertaining and gourmet experience. The second group of respondents are the tenants who lease shops

in the center. The second set of questions have to identify their satisfaction with the retail conditions offered by the management of the shopping center. Their answers will gather insights on potential future improvements.

The survey (one-way ANOVA) can be applied for the following assessments:

- Spatial Efficiency: Whether the space is used efficiently with attractive program content;
- Social and Functional Outcomes: User experience, foot traffic, and public satisfaction data;

To describe the involved stakeholder's opinion, the survey consists of following sets of questions:

- The first set of questions investigates the correlation between the proximity of the shopping center in time and walking distances from visitors home;
- The second set of questions examines all user groups satisfaction and attractiveness of the commodities the shops are offer;
- The third set of questions assesses factors of determination for tenants to lease a store in shopping Center.

Citizens' answers from the survey were collected using a Likert scale. Respondents rated their level of agreement or disagreement with the question on a symmetric agree/disagree scale. Out of 30 answered questionnaires, in terms of demographic data, 90% are aged 18–45, while 10% are aged 45–75. Furthermore, 67% of respondents are users of the shopping center services, and 33% are the shopping center tenants. The data is collected online, targeting visitors and tenants of GTC. Surveys were conducted at various times during work days and weekends. The survey employed statistical techniques through a questionnaire, to evaluate assumptions about the social aspects of using the shopping center's services. (Table 4)

Table 4: One-way ANOVA regarding different social groups in GTC.

	Sum of squares	Df	Mean square	f -ratio value	p -value significance
- Distance and time for transportation to the shopping centre	34.12 * * *	4	8.53	10.1549	0.00001
- The proximity of the shopping centre within walking distance	8.4667 *	2	4.2333	5.0801	0.0134
- Anchor stores increase attractiveness of visitors	2.45	1	2.45	1.96	0.1785
- Anchor stores increase the purchase price of real estate	0.15	3	0.05	0.0541	0.9828
- Implementation of new content for increasing the attractiveness	9.8 * * *	1	9.8	17.6404	0.0005
Notes: *Difference is statistically significant ($p < 0.05$); * *difference is statistically significant ($p < 0.01$); * * *difference is statistically significant ($p < 0.001$)					

Based on the survey in GTC, it is concluded that the participants' responses are satisfactory regarding the following hypothesis:

- The impact of the distance on the time required for transportation to the shopping center;
- The importance of the proximity of shopping center mixed-use content within walking distance;
- The importance of the implementation of new content for increasing the attractiveness of the shopping center.

Program mix arrangement

The diagrams depict the mixed-use content of the City Trade Centre, its users, and brands. (Table 5), (fig. 4,5,6)

Table 5: Data on City Trade Centre (GTC).

City Trade Centre Joint Stock Company for Leasing Business Space – Skopje (GTCAD)

Tenant mix:	199 actives (brands-stores)
Retail shopping area on leasing:	10 774 sq m.
Total units for leasing:	119
Vacant units:	45
Residential units:	16 875 sq m.
Car parking:	354
Greenery:	16 385 sq m.

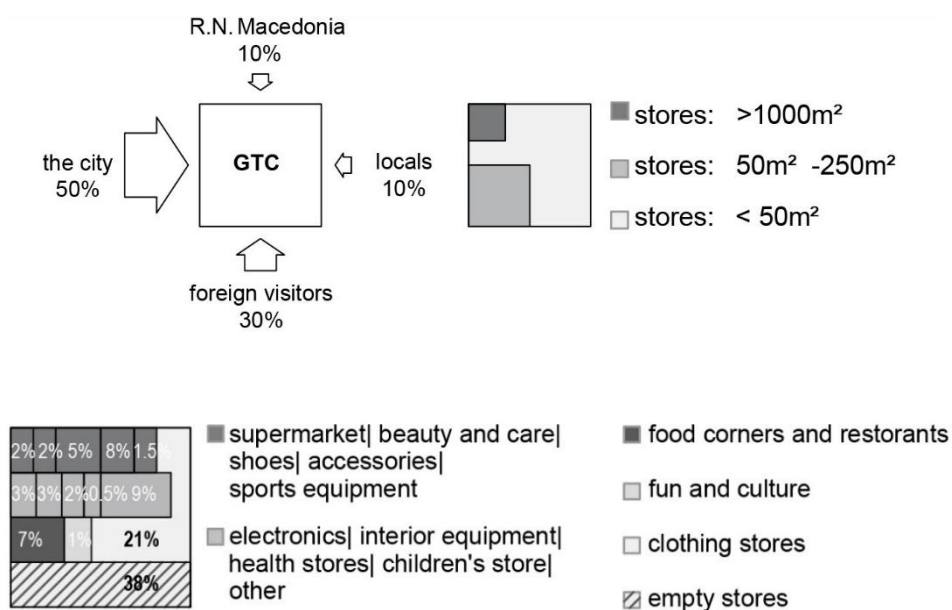
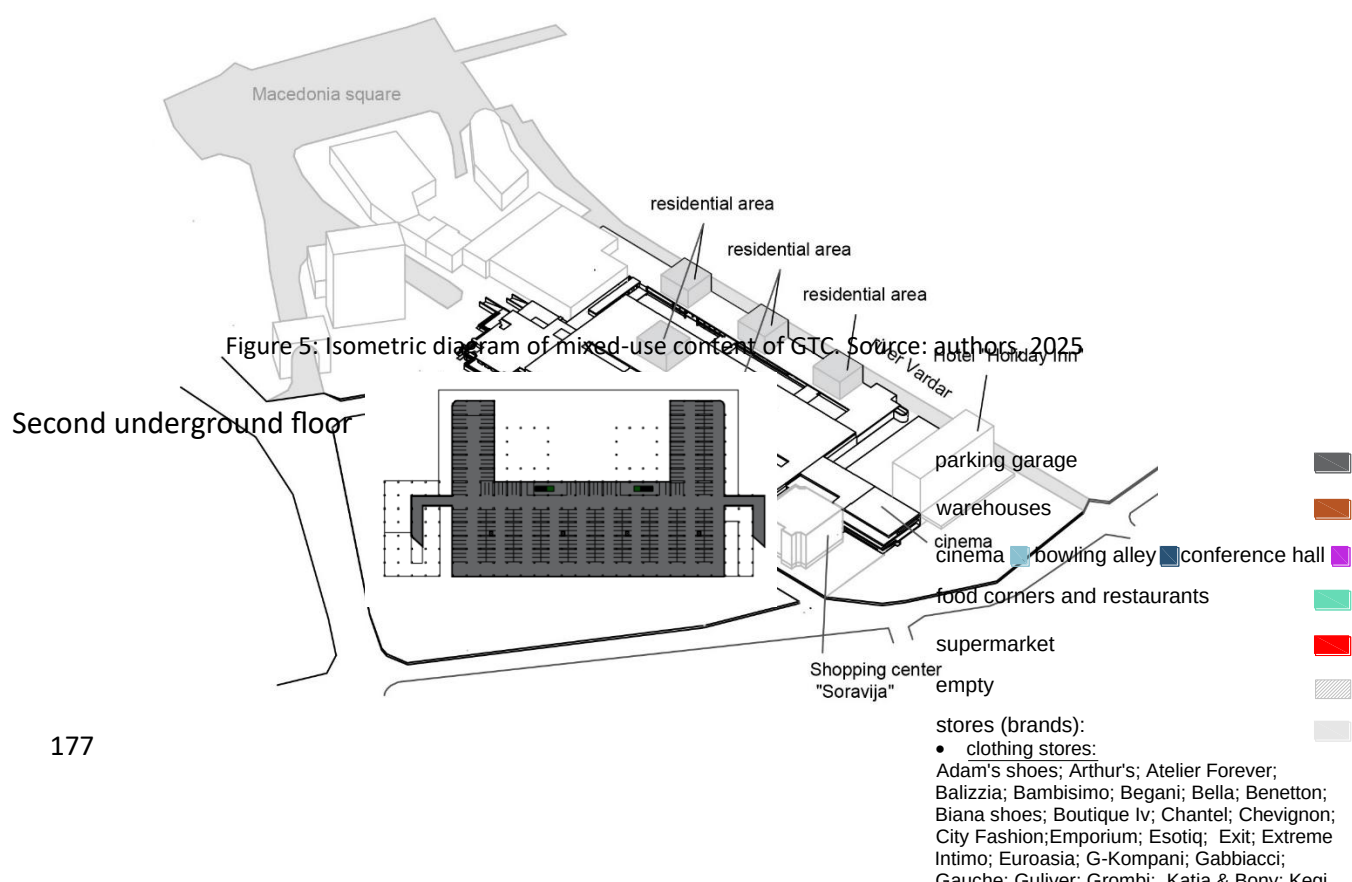


Figure 4: Graph diagrams of users, shop area and mixed-use content in GTC. Source: authors, 2025



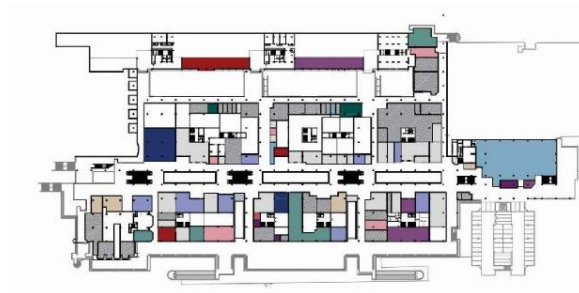
First underground floor



Ground floor



First floor



Second floor



Figure 6: Diagram of store Brands in GTC. Source: authors, 2025.

From the plan of the City Trade Centre it is obvious that parcellation of previous department stores in smaller retail shops today stand empty. According to list there is no any contemporary brand in the shopping mall. Regarding the distribution of shops on each floor, retail area on the ground floor occupancy is the largest.

Discussion

Analyzing the graphics from the study and the signification of assumed predictions for current condition of GTC indicated from survey, following conclusions could be realize:

1. Location attracts ether tenants and visitors; From the distribution of different retail space it is obvious that small shops (<50 m²) are dominant on each floor easier to be leased;

2. Food and restaurants are present with 7% but oriented on the north side toward river of Vardar and are independent from the main pedestrian route of the building;
 3. There is 38% vacant retail premises which result with 382.515,00 euros income from leased office and retail space in 2024;
 4. There are predominantly clothing stores with 21% but without any significant brand;
 5. Energy costs for electricity, fuel, heat and depreciation expense are 83% from operating expenses for 2024. Renovation covers only small portion of retail space already in use.
- This trend of financial loss in the end of fiscal 2024 year is evident in previous three years in a row.
6. Second floor is critical speaking on attractiveness for shoppers and retailers regarding the program offering. This declination from basic principles of modernist European open mall recommendation for two floor malls, today contributes in inefficiency of leasing retail area. Major repurposing of second floor in GTC is needed.

The respondents' answers have shown that citizens express a great interest in visiting GTC, if it is easily reachable or in their proximity. The lack of new or engaging offerings, attractive brands as anchor points, limits its appeal. City Trade Centre continues to operate with the same service capacities that were established in the 1970s. The results on the retail attractiveness and facility management have shown that success does not solely rely on the presence of medium and small stores; rather, it is more about the location and the availability of mixed-use offering in one area. To enhance the overall operations of the shopping centre and improve its management, a detailed planning, effective coordination, and maintaining a safe environment are essential.

Conclusion

City Trade Centre has great site value. As architectural marvel from modern era it is overwhelmed with sentiment beside the older citizens of Skopje. In retail, a catchment area where from GTC draws its primary customers is established since its opening in '70s. It is in the area surrounded with a business where its customers live, work, or are located.

Keeping up with contemporary trends and customer preferences is also critical. What is needed for enhancement already established site value is more strategy approach to attract buyers with unique choice of commodities.

A well-managed and professional handover process can lead to efficient, incident-free operations that provide value for money and positively reflect on the facilities manager.

Joint Stock Company for Management of State-Owned Business Space i.e. GTC A.D. – Skopje is with dominant state capital but doesn't receive state money. This indicates either selling state shares, receive state investment or major facility management transformations.

Employing competent real estate advisory company to provide a full range of comprehensive commercial property solutions such as trends in a growing number of redevelopments, refurbishments, re-sizing and reconfiguration projects could create GTC become more economically sustainable.

Analyzing a retail catchment area is vital for understanding customer demographics, market potential, and competitive dynamics, which helps retailers with tasks like determining optimal store locations, improving marketing efforts, and understanding sales performance.

In Central and Eastern Europe – mixed use development is focused on larger cities in strategic downtown locations with good public transport provision which is evident from the survey in the case of GTC.

According to Zinoski et al. (2025) socio-economic conditions triggers transformative processes in architecture where is expect to see more re-purposing of existing empty retail space to hotels, medical or even fitness premises which is also the case in some shopping centers in Skopje.

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Survey on reactions to window views – main findings

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Abstract

The presented survey deals with the problems of sustainable urban and architectural design in conjunction with the obtainable window views. The work is primarily focused on reactions to window views that include exclusively urban elements and the middle visible layer without visible sky and ground. The factors studied are various architectural features, such as plasticity, composition, maintenance, and surface treatment. A significant correlation appears between the distance of the elements in the view and the psychological reaction of the observer. For instance, the results of this research reveal that the proportion of negative reactions to a viewed motive is consistently high in cases where the window view is limited to only one near visible layer. Regardless of the age group by far the most desirable view through a window contains greenery: for more than half of the respondents, looking into the distance for a short mental break is the main motivation for observing the surroundings through the window. Especially respondents who performed sedentary work during the day primarily preferred views that relaxed them and provided regeneration and were not distracting, regardless of whether they worked from home or in the office. The quantitative and qualitative differences perceived in the respondents' reactions to similar window view motives show that respondents were not only evaluating general visual categories, but were also paying attention to the specific visual characteristics and details of each viewed facade. This suggests a certain degree of sensitivity and differentiation in their assessments. The obtained reactions to window views should definitely be understood in the light of the respondents' previous experiences, perceptions and behavioural patterns. It is therefore worth noting the specifics of the environment in which this study was conducted.

Keywords: social infrastructure, daylight, window view, descriptive statistics

Introduction

A window is an architectural element on a facade that provides daylight to interior spaces, which is essential for the well-being and health. A space without natural light disrupts the circadian rhythm, while also triggering unpleasant emotions, depression, insomnia, and reducing the ability to concentrate (Yeom et al., 2020). Windows not only bring natural light into spaces, but also provide a visual connection between the interior and the external environment, which conveys important information about what is happening in the external environment (Rodriguez et al., 2021). The window view is a dominant way for city dwellers to connect with the landscape (Mirza and Byrd, 2023). Several studies have found that people who do not have access to a quality window view are more likely to suffer from feelings of boredom, irritability, and sleep disturbances (Batool et al., 2021; Spano et al., 2021; Soga et al., 2021). The results of studies in recent decades show that the characteristics of window views evoke psychological responses (Van Esch et al., 2019). According to the findings of these studies, the most suitable motifs are those that contain a large number of diverse information, which is ensured by both the composition and content of the motif. An attractive view through a window usually includes a wider environment and a view into the distance (Littlefair, 1996), it includes a larger number of visible layers - the more layers visible in the motif, the more pleasant the view through the window. The top layer is the sky, which offers the possibility of looking into the distance, the middle layer contains buildings, mountains, water, fields, trees, the bottom layer with the ground conveys key information about the distance and size of objects in the middle layer (Bell and Burt, 1995; SIST EN 17037:2019), the quality of the motif is also influenced by the coherence of the elements in it. This principle of considering the quality of the view through the window is also included in the standard. A high-quality window view enables the perception of important information about the weather, time of day, location, activities in the area, etc. The content of the motif is strongly related to the proportion of greenery (Mirza and Byrd, 2023).



Fig.1: The view includes three visible layers – the top layer contains the sky and weather information, the middle layer shows the urban fabric enhanced by greenery, and the bottom layer provides information about distance and human activity.

Not all window views are equally attractive, and when examining the advantages of particular window views, the key features and information they contain are (Aries et al., 2010). Recently, many studies have focused on the importance and distinction of window views of natural and urban environments (Kang and Kim, 2019) and found that a window view of a natural environment is more desirable than a

view of buildings and built infrastructure (Mirza and Byrd, 2023). A view of nature evokes a positive mood (Drobne et al., 2022; Yeom et al., 2020; Veitch and Galasiu, 2012;) and relieves boredom, feelings of monotony and claustrophobia (Yeom et al., 2020), similar to what would actually be in nature (Ko et al., 2020; Kaplan and Kaplan, 1989). Residents who have a window view of trees from their homes express greater satisfaction with life (Kley and Dovbishchuk, 2021; Kaplan and Kaplan, 1989) and cope more easily with life's problems. Researchers (Tyrväinen et al., 2014; Kaplan, 2001) explain that short and repeated views of greenery during breaks are relaxing, and motifs with elements that include fascination also have a regenerative effect.

However, not all views of greenery have a beneficial effect. An incoherent, uninteresting and illegible window view of greenery in the immediate vicinity, which makes orientation difficult and does not allow for a view into the distance, can cause a feeling of discomfort. Window view of uninteresting or neglected urban environments, such as decaying industrial or unattractive business areas, are the worst received, as they can increase negative feelings and reduce the ability to concentrate (Ulrich, 1979). The quality of a window view is also influenced by its visual aesthetics (Szybinska Matusiak and Klöckner, 2016). A window view into nature mostly does not deviate from aesthetic criteria, while high-quality views into the urban environment are only associated with coordinated architectural elements such as variations in colors and textures (e.g. surface texture), plasticity, accents, ornament and decoration, geometry, articulation.

Today's concept of urban densification is based on efficient land use. Window views often only include the nearest neighboring building, as the distances between buildings are becoming increasingly smaller. With decreasing distance, interaction with the wider environment decreases, making it more difficult to read the tectonic structure, and details such as the materiality and maintenance of buildings become less readable. The quality of facade elements proves to be very important in the response to window view.

Methodology

The main objective of the survey is to define the features of window views which most importantly influence the respondents' reactions, the specifics of reactions linked to individual age, gender and workplace groups and how tolerant the respondents are to unfavourable window views. The research is based on previous outcomes which imply that unfavourable user reactions are particularly distinct in densely built urban environments (Kristl et al., 2025a; Kristl et al., 2025b). The research specifically focuses on reactions to window views that comprise entirely urban features and the middle visible layer (Bell in Burt, 1995, SIST EN 17037:2019). The aspects taken into consideration are linked to facade design and include plasticity, composition, maintenance and surface treatment. The research questions are:

Q(1): What kind of reaction and why do different window views evoke such a reaction?

Q(2): What does a favourite window view contain?

Q(3): What is the most important reason to look out the window?

A closed online questionnaire was used to collect quantitative and qualitative data. The survey was voluntary and anonymous and was carried out in 2023. The questionnaire was divided into two parts. In the first part, the respondents were asked what kind of reaction would they choose to different window view motives and why. More particularly, the participants were first asked to choose a reaction to each window view. They were able to choose between a negative, positive and neutral reactions, and for each reaction they could choose two reactions to the stimulus (i.e. the window view). In the second part, in addition to demographic data, the respondents were asked about their favourite window view and what the most common reason for looking out the window was.

In the study, only multi-storey buildings in residential neighbourhoods were considered, with window views above the treetops, as the majority of apartments in apartment buildings are located above them. Ten window view motives were selected for analysis, covering a range of differently designed and maintained facades, with different compositional properties, visual appeal and plasticity. The facades were selected based on a design that allowed for the study of various parameters. For example, the focus was on different shared walls to windows (Wang and Munakata, 2024) and visual qualities described in Ching (2015), such as colour, texture, contrasts and variety, harmony, maintenance, and inexpressiveness.

The target population for the survey was the working population, who perform predominantly sedentary work during working day. It was assumed that the window view has a larger impact on the stationary working office workers working continuously in the same working environment and is exposed to the same window view during long work hours. Further, the study also included similar population that performs the same type of work in different locations during the workday or partially works from home. It was expected that different work environments might impact the reactions to window views.

Results and discussion

While results related to the above specific questions have been presented in previous years, this paper focuses on the key findings of the study.

Reaction to various window views

In recent decades, the results of studies have shown that the characteristics of the motive seen through the window evoke psychological reactions that match the characteristics of the observed motive itself (Van Esch et al, 2019). In a way, this could also be said for the reactions to the window views used in this study.

The differences in reactions to similar window view motives indicate that respondents were not only evaluating general visual categories, but were also paying attention to the specific visual characteristics of each viewed facade. This suggests a certain degree of sensitivity and differentiation in their assessments. For example, an overview of the results shows that respondents consistently reacted negatively to motives with similar shortcomings. However, if they perceived a visually interesting feature in the motive (such as a visually appealing surface texture), a proportion of respondents switched from a negative to a neutral reaction. The survey results also show that the proportion of negative reactions increased when the motive contained several different shortcomings (for example, a facade with few details and poorly maintained of facade surface). This implies that the reactions of the respondents are consistent with the quality of the elements in the facade motives. In addition, the extremely low proportions of positive reactions to motives that showed signs of wear suggest that poor maintenance of the facade can significantly reduce the potential for a positive perception of the motive. These results are consistent with the outcomes of some previous studies (e.g. Drobne et al., 2022; Szybinska Matusiak and Klöckner, 2016; Herzog and Shier, 2000) and confirm that the maintenance of the built environment is an important aspect of the visual appeal of the motive, and can significantly affect the overall perception of the environment and thus also the reactions of observers.

The influence of the variety and plasticity of the facade surface was assessed using elements such as balconies, loggias, etc. compared to motives that did not contain such elements. A detailed comparison of the survey results shows that there are no major differences between the motives considered when considering the quality of reactions. However, a significant difference can be observed in the identified causes for reactions. Namely, in planimetric motives, mainly calm or calming reactions such as boredom predominate, while in positive reactions such a window view is defined as pleasant, calming, harmonious. In plastic motives the provoked reactions are more disturbing or stimulating; negative reactions are mostly associated with properties such as inconsistency, disturbance and unpleasantness, while positive reactions are associated with visual appeal. The general conclusion is that plasticity in the motive itself did not elicit a positive reaction from respondents and had to be associated with other visually appealing properties such as the quality of the composition, visually appealing surface treatment and colour scheme. However, it did elicit more animated reactions.

Respondents were quite reserved when it came to observing activities in the neighbouring building. This is somewhat surprising, because the activities comprise an important part of the visual information from the outside (Littlefair, 1996). This can be partly explained by cultural patterns of behaviour in an urban environment that values discretion and discourages interaction.

Preferred window view

Recently, a number of studies have focused on the importance of natural and urban views (Kang and Kim, 2019) and have found that a window view into a natural environment is more desirable than a view of buildings and built infrastructure. The survey results showed similar, regardless of the age group by far the most desirable view through a window contains greenery. This is also consistent with other previous studies conducted on different populations and urban environments, which have also found a dominant preference for views that contain movement, greenery and sky (see, for example, Menardo and Brondino, 2021; Kim and Wineman; 2005; Oh et al., 2025). Kaplan (2001) explains that short and repeated visual breaks when a person looks out the window at nature reduce mental fatigue caused by constant focused attention. On the other hand, views of nature do not require focused attention, but involve fascination, which triggers involuntary attention, which in turn has a regenerative effect (Tyrväinen et al. 2014). Several studies have shown that contact with nature also improves general life and job satisfaction (Chang et al., 2020; Kang and Kim, 2019; Elsadek et al., 2019; Ko et al., 2020; Kaplan, 2001; Ozdemir, 2010; Van Esch et al., 2019). This is of course beneficial for workers and also for work performance.

On the other hand, several studies have found that people who did not have the opportunity to have a quality/adequate visual connection with the external environment experienced stress and anxiety, anger, fear, boredom, irritability and sleep disturbances more often than others (Batoool et al. 2021; Spano et al. 2021; Soga et al. 2021). Residents who can see trees from their homes are more satisfied with their lives (Kley and Dovbishchuk, 2021; Kaplan and Kaplan, 1989) and are more effective in solving major life problems. Due to less mental fatigue, there can also be less antagonism in the family. Some authors further suggest that viewing nature has a similar effect on people as actually being in nature (Ko et al. 2020; Kaplan and Kaplan, 1989), can induce a positive mood (Yeom et al. 2020; Veitch and Galasiu, 2012; Drobne et al. 2022) and relieve boredom, mundanity, and even claustrophobia (Yeom et al. 2020). As some researchers have found (Szybinska Matusiak, B.; Klöckner, 2016; Oh et al., 2025), in cases where the density of the building limits the view through the window into the distance and only allows the observation of the middle visible layer, a significant correlation appears between the distance of the elements in the view and the psychological reaction of the observer. The results of this research also confirm this correlation in the population in the Slovenian space and reveal that the proportion of negative reactions is consistently high in cases where the window view is limited to only one near visible layer. This is also in line with the findings and the recommendations of SIST EN 17037 regarding the quality of the view through the window. The results of this study show that the quality of the design of the observed facade reduces the proportion and intensity of negative reactions to some extent, but does not fully compensate for the missing visible layers, the view into the distance and greenery. This finding is also supported by Laumann et al. (2021) who found that the view of urban infrastructure, e.g. a main pedestrian street, a bus/train station or a rush hour, has a smaller regenerative effect than the view of the natural environment and can induce a higher heart rate in the observer group than in the group that observed the natural environment (Laumann et al. 2021).

The obtained reactions to window views have to be put into the framework of the respondents' previous experiences and cultural environment. In this context, it is worth mentioning that the study was conducted in Slovenia, which is one of the less urbanized countries in the EU. For this reason, the majority of the respondents is exposed to views of the natural environment or at least greenery in their daily lives. Unlike Slovenia, a large part of the population of the developed world today lives in urbanized areas, where direct contact with vegetation in the outdoor environment is often limited. This means that the reactions of the respondents to urban views obtained in this study may be somewhat different than those of the population living in denser urban environments. The survey findings are therefore not unambiguous and universal and must be understood in the context of the physical and cultural environment in which they were carried out.

The reason to look out the window

This study showed that not all motives are equally attractive, and when examining the merits of individual motives, certain characteristics and the information (Aries et al., 2010) they convey must be taken into account, but also the preferences of the observer. In particular, this study showed that preferences can be linked to the population's activities during the day. The population under consideration can be divided into three groups – students, work active population and elderly. The number of respondents belonging to the youngest considered group was not numerous enough enable decisive conclusions. For the remaining two groups, it can be concluded that they showed significant specifics in terms of window view preferences. Comparison of the obtained results with previous studies reinforces the assumption that preferences regarding the motive of the window are related to the activity of the observer.

For more than half of the respondents, looking into the distance for a short mental break is the main motivation for observing the surroundings through the window. Especially respondents who performed sedentary work during the day primarily preferred views that relaxed them and provided regeneration and were not distracting, regardless of whether they worked from home or in the office. This is consistent with results of previous studies performed on school populations, students and office workers (see for example Spano et al.) that showed predominant preference for greenery in the window view that can be linked to calming and regenerative effect (Van Esch et al., 2019).

Van Esch et al. (2019), for example, find that the characteristics of the motive seen through the office window improve or regenerate psychological and physical well-being. Views through windows in urban environments are particularly important. A closer look at the existing literature explains the desire to look at nature. Kaplan (2001), for example, emphasizes that in office workers, short and repeated breaks while looking out the window at nature reduce mental fatigue caused by constant focused attention. At the same time, views of nature do not require focused attention, but involve fascination that triggers involuntary attention, which has a regenerative effect (Tyrväinen et al. 2014). Wilson (1984) even claims that susceptibility to greenery and nature originates from evolutionary development. As a result, nature is an environment in which a person feels good, which is favourable for involuntary attention and does not require focused attention, all of which improves the ability to concentrate and enables faster mental regeneration (EEA Report, 2019).

There is also a physiological reason for such a choice. In order to maintain healthy vision, it is necessary to look into the distance as often as possible, as this gives the eye a rest, thereby reducing the possibility of myopia and eye fatigue. In addition, the possibility of looking into the distance evokes pleasant feelings, as the motive captures a wider environment and thus conveys more information. Distance ensures the inclusion of all three visible layers in the view, i.e. the ground, the central part with buildings and greenery, and the sky. The lower layer is particularly important, as activities often take place on the ground that arouse interest in the observer and thus positive reactions (e.g. pedestrians, children playing, people, vehicles passing by, etc.), while at the same time it perceives distances and thus the size of objects in the medium layer (Bell and Burt, 1995).

In this study, the part of respondents who did not perform predominantly office work preferred a different content of the view through the window, which allows for longer observation and monitoring of events in the environment. In more detail, the survey results have indicated that the less active population like elderly prefers nature and lively activities in the view through the window. This is consistent with numerous studies performed in various contexts that emphasize the beneficial effect of proximity to nature on quality of life (Kley and Dovbishchuk, 2021; Kaplan and Kaplan, 1989) that can prevent boredom and a feeling of being confined (Yeom, 2020), especially in older population. Further, some studies also find that, especially in densely urbanized areas, the level of greenery in the environment is inversely related to symptoms of depression in the elderly (Gascon et al., 2015). The view of greenery through the window can also have an impact on activities. Previous studies have found that greenery near residential buildings encourages walks and other forms of spontaneous activity, such as socializing with people with similar interests, which is again particularly beneficial for the elderly population and younger children (Gaikwad and Shinde, 2019). The World Health Organization (WHO) recommends physical activity as an essential strategy for promoting health in cities (Okely, 2020). Some authors even argue that urban populations are generally less healthy than rural populations and that

increased levels of greenery in the environment can reduce the severity of disease symptoms (De Vries, 2003).

A broader view of the issue of greenery in the built environment also indicates impacts related to a comprehensive set of social ecosystem indicators. These indicators include stronger ties between neighbours, a superior sense of safety and inclusion, better supervision of children in outdoor spaces, healthier patterns of children's play, greater use of shared spaces, less rudeness, fewer property crimes, and fewer violent crimes. In this context, natural features and open spaces in residential neighbourhoods play an important role in the sense of belonging and interaction with other residents.

In conclusion, the desire for calm greenery in the window view can be linked to the working population, who look out of the window during the working day for a short visual relaxation and regeneration (Kaplan and Kaplan, 1989), while less active age groups need such a break less often, or are interested in different content in the window view. The results therefore suggest that it would be sensible to design window views adapted to the age and activity of the population.

Conclusions

This study was designed to inspire debate about the sustainable development of urban space, which includes densification and increase of the building height, while window views are becoming increasingly limited. Given that respondents very uniformly described unfavourable window views as undesirable, a similar trend can be expected in other densely built urban environments which not multi-layered and diverse window views. The study of window views highlights the issue of sustainable urban planning and architectural design of building envelopes. Due to the densification of urban space, many users are deprived of a view into the distance, a view of the sky and the ground, which impoverishes the otherwise positive potential of windows and views through them. Sustainable urban planning should take into greater account urban geometry, which defines the dimensions and mutual spacing of buildings in the built environment, which would also enable a better quality of window views. Greenery should be included in the urban environment already at the planning stage, either in the form of trees and shrubs between buildings or in the form of greening of facades. New insights into the importance of window views and guidelines that have been developed based on the findings of numerous studies place great responsibility on architects in designing the urban environment and building envelope. Not only in the arrangement and position of windows, the relationships between architectural elements on the facade (e.g. the size and shape of window surfaces, balconies and terraces, offsets), but also in the choice of materials, colours, textures and, above all, in the inclusion of greenery. As we have seen, dynamic composition and attractive surface treatment can improve the reaction to an otherwise inadequate view through a window. Therefore, in densely built urban environments, it is advisable to provide a view through a window with multiple visible layers, enable a view into the distance, include greenery and use a rich architectural language. Finally, since the lifespan of buildings is quite long, it is essential to thoroughly consider the level of densification of urban space in order to maintain the foundations for sustainable urban development of future densely populated cities.

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The developmental role of regions as the second level of local self-government in Slovenia

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Abstract

This paper examines the developmental role of regions as the second level of local self-government in Slovenia, focusing on the current state of regional development in Slovenia and the potential future impact of the formation of regions. An online survey was conducted among the general public (N = 262), and 15 semi-structured interviews were carried out with interlocutors from two groups: (1) experts from various fields who participated in drafting proposals, and (2) “users” or stakeholders who would be involved in spatial management and the promotion of regional development within the framework of an additional spatial governance level in Slovenia (municipalities, regional development agencies, the Ministry of Cohesion and Regional Development, and the Ministry of Public Administration). Selected proposals for the territorial division of Slovenia into regions (3, 8, 15, and 25 regions) were evaluated against 18 criteria, grouped into four categories: (1) strategic development goals, (2) spatial and environmental aspects, (3) quality of life, and (4) governance and participation. Despite multiple attempts, regions have not yet been formed for various reasons, including constitutional constraints, lack of political will, financing issues, and ineffective communication with the general public. Analyses and opinions indicate that regions could contribute to more balanced regional development, the reduction of development disparities, and more efficient governance. However, open questions remain regarding their number, methods of financing, and the actual political will to form them. The proposal for 8 regions appears to be the most balanced and professionally substantiated, as it offers the highest number of positive impacts on achieving regional development goals.

Key words: regional development, region, local self-government, impact assessment, Slovenia

Introduction

Regional disparities are present in all countries and are regarded as the result of natural, social, and historical factors (Sedlaček, 2009). In efforts to reduce them, economic aspects are often placed at the forefront, while social and political dimensions are also considered important (Kavaš, 2014). Slovenia is characterized as a heterogeneous country; therefore, regional disparities are addressed through diverse approaches to social, economic, and spatial issues. As there is no intermediate level between the state and municipalities, the system is described as highly centralized (Čokert et al., 1999a), while considerable imbalances between centres of power and peripheral areas have been identified (Prebilič, 2024). It is emphasized that the role of the state is to act in favour of its inhabitants and the common good in national, cultural, and economic terms, while the formation of an intermediate level has been seen as enabling citizens to gain better insight and exercise bottom-up control (Gosar, 1999). Regional policy is recognized as a key instrument for the long-term and coordinated management of development at the national, regional, and local levels, as it ensures, together with spatial policy, a balance between economic efficiency, social justice, and environmental aspects (Kavaš & Ravbar, 2021). In Slovenia, the determination of the regional level has been hindered by the lack of an institutionalized regional structure. As a result, state institutions (ministries, government offices, agencies, and public institutes) have been predominantly located in Ljubljana, while individual regional units operate at lower levels (Nared et al., 2019a). In the *Constitution of the Republic of Slovenia* (Ur. l. RS, no. 33/91-I, 42/97, 66/00, 24/03, 69/04, 69/04, 69/04, 68/06, 47/13, 47/13, 75/16 & 92/21; sl. *Ustava Republike Slovenije*), the region is defined in Article 143 as: “.../ a self-governing local community that performs local affairs of broader importance and matters of regional significance determined by law”. Regions were intended to be designed as the foundation for the implementation of the basic principles of decentralization and deconcentration of state administration, as well as the principle of subsidiarity (Čokert, 1999; Vlaj, 2004). Their effectiveness has been described as dependent on general socio-economic conditions, accessibility to urban centres, and politico-administrative activities (Ravbar, 1999). The formation of regions has been understood as involving the transfer of functions from the state and local levels, with the awareness of citizens regarding common belonging also considered important (Trpin & Kovšca Pušenjak, 2020). However, fears of losing competences among politicians, state, and local officials have been identified, which has delayed and obstructed the formation of regions (Čelan, 2024). Municipalities have been described as too small to address the demanding tasks of the 21st century, while regionalization has been interpreted as reflecting the self-confidence of the state, with its rejection seen as an indication of its lack (Plut, 2024). Deregulation and the transfer of decision-making to lower levels have been assessed as factors that could increase voter engagement (Prebilič, 2024). One of the main reasons for regionalization has been recognized as the bringing of decision-making closer to citizens, since municipalities lack sufficient influence for equal participation. If regions were to be formed, they would be responsible for carrying out local matters of broader importance, matters of regional significance defined by law, and delegated state tasks. In addition, they would need to be structured in a way that promotes cooperation and integration across various sectors (Ribičič, 2024). Regions have also been considered to contribute to the reduction of disparities, cross-border cooperation, and more efficient absorption of European funds (Vlaj, 2004). An obstacle to their formation was initially the method of formation prescribed in the *Constitution of the Republic of Slovenia*; after its amendment, however, the adoption of the *Regions Act* (sl. *Zakon o pokrajinah*) has required a two-thirds majority in the National Assembly (Ribičič, 2024). Going forward, greater emphasis will need to be placed on ensuring that regions are perceived by society at large as a factor contributing to the decentralization of state authority (Senčur, 2024). In the paper, the significance of regions as the second level of local self-government in Slovenia for achieving the goals of regional development is presented^[1]. The main focus is placed on the developmental role of formation of regions, that is, on how their formation would influence regional development in Slovenia, and on what their impact would be from the politico-administrative perspective.

Theoretical backgrounds

Regions as the second level of local self-government in Slovenia do not (yet) exist. Half a century ago, the concept of polycentric urban development was introduced in Slovenia to promote balanced regional development, whereby 12 regional centres were formed as drivers of development, on the basis of which 12 statistical regions were subsequently created (Nared et al., 2019b). The term statistical region began to be used in the Slovenian professional community after 1995, following an extensive reform of the municipal system. Prior to this, statistical data had been presented by the Statistical Office of the Republic of Slovenia at the municipal level; however, since municipalities were significantly fragmented after the 1994 reform, the need to present data at the regional level increasingly emerged. Since the 1970s, various research institutions and occasionally the then Statistical Office combined municipal data into 12 functional regions, or areas of inter-municipal cooperation, for the purposes of different analyses. The original regional division, developed in the 1970s by Vrišer and Kokole on the basis of gravitational area analysis, was adopted by the Statistical Office of the Republic of Slovenia in 1995, with the individual units renamed as statistical regions (Haček & Kukovič, 2020). With the adoption of the *Promotion of Balanced Regional Development Act* (Ur. l. RS, no. 93/05, 127/06 & 20/11; sl. *Zakon o spodbujanju skladnega regionalnega razvoja*; ZSRR-1) in 2005, 12 development regions became the unit for the implementation of regional policy.

With Slovenia's independence, the *Constitution of the Republic of Slovenia* was adopted, which in Article 143 envisaged the formation of regions as broader self-governing communities (Čokert et al., 1999a; Šmidovnik, 2004). Regions could therefore be formed only as a type of voluntary association of municipalities (Vlaj, 1999).

As there was no appropriate legal entity at the regional level responsible for regional projects, decision-making in this regard was taken over by mayors, which resulted in the localization of regional policy (Nared, 2018, 2020). In the 1990s, Slovenia faced two options – either the formation of regions would take place simultaneously with the establishment of the system of local self-government, or regions would be formed after the number of municipalities had more or less stabilized. It was, however, also significant that both the *Constitution of the Republic of Slovenia* and the *Local Self-Government Act* (sl. *Zakon o lokalni samoupravi*) stipulated that the formation of regions was tied to the voluntary interest of municipalities, meaning that municipalities, at their inception in the 1990s and later, were more occupied with adapting to their new position and work within local self-government. The new mode of operation was also encountered by municipalities that had already been established (Gajšek, 1999).

After Slovenia's independence, three attempts at the formation of regions were undertaken, all of which included formally submitted legislation. One such attempt was carried out in 1998 (Props, 2024), prior to the 2006 amendment of the *Constitution of the Republic of Slovenia*, which newly stipulated that regions be formed by law (Ribičič, 2024). Between 1999 and 2005, several attempts at the formation of individual regions were also made (Brezovnik et al., 2020). The remaining two attempts were undertaken in 2008 and 2022, with the earlier one even including a consultative referendum on regions (Props, 2024).

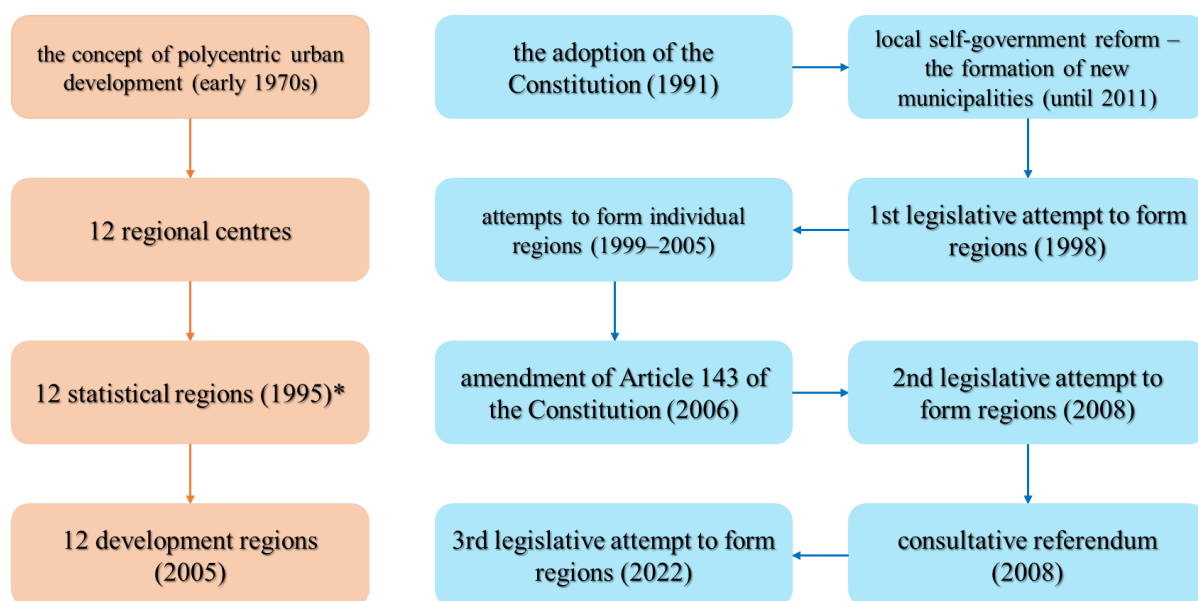


Figure 7: The formation of 12 development regions and the presentation of the course of attempts at the formation of regions as the second level of local self-government in Slovenia (Source: Čokert et al., 1999b; Šmidovnik, 2004; Brezovnik et al., 2020; Haček & Kukovič, 2020; Props, 2024; Ribičič, 2024; Statistical Office of the Republic of Slovenia, 2025; *Promotion of Balanced Regional Development Act* (Ur. l. RS, no. 93/05, 127/06 & 20/11; sl. *Zakon o spodbujanju skladnega regionalnega razvoja*; ZSRR-1); Illustration: Robi Koščak)

Note: * Since the 1970s, municipal data have been aggregated by various research institutions and occasionally by the then Statistical Office into 12 functional regions or areas of inter-municipal cooperation for the purposes of analyses. In 1995, the original regional division, developed in the 1970s by Vrišer and Kokole, was adopted by the Statistical Office of the Republic of Slovenia, and the individual units were renamed as statistical regions (Haček & Kukovič, 2020).

Individual proposals for the territorial division of Slovenia into regions have been classified into three groups: (1) proposals in which a smaller number of larger regions would be formed, (2) proposals in which a larger number of smaller regions would be formed, and (3) proposals envisaging a two-tier division of Slovenia (the formation of a smaller number of larger regions at the first tier and a larger number of smaller subregions or regional communities at the second tier). Within this framework, some proposals have envisaged a special status to individual municipalities, most often referring to the City Municipality of Ljubljana and the City Municipality of Maribor. An example of such a proposal was also the most recent attempt at the formation of regions in Slovenia, within which an initial proposal for 11 regions and a special status for the City Municipality of Ljubljana was developed, followed by a proposal for 10 regions with special status for both the City Municipality of Ljubljana and the City Municipality of Maribor. With the entry of municipalities into this process, a proposal for 15 regions was subsequently developed, again with a special status only for the City Municipality of Ljubljana (N. P., 2019; Brezovnik et al., 2020, 2022).

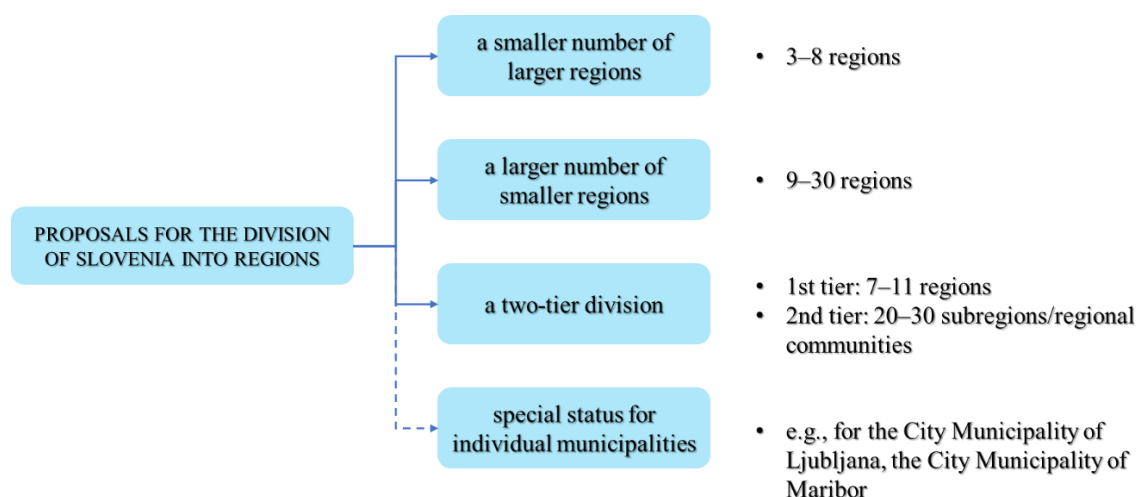


Figure 8: Proposals for the territorial division of Slovenia into regions classified according to the number of regions (Source: Gajšek, 1995, 1999; Čokert, 1999; Čokert et al., 1999b; Gosar, 1999; Gulič, 1999; Plut, 1999, 2004, 2024; Ravbar, 1999; Vrišer, 1999a, 1999b; Drobne, 2020; Brezovnik et al., 2022; Illustration: Robi Koščak)

Regional development has been shaped and established in the context of regional policy after World War II, with its objective being the reduction of regional disparities arising from economic development, which has resulted in some parts of Slovenia developing above average while others have lagged behind. The causes of these disparities have been traced to historical, economic, transport, and social factors. In addition to developmental potentials, institutional quality has been considered crucial, as the introduction of regions alone does not guarantee more balanced regional development (Kavaš & Ravbar, 2021). The elimination of regional disparities has, on the other hand, been described as a long-term, demanding, and costly process with no rapid results; therefore, continuous monitoring and regular evaluation of development policy have been deemed essential in order to identify trends, challenges, and further directions for action (Vrišer, 1999c).

The central objectives of Slovenian regional policy have been identified as, on one hand, the reduction of regional disparities and, on the other hand, balanced development, which is intended to be based on the principles of sustainable development (Vintar Mally, 2024). Regions have thus increasingly been recognized as the spatial units most important for achieving sustainable development goals (Clement et al., 2003; Jovovic et al., 2017). The planning of regional policy and the implementation of regional development tasks have therefore been placed under the responsibility of the state and municipalities. As regions do not exist in Slovenia, these tasks have been assigned to development regions, which have been established on the basis of 12 statistical regions. Within this framework, the fundamental documents of development regions in Slovenia are the Regional Development Programmes, which are valid for seven-year programming periods. These documents guide the development of development regions and are connected, in this context, to the directives of various Slovenian development strategies and spatial development strategies (*Promotion of Balanced Regional Development Act*, Ur. l. RS, no. 20/11, 57/12, 46/16 & 18/23; sl. *Zakon o spodbujanju skladnega regionalnega razvoja*; ZSRR-2). Nevertheless, the objectives set by the state cannot be achieved without successful regional policy and responsible territorial units for its implementation (Vintar Mally, 2024).

Kušar (2021) has reported that rapid reductions in interregional developmental disparities were observed in Slovenia during the 1970s. In the period 1982–1985, the ratio between the most developed region, the Central Slovenia Statistical Region, and the least developed region, the Pomurje Statistical Region, stagnated ($1:1.95 \pm 0.09$). In 1989, the value of this ratio and indicator declined significantly, only to increase again in the following year (1990). During the 1990s, in the period of economic, social, and political transition, interregional developmental disparities were observed to increase, and this trend continued after 2000. During the global financial and economic crisis in 2008, the divergence process

between the most and least developed regions was stagnated, with the least developed region at that time being the Zasavje Statistical Region. In the period 2011–2013, less developed regions began to catch up with the more developed regions, as the latter fell further behind during the economic crisis. By 2018, this ratio had reached 1:2.69. It is also noteworthy that in 2019, GDP per capita in the Central Slovenia Statistical Region exceeded the Slovenian average by more than 40% (Bednaš et al., 2021).

The basic unit of local self-government in Slovenia has been identified as the municipality (Vlaj, 1999). At the municipal level, 212 municipalities operate, which are responsible for matters of local importance (Nared et al., 2019a). Among them, 12 have been granted the status of city municipalities, which also confers additional competences (Ministry of Public Administration, 2023). As a result, large city municipalities exist on one hand, while many very small municipalities exist on the other hand; overall, Slovenian municipalities have been described as highly fragmented (Ribičič, 2024).

Based on the 12 statistical regions, 12 development regions were established in Slovenia, which were intended as a new framework for the development of regional innovation systems, as well as the backbone of a polycentric development system. During the formation of development regions in Slovenia, it was also anticipated that they would gradually evolve into regional structures (Strmšnik, 2004). Pintar (2024) has emphasized that statistical regions in Slovenia were primarily established as regional entities during the COVID-19 pandemic.

As regions have not been formed in Slovenia as broader levels of local self-government, responsibility for regional development has been assigned to the state and individual municipalities, while the formation of regions would transfer this responsibility to their competence (Haček & Kukovič, 2020). Nevertheless, due to the absence of an institutionalized regional level, difficulties in the implementation of tasks and competences at this level are frequently encountered. These difficulties have been experienced particularly by smaller municipalities due to limited human and financial resources (Prebilič & Haček, 2012). Some of the smallest municipalities in Slovenia are also located in some of the most underdeveloped areas of the country, for example along the eastern and southern borders with Croatia and along the border with Hungary (Pintar, 2024).

Inter-municipal cooperation has been identified as crucial in Slovenia due to the fragmentation and small size of municipalities, as well as the dispersed settlement of the population. It has been considered to enable smaller municipalities to implement public services more efficiently and cost-effectively by pooling human, financial, and organizational resources, often through joint organization of public services that, in this regard, extend beyond municipal boundaries (Ministry of Public Administration, 2021).

Gajšek (1999) has indicated that the following conditions would need to be fulfilled for the formation of regions in Slovenia:

- political will expressed in the legislative and executive branches of government,
- legality of the procedure ensured through the positions of the judicial branch,
- consensus among experts in the fields regarding the number, level, and functions of regions,
- recording and analysis of regionalisms,
- public awareness of all citizens of the Republic of Slovenia and transparency of procedures.

Plut (2004) has identified the following as the most important factors or reasons contributing to the lack of a professional and optimal selection of Slovenia's territorial division into regions:

- impacts of globalization: the formation of larger regions has been supported due to their potential for economic performance. Telecommunication technologies have been recognized as reducing the need for physical transport, while European connections and cross-border regional cooperation have been expected to increase the influence and gravitational attractiveness of border areas by larger neighbouring cities;
- impacts of contemporary regionalism – regional equality: the formation of smaller regions has been supported due to the closer proximity of administrative services to the residents of the

region. Regional belonging has been considered to be based on physical-geographical and socio-geographical characteristics, historical and cultural reasons, and past administrative-political divisions, with contemporary sustainable development challenges also being regarded as an important aspect;

- geographical diversity of Slovenia: the country's significant geomorphological variation has been recognized as limiting the formation of large gravitational regions. Slovenia has been described as extremely diverse in terms of relief, climate, and soils, with its river basins clearly defined. Consequently, regional land use has been highly varied, and the settlement network has been dispersed.

Prebilič (2024) has identified the unpreparedness of political elites and decision-makers to transfer competences to the regional level as the key reason why regionalization, or the formation of a second level of local self-government, has not yet occurred in Slovenia. Such a transfer has been considered to reduce the power of the “centre” and to weaken the political influence of political parties and individuals. Consequently, in each attempt at regionalization, support has been observed from opposition parties, which have perceived this as a limitation of state power; however, when these relations change, previous supporters have often been observed to lose interest in regionalization.

Methods

Initially, a survey questionnaire was developed based on a review of the literature, through which insights into public opinion regarding the formation of regions as the second level of local self-government in Slovenia were obtained. The survey included questions on familiarity with the topic, the perceived importance of forming regions, and preferences regarding their number. Respondents were asked to evaluate the advantages, disadvantages, and developmental aspects of regions using a 5-point Likert scale, with the option to provide additional responses. Special attention was given to questions on the financing of regions and the willingness of residents to accept potential higher tax burdens. The questionnaire also included an assessment of the impact of regions on quality of life and open-ended questions about their main priorities. The final section collected demographic information (gender, age, educational attainment, activity status, and statistical region of residence). Responses provided by the survey participants were analysed using descriptive statistics (percentages and averages), while open-ended questions were analysed using content analysis.

The survey questionnaire was prepared using the 1KA tool. Following a pilot test, the survey was conducted between 11 October 2024 and 8 March 2025. A total of 262 completed questionnaires were obtained, distributed via the social network Facebook and the Geolista electronic mailing list. The survey sample was found to most closely reflect the actual population distribution across the statistical regions. Larger differences were observed in terms of respondents' gender, age, and educational structure, as well as activity status, with a higher proportion of female respondents; in addition, respondents were younger and more educated compared to the overall population, and a higher share were employed or still engaged in education. Nevertheless, the sample was considered sufficiently representative, as it was selected randomly.

To obtain in-depth insights into expert opinions and positions on this topic from various specialists and stakeholders, 15 semi-structured interviews were conducted between 12 February 2025 and 23 May 2025. The interviewees were divided into two groups: (1) experts from various fields who work professionally on the topic of regions as the second level of local self-government and who had also participated in previous proposals for the formation of regions (Assoc. Prof. Dr. Samo Drobne, Emeritus Prof. Dr. Ciril Ribičič, Emeritus Prof. Dr. Dušan Plut, Assist. Prof. Dr. Janez Nared, Assist. Prof. Dr. Pavel Gantar, and Prof. Dr. Matej Avbelj), and (2) “users” or stakeholders who would be involved in spatial management and the promotion of regional development in the context of an additional spatial level of governance in Slovenia (Mayor of the Municipality of Tolmin, Alen Červ, Mayor of the Municipality of Ilirska Bistrica, Dr. Gregor Kovačič, Mayor of the Municipality of Šentjernej, Jože Simončič, Mayor of the City Municipality of Murska Sobota, Damjan Anželj, Prof. Dr. Vladimir Prebilič, Giuliano Nemarnik from the Regional Development Centre Koper, Mateja Jazbec and Vane

Urh from the Development Centre Novo mesto, Marko Drofenik from the Ministry of Cohesion and Regional Development, and Dr. Roman Lavtar from the Ministry of Public Administration). Most interviews were conducted via Zoom, while the interviews with Prof. Dr. Vladimir Prebilič and Marko Drofenik were conducted in person, and those with the Mayor of the Municipality of Tolmin, Alen Červ, and the Mayor of the City Municipality of Murska Sobota, Damjan Anželj, were conducted in writing. With the consent of the interviewees, the interviews were recorded, and the recordings were destroyed after transcription and analysis. All questions posed during the interviews were analysed by summarizing the main opinions and positions of all respondents for each individual question. Common themes and connections among their responses were then identified, enabling a more comprehensive interpretation of the collected opinions.

For a comprehensive analysis of the potential impacts of Slovenia's division into regions, impact assessment and expert judgement methods were employed. Four proposals were selected: 3 regions (the smallest number, based on historical provinces), 8 regions (the most frequently supported in the literature), 15 regions (proposal by the expert group of the National Council in the context of the latest attempt to format regions in Slovenia), and 25 regions (the formation of the largest number of regions). The impacts were assessed and evaluated based on 18 criteria, which were developed through a review of strategic documents (e.g., *Slovenian Development Strategy*, *Spatial Development Strategy of Slovenia*, *Regional Development Programmes*) and legislation (*Promotion of Balanced Regional Development Act*; *Spatial Management Act*). The criteria were classified into four groups:

- Strategic development goals: (1) more balanced regional development, (2) reduction of regional disparities, (3) catching up with European regions, (4) improved interregional and international cooperation, (5) intensified economic development and increased competitiveness, and (6) utilization of development potentials and opportunities.
- Spatial and environmental aspects: (7) rational and efficient spatial development, (8) improved internal transport connectivity, (9) polycentric development, (10) sustainable development, and (11) preservation of natural and cultural potential.
- Quality of life: (12) enhancement of quality of life and improved access to services, (13) addressing demographic challenges and maintaining population settlement, and (14) strengthening of local and regional spatial identity.
- Governance and participation: (15) effective governance and administrative and financial sustainability, (16) flexibility and responsiveness to changes and crisis periods, (17) preparedness for natural and other disasters, and (18) participation and greater involvement of the population.

All four selected proposals for the territorial division of Slovenia into regions were first assessed using the impact assessment method across 18 selected criteria, with the potential effect of each proposal on each criterion classified as positive, neutral, or negative. Literature sources and interviews conducted with various experts and “users” or stakeholders involved in spatial management and the promotion of regional development within the context of an additional spatial level of governance in Slovenia were used to support this assessment. Subsequently, the expert judgment method was employed to evaluate why a selected proposal would have a positive, neutral, or negative impact on each criterion. Finally, a comparative analysis of the impact assessments of the selected proposals for Slovenia's regional division was conducted.

Results

An analysis of the opinions and positions of survey respondents

The majority of survey respondents (80.1%) were aware of previous attempts to format regions as the second level of local self-government in Slovenia at the time the survey was conducted. Most respondents considered that they had an average level of knowledge regarding the concept of regions as the second level of local self-government, accounting for 31.4% of all respondents. This was followed by 31% of respondents who reported having low knowledge of the concept. According to the respondents, 29.9% of all respondents had good or very good knowledge of the concept. The remaining 7.7% of respondents were not familiar with this concept.

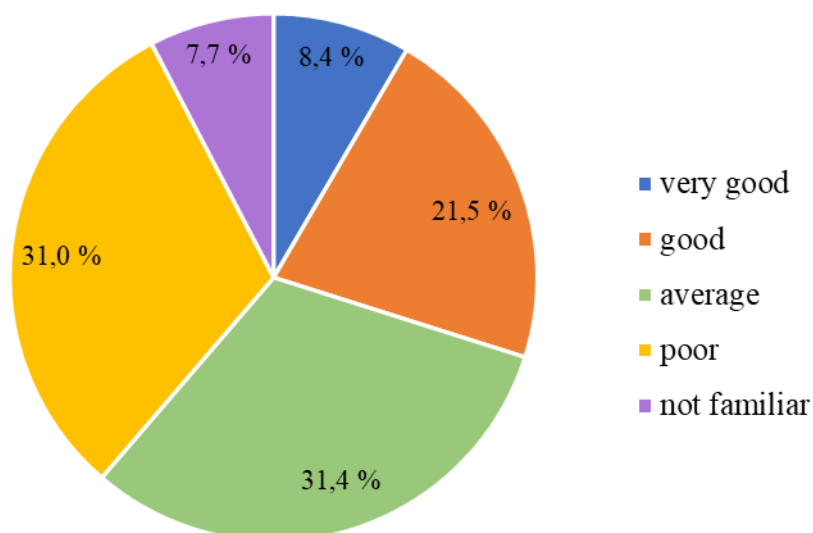


Figure 9: Proportions of survey respondents by familiarity with the concept of formation of regions as the second level of local self-government in Slovenia (Source: Koščak, 2025).

Most survey respondents considered the formation of regions in Slovenia to be necessary, accounting for 45.2% of all respondents. When respondents who regarded the formation of regions as very necessary were included, this proportion increased to 70.1% of all respondents. The formation of regions was considered less necessary by 15.7% of respondents, while 8% of all respondents believed that the formation of regions in Slovenia was not necessary.

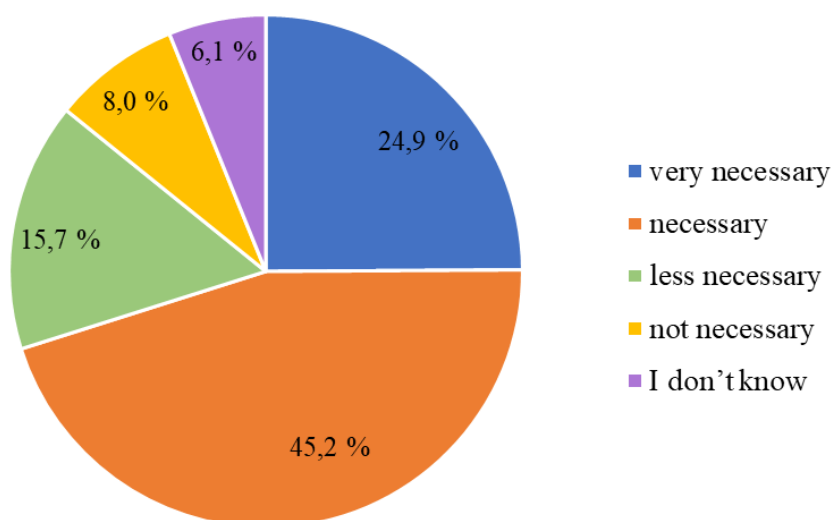


Figure 10: Proportions of survey respondents by their opinion on the necessity of formation of regions as the second level of local self-government in Slovenia (Source: Koščak, 2025).

Among all survey respondents, 72.4% considered that a smaller number of larger regions (e.g., 3, 6, 8) should be formed in Slovenia, while 18.4% believed that a larger number of smaller regions (e.g., 12, 15, 25, 30) should be formed. Meanwhile, 9.2% of all respondents did not agree with any of the proposed options.

In the question regarding whether the formation of regions could bring any of the predefined benefits, respondents were asked to indicate the extent to which they agreed with each potential benefit (ranging from “strongly disagree” to “strongly agree”). They chose from seven predefined options, and under the category “Other,” they could add their own suggestions if desired. Responses were scored from 1 to 5, with 1 assigned to “strongly disagree” and 5 to “strongly agree”. It was assessed by respondents that the greatest benefits of formation of regions would be more efficient utilization of European funds and more balanced regional development, both receiving an average score of 3.9. Following this, greater decentralization of decision-making and improved inter-municipal cooperation were rated with an average score of 3.8, while better services were rated third with an average score of 3.7. The lowest-rated benefits, with an average score of 3.6, were improved infrastructure and more efficient administration. In the “Other” category, respondents highlighted additional perceived benefits of regions, such as adaptation of development to the needs of individual regions, improved communication among different spatial levels of governance, and, in particular, the reduction of the burden on the highly developed Central Slovenia region. It should be emphasized that the differences between the highest- and lowest-rated benefits were small.

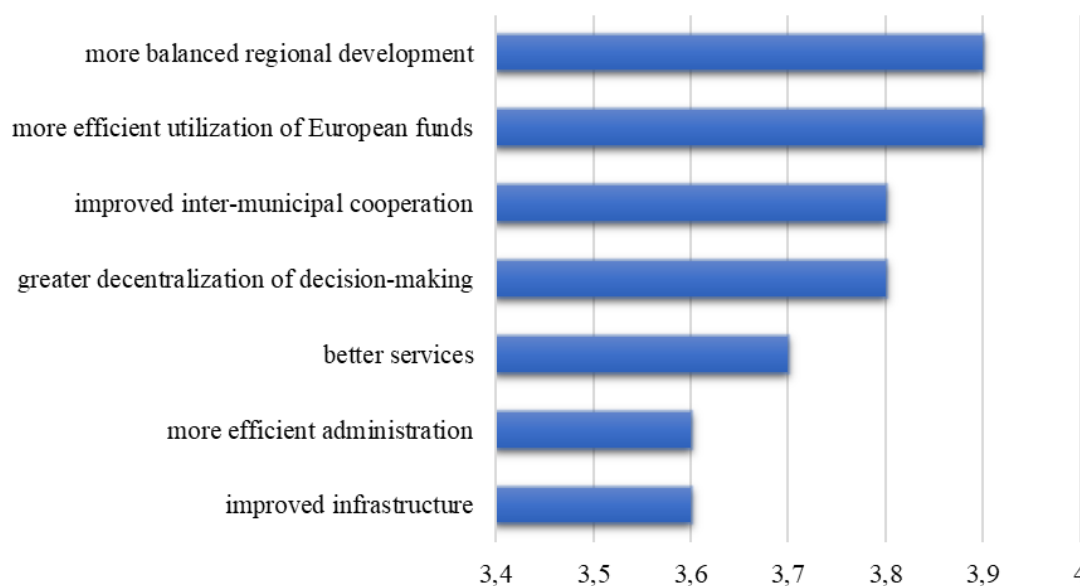


Figure 11: Average ratings by survey respondents of the potential benefits of formation of regions as the second level of local self-government in Slovenia (Source: Koščak, 2025).

Greater differences among survey respondents were observed in the question in which they evaluated potential drawbacks that could arise from the formation of regions as the second level of local self-government in Slovenia. Four drawbacks were presented as options, and for each, respondents indicated the extent to which they agreed that the drawback could occur, ranging from “strongly disagree” to “strongly agree”. As with the benefits, responses were scored from 1 to 5, with 1 assigned to “strongly disagree” and 5 to “strongly agree”. It was considered by respondents that the greatest potential drawbacks of formation of regions in Slovenia would be higher administrative costs and increased bureaucracy, both receiving an average score of 3.5. Following this, lack of transparency and complexity of decision-making was rated with an average score of 3.1, while the lowest-rated drawback was

increased centralization (concentration of power, population, economy, etc.), with an average score of 2.7.

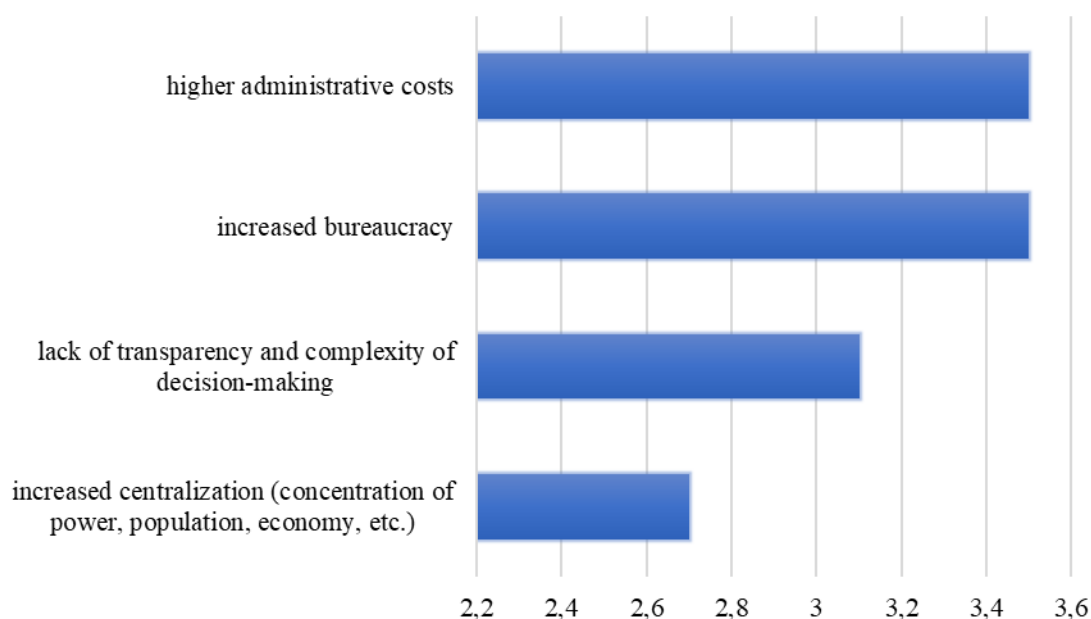


Figure 12: Average ratings of survey respondents on individual drawbacks that could be associated with the formation of regions as the second level of local self-government in Slovenia (Source: Koščak, 2025).

It was considered by the largest share of respondents (40.8%) that the formation of regions would not significantly improve the quality of their lives. A deterioration in quality of life as a result of the formation of regions was believed by 5.4% of respondents. On the other hand, 37.3% of respondents indicated that their quality of life would be improved through the formation of regions. The remaining 16.5% of respondents reported uncertainty regarding the potential impact of the formation of regions on their quality of life.

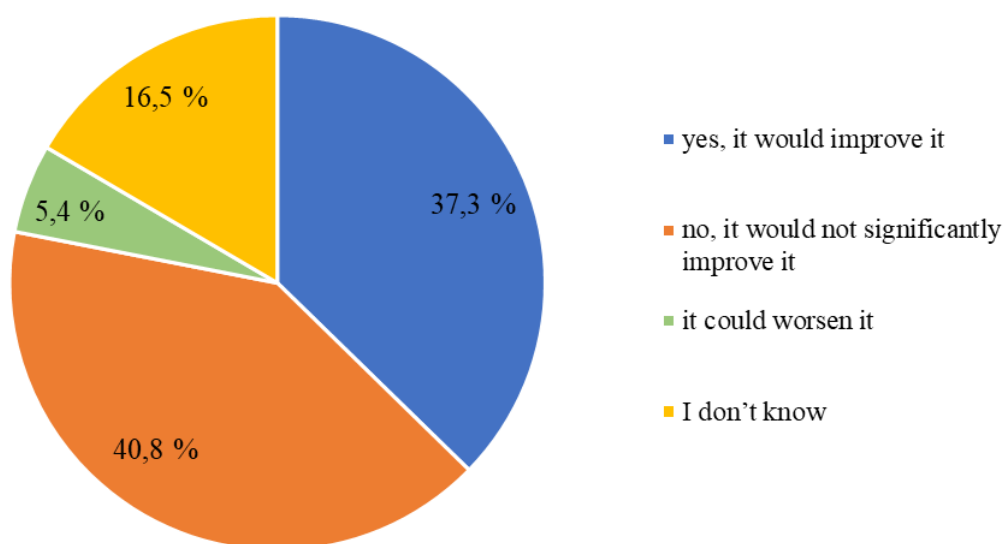


Figure 13: Proportions of survey respondents by opinion on whether the formation of regions as the second level of local self-government in Slovenia could improve their quality of life (Source: Koščak, 2025).

A considerable number of survey respondents (primarily those living in Ljubljana or in one of the other larger cities) expressed the view that the formation of regions would not significantly affect their quality of life, as they already reside in the (most) developed areas of Slovenia. Among these respondents, it was only mentioned that the formation of regions might contribute to more sustainable mobility solutions.

An analysis of the opinions and positions of interviewees

Through the implementation of semi-structured interviews, it was established that the lack of formation of regions as the second level of local self-government was attributed by interviewees to various political obstacles (initially to the *Constitution of the Republic of Slovenia*, and after its amendment, to the requirement of a two-thirds majority of the Members of Parliament present in the National Assembly for the adoption of the *Regions Act*). In addition, insufficient attention was often considered to have been paid to their financing, while the assertion of particular or local interests was also emphasized as an obstacle. In the course of the interviews, a centralist arrangement prevailing in the country, as well as the small size and fragmentation of Slovenian municipalities, which were associated with their limited resources, were highlighted. It was also stated that the formation of regions was not considered to be in the interest of political parties in Parliament, primarily of coalition parties in general, as it would result in a reduction of their power at the national level. A similar position was ascribed to some municipalities, which were perceived as being concerned about interference with their competences. Nevertheless, it was simultaneously emphasized that the formation of regions would have considerable positive effects, especially for the smallest municipalities. It was pointed out that regions would be more effective in addressing problems and challenges at the regional level. The creation of up to eight regions was regarded as the most appropriate solution for Slovenia, while proposals foreseeing the division of the country into a larger number of smaller regions were assessed as likely to produce regions that would be too weak. It was further emphasized that regions should not represent an additional bureaucratic obstacle but should constitute a level of governance that contributes to improving people's quality of life. In this context, it was underlined that proposals and arguments should be based on expert foundations and presented to the public in the clearest and most comprehensible way possible. The existing twelve development regions were considered unsuitable due to large internal differences. Furthermore, it was suggested that regions could make an important contribution to sustainable development, the competitiveness of Slovenia, governance, and spatial planning.

It was found that the majority of interviewees considered the formation of a smaller number of larger regions (e.g., eight regions) to be more appropriate for Slovenia, as such regions could contribute to more balanced regional development. It was also suggested that the regional level could be the one responsible for implementing measures aimed at reducing regional development disparities and strengthening polycentric development, thereby fostering greater decentralization. Within this framework, the role of regions in reinforcing regional centres was emphasized. The granting of special status to individual municipalities was viewed negatively, as this would merely separate such municipalities from their hinterland, potentially exerting a negative impact on the development and cohesion of these areas. It was further argued that the regional level would be better positioned to identify problems and challenges in this domain, while also facilitating improved cooperation. Projects could thus become more focused on regional development and would no longer be so highly localized. It was also underlined that a decision-making function is lacking in this segment, which would bring a certain degree of accountability that could be ensured through elections at the regional level.

Assessment and evaluation of the impacts of selected proposals for the territorial division of Slovenia into regions through selected criteria

The assessment of the impacts of all four selected proposals for the territorial division of Slovenia into regions as the second level of local self-government revealed considerable differences in the potential impacts of individual proposals according to the 18 selected criteria. It was shown that the proposal of 8 regions would have the most positive impact among all selected proposals, as favourable effects were demonstrated for 15 out of the total of 18 criteria. This was followed by the proposal of 15 regions,

which showed a positive impact for half of the selected criteria. The proposals with the smallest and the largest number of regions would have a positive impact on the smallest number of selected criteria. At the same time, these two proposals would also have the most negative impact among all proposals, as unfavourable effects were demonstrated for as many as 11 criteria. By contrast, the remaining two proposals would have a negative impact on only one criterion. The proposal of 15 regions would have the greatest number of neutral impacts, namely on 8 of the selected criteria. The proposal of 25 regions would have such an impact on four criteria, while the proposals of 3 and 8 regions would show neutrality on two criteria.

Table 1: Comparison of the four selected proposals for the territorial division of Slovenia into regions in terms of their overall impact according to the selected criteria

Selected proposal	Positive impact	Neutral impact	Negative impact
3 regions	5	2	11
8 regions	15	2	1
15 regions	9	8	1
25 regions	3	4	11

Source: Koščak (2025)

Among the four selected proposals for the territorial division of Slovenia into regions as a second level of local self-government, the proposal of 3 regions would have had a positive impact only on effective governance and administrative and financial sustainability. Furthermore, this proposal would have been the only one to exert a negative impact across six selected criteria: more balanced regional development, reduction of regional disparities, polycentric development, sustainable development, preservation of natural and cultural potential, and participation and greater involvement of the population. Similarly, only the proposal of 8 regions would have had a positive impact across six selected criteria: more balanced regional development, reduction of regional disparities, catching up with European regions, enhancement of quality of life and improved access to services, flexibility and responsiveness to changes and crises periods, and preparedness for natural and other disasters. This proposal would have had a negative impact only on the strengthening of local and regional spatial identity, a criterion for which the proposal of 3 regions would also have had a negative impact. In contrast, the proposals involving a larger number of regions would have had a more positive impact on this criterion. The proposal of 25 regions would have been the only one among all four selected proposals to exert a negative impact on the following criteria: catching up with European regions, improved interregional and international cooperation, intensified economic development and increased competitiveness, utilization of development potentials and opportunities, rational and efficient spatial development, and improved internal transport connectivity. Regarding the criterion of addressing demographic challenges and maintaining population settlement, the proposals with the smallest and largest number of regions would have had a more negative impact, while the other two proposals would have had a more positive impact.

Table 2: A comparison of the impact assessments of the four selected proposals for the territorial division of Slovenia into regions, based on their effects on individual criteria

Criterion	3 regions	8 regions	15 regions	25 regions
more balanced regional development	–	+	0	0
reduction of regional disparities	–	+	0	0
catching up with European regions	0	+	0	–
improved interregional and international cooperation	0	+	+	–
intensified economic development and increased competitiveness	+	+	+	–
utilization of development potentials and opportunities	+	+	+	–
rational and efficient spatial development	+	+	0	–
improved internal transport connectivity	+	+	0	–
polycentric development	–	+	+	+
sustainable development	–	+	+	0
preservation of natural and cultural potential	–	+	+	0
enhancement of quality of life and improved access to services	–	+	0	–
addressing demographic challenges and maintaining population settlement	–	+	+	–
strengthening of local and regional spatial identity	–	–	+	+
effective governance and administrative and financial sustainability	+	0	–	–
flexibility and responsiveness to changes and crisis periods	–	+	0	–
preparedness for natural and other disasters	–	+	0	–
participation and greater involvement of the population	–	0	+	+

Note: The symbol + is used to indicate a positive impact, the symbol 0 a neutral impact, and the symbol – a negative impact.

Source: Koščak (2025)

Discussion

Slovenia does not have regions formed as a second level of local self-government, which means that the responsibility for reducing regional disparities and achieving more balanced development is assigned to the state and municipalities (see Haček & Kukovič, 2020). The 12 development regions in Slovenia are without elected representatives, which implies that no real political accountability exists for the implementation of tasks and the achievement of objectives within their framework (Drofenik, 2025). Many municipalities in Slovenia are too small and have insufficient resources to effectively carry out the assigned tasks (see Prebilič & Haček, 2012). As a result, various forms of inter-municipal cooperation are often established, although these mostly do not address such issues. Regions are formed in the consciousness of the population (Ribičič, 2024), primarily reflecting a provincial identity derived from historical lands (Novak, 2020).

The reasons why regions as a second level of local self-government have not yet been formed in Slovenia, or why none of the previous proposals were adopted, are diverse. Initially, after Slovenia's independence and the adoption of the *Constitution of the Republic of Slovenia*, one of the main reasons for the non-formation of regions was the Constitution itself, as it was stated therein that regions were to be formed through the voluntary association of municipalities (see Čokert et al., 1999a). Before the abolition of the communes, there were 62 of them. By 1994, the number of municipalities had more than doubled, reaching 147, and by 2011 it increased to today's 212 (Statistical Office of the Republic of Slovenia, 2025). The formation of regions in the 1990s, and later as well, was hindered precisely due to the fragmentation of Slovenian municipalities.

In 2006, the *Constitution of the Republic of Slovenia* was amended, after which it has been stipulated that regions are to be formed by law. Even after this amendment, regions in Slovenia were not formed, since a new obstacle arose: the adoption of such a law would require a two-thirds majority of the Members of Parliament present in the National Assembly of the Republic of Slovenia. Furthermore, the law would also determine, in addition to their number, the names, seats, and boundaries of the regions (Ribičič, 2024).

It has been found that the amendment to the *Constitution of the Republic of Slovenia*, which before 2006 had complicated or practically prevented the formation of regions, did not contribute to their formation even after 2006. Interestingly, the number of attempts to format regions after the amendment of Article 143 of the *Constitution of the Republic of Slovenia* actually decreased compared to the number of attempts before this amendment in 2006 (see Ribičič, 2024). This indicates that the amendment did not resolve the key issues that still affect the absence of an intermediate level between the state and municipalities. The reason for this could also be sought in the decline of interest and political will for the formation of regions. For example, Lavtar (2025) argues that discussions on the formation of regions have been prolonged, which has led to a growing distance from their actual formation. Similarly, Mateja Jazbec emphasizes that the formation of regions becomes more difficult as more time passes since the country's independence, since political will for such a process continues to diminish (Jazbec & Urh, 2025). For this reason, Avbelj (2025) considers that only certain interest groups remain engaged in the project of forming regions in Slovenia.

In the interviews conducted, it was observed that two additional issues had been highlighted in the formation of previous proposals for the division of Slovenia into regions. One of these issues concerned the determination of regional financing (Drofenik, 2025; Jazbec & Urh, 2025; Ribičič, 2025), which is strongly linked to the number of regions (Senčur, 2024). On one hand, the financing issue is perceived by the population, as it is believed that the formation of regions would lead to new taxes and levies. This was also identified during the public survey, where respondents ranked higher administrative costs as the most significant potential drawback of forming regions. All interviewees emphasized that certain tasks could be transferred to the regional level with the formation of regions as a second level of local self-government. Currently, some of these tasks fall under the competence of municipalities, while others are under the state's authority. Tasks of broader local or regional significance could thus be transferred from the municipal level, while tasks that could be implemented more effectively at the

regional level could be transferred from the state level (Prašnikar, 2004). It was further emphasized by the interviewees that the transfer of tasks should necessarily be accompanied by a corresponding transfer of funding resources, meaning that the formation of regions should not result in an increase in taxes or other levies for the population (Drofenik, 2025; Lavtar, 2025).

On the other hand, municipalities, led by mayors, have expressed concerns regarding a potential reduction of resources. However, as was also emphasized by several interviewees in this context, this should not pose a problem for municipalities, since, as noted, the transfer of funding resources to the regional level would be accompanied by the transfer of certain tasks currently performed by municipalities. This would also alleviate the burden on municipalities, particularly the smallest ones, which are already limited in terms of personnel and financial capacity and unable to implement larger and more complex projects and investments (Anželj, 2025; Červ, 2025; Kovačič, 2025; Prebilič, 2025; Simončič, 2025). Some interviewees further highlighted that both residents and municipalities have doubts about this mainly due to poor communication (Anželj, 2025, Jazbec & Urh, 2025). In the survey conducted among the general public, more than 60% of respondents indicated that they would not support the formation of regions if it implied higher taxes, emphasizing that regions should (at least partially) be funded from the state budget and European funds. This issue is connected to the inadequate presentation—or even absence—of this topic. It is evident both among municipalities, in terms of how the transfer of certain tasks would affect them, and among the general public. Residents would need to be informed in a clear and understandable manner about how the formation of regions could affect various sectors, particularly regarding their contribution to more balanced regional development, the reduction of regional disparities, and more efficient implementation of projects and investments—all of which would also improve the quality of their lives. According to the survey results, currently, more than 40% of respondents believe that the formation of regions would not improve their quality of life.

The second problem identified by the interviewees is politics itself, which has been considered incapable of forming regions. Disagreements arise already regarding the number of regions, and it is often observed that political parties support the formation of regions only when they are in opposition (Prebilič, 2025). As previously noted, a two-thirds majority of the members present in the National Assembly of the Republic of Slovenia is currently required for the formation of regions, and all indications suggest that such broad support for a potential future *Regions Act*—which would form a second level of local self-government in Slovenia—is not to be expected in the near future (Červ, 2025; Plut, 2025; Ribičič, 2025). Furthermore, politics is precisely the entity responsible for the communication and transparent presentation of the formation and functioning of regions (Anželj, 2025; Lavtar, 2025). An important aspect in this context is the influence of local or regional interests, which has led to a rapid increase in the number of regions in previous proposals when politics was involved in the process (Prebilič, 2025). The survey results showed that more than 70% of respondents believe that a smaller number of larger regions should be formed in Slovenia. However, it should be noted, as emphasized by Drobne (2025) in an interview, that it is uncertain whether the same respondents, who indicated during the survey that larger regions would be more suitable for Slovenia, would make the same choice during the implementation phase of such a proposal, as local or regional interests often prevail at that stage.

At the time of the survey, it was reported that most respondents were aware that attempts had been made in the past to form regions as a second level of local self-government in Slovenia. The topic of regions as a second level of local self-government periodically surfaces and is then more prominently covered in the media. A referendum on the topic was also held in 2008, although voter turnout was only 11% (Props, 2024). Although most respondents were aware of past attempts to form regions as a second level of local self-government, only about one-third reported having an average understanding of the concept itself. Another one-third indicated that they were poorly familiar with the concept, while less than one-tenth had no knowledge of it at all. This indicates that public awareness of the topic remains limited, despite multiple attempts to form regions in the past and occasional media coverage. Almost a quarter of all respondents considered the formation of regions in Slovenia to be of little or no necessity. In contrast, 70% regarded it as necessary or very necessary, suggesting that, even if the concept of regions is not well known, their formation is perceived as a need by the public. The greatest advantages of

formation of regions were identified as more balanced regional development and more efficient use of European funds. According to interviewees, balanced regional development should also be the most important task of regions (Avbelj, 2025; Gantar, 2025; Lavtar, 2025; Plut, 2025; Simončič, 2025). On the other hand, respondents considered the main disadvantages of formation of regions to be higher administrative costs and increased bureaucracy. It was also stated that regions should focus primarily on spatial planning, particularly the improvement of infrastructure and public transport, as well as the reduction of regional disparities. From the survey responses, it was further inferred that the process of formation of regions in Slovenia would be lengthy, and therefore, positive effects would only begin to manifest in the long term. Similarly, some interviewees emphasized that the medium- and long-term benefits of formation of regions would outweigh these initial challenges (Drofenik, 2025). Additionally, survey responses suggested that the formation of regions would likely be more beneficial for residents of smaller towns and rural areas. A large majority of respondents living in Ljubljana or other major cities indicated that, due to their already more developed locations, regions as a second level of local self-government would not significantly affect their quality of life. This aligns with the opinions of some interviewees who noted that the smallest municipalities in Slovenia could benefit the most from the formation of regions (Kovačič, 2025; Simončič, 2025).

The individual proposals for the division of Slovenia into regions were classified into three groups: 1. proposals in which a smaller number of larger regions would be formed, 2. proposals in which a larger number of smaller regions would be formed, and 3. proposals envisaging a two-tier division of Slovenia (the formation of a smaller number of larger regions at the first tier and a larger number of smaller subregions or regional communities at the second tier). Some of these proposals also provided for a special status to individual municipalities, most often intended for the City Municipality of Ljubljana and the City Municipality of Maribor. An example of such a proposal was the most recent attempt to form regions in Slovenia, in which an initial proposal for 11 regions and a special status for the City Municipality of Ljubljana was prepared, followed by a proposal for 10 regions with a special status for both the City Municipality of Ljubljana and the City Municipality of Maribor. Upon the inclusion of municipalities in this process, a proposal for 15 regions was subsequently formulated, with the special status reinstated only for the City Municipality of Ljubljana (N. P., 2019; Brezovnik et al., 2020, 2022).

In the process of drafting proposals, in which various experts—interviewed as part of this study—participated, different starting points or criteria were highlighted and applied. These included historical reasons, the division of territory based on river basins, a population criterion (with a minimum of 100,000 inhabitants per region), daily mobility and commuting flows, central functions, and derivation from the already existing 12 statistical or development regions. Interestingly, a review of regional divisions by selected civil society organizations, public administration, and state administration in Slovenia shows that most are divided into exactly 12 units (Haček & Kukovič, 2020). It was emphasized by the interviewees that the inclusion of municipalities quickly led to the advocacy of their own local interests, resulting in an increase in the number of regions in these proposals. Additionally, some interviewees highlighted that the granting of special statuses to individual municipalities (e.g., the City Municipality of Ljubljana and the City Municipality of Maribor) was considered inappropriate (Drobne, 2025; Lavtar, 2025; Nared, 2025).

It is argued by Strmšnik (2004) that, in each attempt to divide Slovenia into regions, municipalities would assess their interest in participating in the proposed territorial arrangements, and that the willingness of municipalities to participate in the formation of regions should be considered to some extent even if such regions were formed by law or through an amendment of the *Constitution of the Republic of Slovenia* (which later occurred in 2006). In Slovenia, tasks of the higher administrative level are still concentrated in the largest centres, which is not aligned with the principles of balanced development (Gosar, 1999). It is further suggested by Gulič (1999) that representatives of so-called regionalist movements, in addition to municipalities, should be actively included in the process of preparing and implementing the regionalization of the state.

The majority of interviewees evaluated past attempts to form regions as the second level of local self-government in Slovenia negatively (Anželj, 2025; Jazbec & Urh, 2025; Kovačič, 2025; Nared, 2025;

Plut, 2025; Prebilič, 2025; Ribičič, 2025; Simončič, 2025), although it was emphasized that their formation could have positive effects in various fields (sustainable development, Slovenia's competitiveness, governance and spatial planning, and regional development). It was generally agreed that one of the main tasks of regions should be the reduction of regional disparities and the achievement of more balanced regional development (Nared, 2025; Ribičič, 2025). Among the tasks and competences that could be carried out by regions, the following were most frequently mentioned: roads of different categories (excluding motorways), kindergartens, primary and secondary schools, municipal services (water supply, waste management), municipal warden services and various types of inspections, healthcare (excluding university clinical centres), spatial planning, tasks currently performed by administrative units, the reduction of regional disparities, and the promotion of more balanced regional development.

It was mostly considered by mayors that the formation of regions would relieve municipalities, as certain tasks would be transferred to the regional level (e.g., within spatial planning, infrastructure, social activities, environment, etc.). At the same time, it was believed that their formation could contribute to the simplification of procedures in terms of obtaining approvals and opinions, cost rationalization, implementation of joint projects, and more effective absorption of European funds (Anželj, 2025; Červ, 2025; Kovačič, 2025; Prebilič, 2025; Simončič, 2025). It was emphasized that the participation of municipalities in this process is essential, and that proposals must be based on professional assumptions and arguments. It was further considered that the functioning of regions should be better presented to mayors and municipalities, which requires good and transparent communication (Anželj, 2025; Kovačič, 2025; Prebilič, 2025). At the same time, it was stressed that duplication of tasks and additional bureaucratization should not occur (Červ, 2025; Kovačič, 2025).

It was agreed by interviewees from the regional development agencies that their role would not significantly change and that they would continue to function as a form of professional and support service. It was further considered that, with the formation of regions, greater attention would be devoted to larger projects at the regional level, as there is still too much focus on local projects at present. It was also believed that the absorption of funds would become more efficient, and that regions would be better able to define and plan regional projects according to their own needs (Jazbec & Urh, 2025; Nemarnik, 2025).

It was emphasized by the interviewee from the Ministry of Cohesion and Regional Development that the main difficulties encountered are the lack of genuine political accountability of regional-level bodies and the issue of regional-level financing, as projects from the Regional Development Programs are currently financed by municipalities (Drofenik, 2025). It was further highlighted by the interviewee from the Ministry of Public Administration that it is generally assumed that governance would become more efficient with the formation of regions, but that this would depend on the number of regions, since a larger number would result in less efficient governance (Lavtar, 2025). Both interviewees agreed that the transfer of tasks from one level of governance to another should necessarily be accompanied by the transfer of financial resources.

The majority of interviewees expressed the view that regions would represent the most appropriate form of governance at the regional level. It was emphasized that, in comparison with development regions, regions would actually possess the power and capacity to make decisions on specific projects in areas of importance to them, while also bearing a certain degree of responsibility (Drofenik, 2025; Plut, 2025). Joint municipal administrations were regarded by interviewees as not having proven to be an effective solution, as they operate primarily in the fields of municipal warden services and inspection services, whereas in areas such as spatial planning, cooperation among municipalities within this framework has been extremely limited (Drofenik, 2025; Jazbec & Urh, 2025; Nemarnik, 2025). With respect to public trust, interviewees underlined that trust in politics among the general population is generally low, yet it was suggested that this trust could be built through good practices and transparent, clear, and comprehensible communication (Anželj, 2025; Červ, 2025; Drofenik, 2025; Jazbec & Urh, 2025; Kovačič, 2025; Lavtar, 2025; Plut, 2025; Prebilič, 2025; Ribičič, 2025). As an example of good practice, the arrangement of this issue in neighbouring Austria was frequently mentioned by interviewees (Červ,

2025; Drofenik, 2025; Plut, 2025; Prebilič, 2025; Simončič, 2025), while some also referred to neighbouring Croatia (Anželj, 2025; Jazbec & Urh, 2025; Kovačič, 2025; Nemarnik, 2025).

Using the method of impact assessment based on the selected 18 criteria, it was demonstrated that the proposal for the division of Slovenia into 8 regions would yield the most positive effects. The literature on regions as the second level of local self-government frequently mentions that the most suitable number of regions for Slovenia would range between six and eight, with the proposal of 8 regions being most often highlighted (see Gajšek, 1999; Plut, 2004, 2024). As already noted, a considerably larger share of survey respondents expressed greater agreement with the formation of a smaller number of larger regions, a position that was also shared by interviewees. The proposal of 8 regions, however, appears less appropriate in terms of strengthening local and regional spatial identity as well as participation and greater involvement of the population. Within this proposal, certain spatial units with a strong sense of belonging (e.g., Koroška, Bela krajina, Posavje, etc.) would be incorporated into neighbouring regions, as they would not meet the often-cited minimum threshold of 100,000 inhabitants (Ravbar, 2021; Plut, 2024, 2025; Lavtar, 2025; Nared, 2025). Compared to other proposals, such regions would also be relatively weak. The proposals that envisage the smallest and largest number of regions—namely 3 and 25—were assessed as having the most negative effects. The proposal of 3 regions could have positive impacts primarily in terms of exploiting development potential and opportunities, efficient governance, and administrative and financial sustainability. Such regions would be sufficiently large to possess adequate resources for the use of development potential and project implementation. However, they would be less easily accepted by the population, as they would encompass highly diverse areas, while internal heterogeneity would make the reduction of regional disparities more difficult. The proposal of 25 regions could have positive effects primarily on polycentric development, the strengthening of local and regional spatial identity, and greater involvement of the population and inclusion, as a larger number of regional centres could be strengthened, and smaller regions could foster stronger feelings of belonging due to their greater homogeneity. Furthermore, certain weaker areas could become independent regions, which would not occur in the case of a smaller number of regions. Nonetheless, the negative aspect of such regions would be precisely their weakness and limited resources, both financial and human, which would not contribute positively to more balanced regional development. The proposal of 15 regions, according to the impact assessment, was found to have fewer negative effects than the proposals of 3 or 25 regions, while at the same time showing fewer positive effects than the proposal of 8 regions. In comparison with the latter, 15 regions would be weaker, and their impact on regional development would therefore be more negative.

Conclusion

Through the survey method, the opinions of the general public regarding the formation of regions were presented. The survey was conducted via social media and the electronic distribution list Geolista. During the survey period, 262 completed questionnaires were collected. It was established that most respondents were aware of past attempts to form regions as the second level of local self-government in Slovenia; however, the knowledge of the concept itself was not strongly embedded among the general public. It was considered by most respondents that the formation of regions in Slovenia would be necessary, while the formation of a smaller number of regions (e.g., 3, 6, 8) was perceived as more appropriate. The greatest advantages of regions were identified as more balanced regional development and more efficient use of European funds, while the greatest disadvantages were perceived to be higher administrative costs and an increase in bureaucratization. Spatial arrangements in the field of infrastructure and public transport, as well as the reduction of developmental disparities, were highlighted as the most important developmental aspects of regions. It was considered that the regions should be predominantly financed through direct funding from the state budget and European funds. Approximately the same proportion of respondents believed that the formation of regions would not improve the quality of their lives as those who believed it would. Respondents living in larger cities mostly considered that the formation of regions would not significantly affect their quality of life.

A total of 15 semi-structured interviews were conducted in order to obtain an in-depth insight into the views and positions of various stakeholders regarding regions as the second level of local self-

government. The interviewees were divided into two groups: (1) experts from different fields who had been involved in the preparation of proposals, and (2) “users” or stakeholders who would operate in spatial governance and the promotion of regional development within the framework of an additional spatial governance level in Slovenia (municipalities, regional development agencies, the Ministry of Cohesion and Regional Development, and the Ministry of Public Administration). Political obstacles were mentioned as the main reason why regions as the second level of local self-government had not yet been formed in Slovenia. Before 2006, the obstacle was represented by the method of their formation stipulated in the Constitution; after its amendment, the required two-thirds majority of present members of the National Assembly was needed for the adoption of the *Regions Act*, which would determine their names, seats, and scope. Financing issues were also often identified as an obstacle to the formation of regions. Furthermore, the assertion of local interests within proposals for the division of Slovenia often led to an increase in the number of regions, which, from demographic and economic perspectives, would result in relatively weak regions. During the interviews, the centralised organisation of the state and the small size and fragmentation of Slovenian municipalities were also highlighted. It was emphasised by some interviewees that political parties in Parliament had no interest in forming regions, as this would result in a reduction of their power at the national level. It was also pointed out that the smallest municipalities could potentially benefit the most from the formation of regions. It was stressed that regions would be more effective than the state or municipalities in addressing problems and challenges at the regional level. Concerning the number of regions, a broad agreement was expressed that the most suitable arrangement for Slovenia would be the formation of a smaller number of larger regions, namely up to eight, as otherwise regions would be too weak. It was considered that future proposals should be based on strong professional arguments and presented to the general public and municipalities as clearly and transparently as possible. Agreement was also expressed that regions would positively affect sustainable development, Slovenia’s competitiveness, governance, and spatial planning. A positive influence on more balanced regional development could only be achieved through the formation of a smaller number of larger regions. It was highlighted that the regional level could be effective in implementing measures for reducing regional disparities and for strengthening polycentric development. Scepticism was expressed towards proposals foreseeing the granting of special status to individual municipalities, as such arrangements could negatively impact their cohesion with the surrounding hinterland. It was emphasised that the formation of regions would enable a transition from overly locally oriented projects to their more effective planning at the regional level. With the formation of regions, a decision-making function would also be introduced, carrying a certain level of responsibility for the performance of tasks at the regional level.

In the conclusion, the potential impacts of selected proposals for the division of Slovenia into regions were assessed and evaluated. For this purpose, two methods were applied: impact assessment and expert judgement. Four different proposals for the division of Slovenia into regions were selected, namely proposals for 3, 8, 15, and 25 regions. The proposals were assessed against 18 criteria, which were identified through a review of various developmental and strategic documents as well as relevant legislation. The criteria were grouped into four categories: (1) strategic developmental goals, (2) spatial and environmental aspects, (3) quality of life, and (4) governance and participation. The selected proposals were first assessed through the method of impact assessment in order to determine what kind of impact (positive, neutral, or negative) would be associated with each criterion. In the next step, the method of expert judgement was applied to evaluate why a particular proposal would have such an impact under a specific criterion. It was established that the selected proposals for the division of Slovenia into regions would have very different impacts. The proposal for 8 regions stood out as the one with the most positive impacts across the selected criteria, while the proposals for 3 and 25 regions stood out with the most negative impacts. The proposal for 3 regions was assessed as having a positive impact on efficient governance and administrative and financial sustainability, but a negative impact on more balanced regional development, the reduction of regional disparities, polycentric development, and participation and greater involvement of the population. The proposal for 8 regions was the only one evaluated as having a positive impact on more balanced regional development, the reduction of regional disparities, improvement of quality of life, and greater flexibility and responsiveness to changes and crisis periods, while its only negative impact would concern the strengthening of local and regional spatial identity. The proposal for 15 regions was characterised by the highest number of neutral impacts

among all selected proposals. Nevertheless, it was evaluated as having a positive impact on participation and greater involvement of the population, polycentric development, and the strengthening of local and regional spatial identity, while negatively affecting efficient governance and administrative and financial sustainability. The proposal for 25 regions was assessed as having a negative impact on, for example, catching up with European regions, improved interregional and international cooperation, more intensive economic development and competitiveness, and rational and efficient spatial development. On the other hand, it was assessed as having a positive impact mainly on the strengthening of local and regional spatial identity and on participation and greater involvement of the population.

In the future, greater attention should be devoted to the presentation of the process of the formation of regions and their impact on various segments (e.g., more balanced regional development, reduction of regional disparities, sustainable development, rational and efficient spatial development, polycentric development, improved quality of life, effective governance, responses to demographic challenges, preparedness for natural and other disasters, increased public participation, etc.), both to the general public and to municipalities, in a transparent and comprehensible manner based on professional arguments. Knowledge of the concept of regional formation is poor among the general public, while municipalities have raised certain questions and concerns (e.g., which region they will be included in, reduction of funding, etc.). Spatial identity is also considered to play an important role in this regard. Analyses and expert opinions, as well as public opinion, indicate that regions would have a positive impact on regional development in Slovenia. Their impact, both on regional development and on other aspects, would strongly depend on their number. In the field of the formation of regions as the second level of local self-government, several questions remain open, particularly regarding their number, the tasks to be carried out, and the method of financing. Politics has not reached consensus on these questions, and support for the formation of regions is often only formal, while genuine political will and readiness for their formation are lacking. As everything indicates that centralization in Slovenia will be strengthened and regional disparities will increase, and since the formation of regions as the second level of local self-government cannot be expected in the near future, it would be reasonable in the interim to build on the current situation at the regional level (promotion of inter-municipal cooperation, particularly in the field of regional development and spatial planning, and the strengthening of the 12 development regions and their agencies) with the aim of approaching the most balanced and professionally justified proposal for the division of Slovenia into a smaller number of larger regions (e.g., 8 regions).

Note

^[1] This paper was prepared on the basis of the master's thesis *The developmental role of regions as the second level of local self-government in Slovenia* (sl. *Razvojna vloga pokrajin kot druge ravni lokalne samouprave v Sloveniji*), under the supervision of Associate Professor Dr. Simon Kušar and co-supervision of Professor Dr. Jernej Zupančič, at the Department of Geography, Faculty of Arts, University of Ljubljana, in 2025.

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Prilagajanje dvigu morske gladine v Sloveniji: Nekateri pravni vidiki

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“Slovenija ima 42 km obale in tri mala mesta in je lahko primeren pilotni projekt kako varovati obalna mesta pred dvigovanjem gladine morja in zaščititi ljudi,” je izpostavil minister Novak⁴.

UVOD

Članek temelji na ugotovitvah študije *Strategija prilagajanja rabe in dejavnosti na slovenski obali zaradi vpliva podnebnih sprememb na višino gladine morja*⁵ (v nadaljevanju: Študija). Študija obravnava več ključnih vidikov vpliva podnebnih sprememb na obalne ekosisteme, družbo in gospodarstvo. Vključuje analizo zgodovinskih podatkov o dvigu morske gladine, pregled modelov predvidenih sprememb ter katalog možnih sistemskih in izvedbenih ukrepov za blaženje posledic⁶. Prav tako se osredotoča na analizo pravnih možnosti in obveznosti, ki jih prinaša spreminjajoča se okoljska realnost in prilagajanje prostorskega načrtovanja obalnih območij.

V tem članku bom predstavil glavne ugotovitve pravne analize, pri čemer se bom osredotočil na pravne izzive ter priložnosti za celostno upravljanje obalnih območij v Sloveniji. Pri tem bom razčlenil ključne zakonodajne okvire in regulativne pristope, ki oblikujejo odziv na vplive podnebnih sprememb. Posebno pozornost bom namenil tudi razvijajočemu se (mednarodnopravnemu) »sodnemu konceptu« pravne odgovornosti, ki ga prinašajo podnebne spremembe, ob analizi prakse slovenskega Ustavnega sodišča in pomembnih primerov iz primerljivih pravnih sistemov.

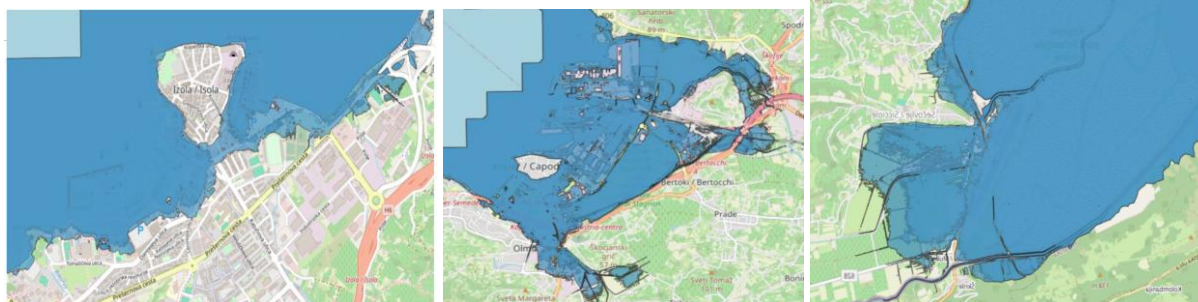
Prizadevanje za učinkovito pravno ureditev prilagajanja podnebnim spremembam na obali terja tesno sodelovanje med strokovnjaki s področja okolja, prava in urbanizma, saj se izzivi podnebnih sprememb raztezajo preko posameznih sektorjev in zahtevajo celovite rešitve. Ta članek si prizadeva osvetliti obstoječe pravne pristope, identificirati ključna vprašanja ter ponuditi potencialne usmeritve za prihodnje zakonodajne prilagoditve.

Narava in vrsta ukrepov za blaženje posledic dviga morske gladine v Sloveniji

⁴ **Uradne izjave in poročila:** Ministrstvo za naravne vire in prostor (2025). *Izjava ministra Jožeta Novaka o srečanju z evropsko komisarko Jessiko Roswall*. Dostopno na: <https://www.gov.si/novice/2025-03-26-srecanje-ministra-novaka-s-komisarko-roswall-in-udelezba-na-zasedanju-o-upravljanju-oceanov/>

⁵ *Strategija prilagajanja rabe in dejavnosti na slovenski obali zaradi vpliva podnebnih sprememb na višino gladine morja*. Naročnik: Direkcija RS za vode, Mariborska cesta 88, 3000 Celje. Izvajalci: Inštitut za vodarstvo, d.o.o., Starman d.o.o., SL Consult d.o.o., Aquarius d.o.o. Dostopno na: <https://strategija.sdzp.org/zakaj-je-potrebna-strategija/>

⁶ *"Analiza dosega poplav (Izola, Koper, Sečovelje) po pesimističnem scenariju izpustov toplogrednih plinov (RCP8.5) v primerjavi s povprečjem obdobja 1986-2005, kjer je pričakovan najvišji dvig gladine morja ob slovenski obali do konca stoletja (leto 2100) 1.10 m."*



Ukrepi oziroma prostorski posegi in ureditve, namenjeni blaženju posledic dviga morske gladine niso posebej zakonsko ali drugače urejeni. **Strategija prilagajanja rabe in dejavnosti na slovenski obali zaradi vpliva podnebnih sprememb na višino gladine morja** (v nadaljevanju: Študija) opredeljuje nabor potencialnih tako gradbenih kot negradbenih ukrepov.

Študija razdeli ukrepe glede na (strateški) cilj, ki ga želi doseči. Strukturirani so kot ukrepi *individualnega prilagajanja (zaščite) posameznih objektov, dejavnosti oziroma infrastrukture na dvig morske gladine*, kot je primer dvig solinarskih nasipov za zaščito solin kot kulturnega spomenika ter solinarstva kot dejavnosti *ter sistemski ukrepi*.

Sistemske se delijo v splošne kategorije ukrepov s katerimi :

- *se pred dvigom morske gladine izvedejo varovalni ukrepi na obstoječi obalni liniji,*
- *se pred dvigom morske gladine izvedejo varovalni ukrepi v smeri morja (primer Nizozemska),*
- *se pred dvigom morske gladine izvedejo varovalni ukrepi v smeri kopnega, dejavnosti, poselitev in infrastruktura se zaradi dviga morske gladine umikajo oziroma nadomeščajo.*

Vse zgoraj navedene kategorije tako gradbenih kot znatni del negradbenih ukrepov zahteva poseg v prostor oziroma vsaj določitev oziroma omejitev rabe prostora. Posledično se v prvi vrsti odpirajo vprašanje prostorskega planiranja. Prostorsko planiranje je determinirano s pristojnostjo države ali občine in naravo ter omejitvami prostora. Pretežni del ukrepov se načrtuje na območjih z vplivom voda. Pravno urejanje voda, je predmet tako nacionalnih predvsem pa prepisov EU med katerimi poplave kot negativen vpliv predstavlja le enega od področij urejanja.

Relevantno ureditev je potrebno izluščiti iz ureditve voda, kjer so obravnavana nekatera vprašanja vezana na morje. Ob tem je potrebno izpostaviti, da vprašanje poplavljanja morja ni obravnavano. Zato je potrebno izhajati iz splošne ureditve na področju urejanja prostora in voda in jo prilagoditi situaciji morja in morskega obrežja.

Upravljanje s poplavnimi tveganji je bistvena sestavina prostorskega planiranja po naravi stvari. Poleg tega je je izrecno pravno zavezo za vključitev poplavnih tveganj v prostorsko načrtovanje predpisala poplavna direktiva⁷ že leta 2007⁸. V praksi je tovrstna vključenost nezadostna in ne samo v

⁷ Evropski parlament in Svet Evropske unije (2007). *Direktiva 2007/60/ES o oceni in obvladovanju poplavne ogroženosti*. Uradni list EU L 288, 6. november 2007, str. 27–34. Dostopno na: EUR-Lex

⁷ **Poročila in uradne publikacije:** Direkcija RS za vode (2017). *Načrt zmanjševanja poplavne ogroženosti 2017–2021 (NZPO SI)*. Številka dokumenta: 35500-5/2017/8, z dne 27. 7. 2017. Dostopno na: https://www.gov.si/assets/ministrstva/MNVP/Dokumenti/Voda/NZPO/nzpo_2017_2021.pdf

Poplavna direktiva tako predvsem določa aktivnosti, ki jih morajo države članice izvajati, da bi lahko bolj učinkovito obvladovale poplavno ogroženost v okviru pretežno nacionalnih in tudi čezmejnih porečij. Tako je treba na podlagi t. i. predhodne ocene poplavne ogroženosti, v kateri vsaka država članica ugotovi oz. identificira poplavno ogroženost zdravja ljudi, gospodarstva, kulturne dediščine in okolja, določiti območja pomembnega vpliva poplav. Ta območja predstavljajo območja v posamezni državni članici, kjer lahko ob nastopu poplav pride do večjih škodljivih posledic iz naslova zdravja ljudi, gospodarstva, kulturne dediščine in okolja. Za ta identificirana območja pomembnega vpliva poplav morajo države članice pripraviti karte poplavne nevarnosti in karte poplavne ogroženosti, v katerih detajlno opredelijo vire ter stopnjo poplavne nevarnosti in evidentirajo škodo, do katere lahko pride ob nastopu ekstremnih poplavnih dogodkov. Z namenom obvladovanja oz. zmanjševanja poplavne ogroženosti na teh območjih pomembnega vpliva poplav v okviru porečij pa morajo države članice pripraviti načrt za zmanjševanje poplavne ogroženosti, v katerem na podlagi načel analize strokov in koristi, načela solidarnosti in načela vključevanja sodelovanja javnosti do določene stopnje že določijo in predvidijo ukrepe, s katerimi bi se ugotovljena poplavna ogroženost zmanjšala.

⁸ **Konferenčni prispevki:** Metelko Skutnik, V., & Šant, S. (2009). *Poplavna direktiva in prostorsko načrtovanje*. Mišičev vodarski dan 2009. Dostopno na: <https://mvd20.com/LETO2008/R14.pdf>

Sloveniji, kot opozarja tudi Računsko sodišče EU, po desetih letih uveljavitve Direktive.⁹ Glavni sistemski razloga za zaostajanje prostorskega prilagajanja poplavi tveganjem je prvič v razdrobljenem in reaktivnem prostorskem načrtovanju občin, ki so žal edine nosilke prostorskega razvoja. Občinski prostorski načrti (OPN) so edini celoviti prostorski akti, ki v praksi sploh obravnavajo poplavno problematiko in drugič država zaostaja pri pripravi celovitih poplavnih študij in njihovo izdelavo prevale na občine. Zaradi visokih stroškov priprave, ki vključujejo ustrezne poplavne študije in dolgotrajnosti postopka sprejema OPN se občine temu če je le mogoče izognejo.

Poleg tega je prav upravljanje z vodami eno od področij, ki je najbolj pod vplivom podnebnih sprememb. Na tem področju žal, še ni oprijemljivih programov za prilagajanje podnebnim spremembam. Na področjih kot so poplavna varnost, blaženja vročinskih valov, strateškega razvoja vodnih virov za potrebe namakanja in izboljšanja cikla vode nimamo sprejetih ustreznih podzakonskih aktov.¹⁰

Delitev pristojnosti prostorskega planiranja ureditev za zaščito pred dvigovanjem morske gladine med državo in občino

V slovenski praksi ne poznamo posebnih prostorskih ureditev, ki bi bili namenjeni varovanju pred poplavami iz morja. Pravna ureditve pristaniške infrastrukture, katere primarni namen ni poplavno varstvo, predstavlja redko izjemo. Visokomorski nasipi, na primer v sečoveljskih solinah, so bili projektirani in izvedeni kot vzdrževalna dela v javno korist, na podlagi splošnih občinskih planskih aktov.

Razmejitev pristojnosti med državo in občinami odpira številna vprašanja glede učinkovitosti načrtovanja in izvajanja ukrepov. Čeprav je Zakon o urejanju prostora (ZUreP-3) na novo razdelil pristojnosti načrtovanja na morju, le ta ne vpliva na naloge protipoplavne zaščite.

Praksa kaže na potrebo po dodatnih usmeritvah in tehničnih standardih, ki bi razjasnili obseg državnih in lokalnih nalog. Posebne prostorske ureditve za varstvo pred poplavami iz morja so nujne, da se zagotovi učinkovitejša zaščita priobalnih območij, hkrati pa je pomembno, da so usklajene s strateškimi cilji varstva okolja.

Zakon o urejanju prostora (ZUreP-3) je pristojnost načrtovanja prostorskih ureditev na vodnem zemljišču morja razdelil med državo in obmorske občine. Dotedanje ureditev¹¹, ki je veljala več kot

⁹ **Poročila in uradne publikacije:** Evropsko računsko sodišče (2018). *Posebno poročilo št. 25/2018: Direktiva o poplavah – napredek pri oceni tveganj, izboljšati pa je treba načrtovanje in izvajanje*. Dostopno na: <https://op.europa.eu/webpub/eca/special-reports/floods-directive-25-2018/sl/>

Priporočilo 8 – Ocena usklajenosti načrtov za obvladovanje poplavne ogroženosti s pravili o načrtovanju rabe zemljišč. **Komisija** naj v okviru svoje nadzorne funkcije v skladu z direktivo o poplavah:

(a) preveri, ali so države članice v okviru svojih načrtov za obvladovanje poplavne ogroženosti ocenile, kako ustrezno so zasnovana pravila o načrtovanju rabe zemljišč v državah članicah in kako uspešno se izvajajo na območjih, ki jih ogrožajo poplave, in

(b) državam članicam posreduje dobre prakse in smernice.

¹⁰ Ključni partnerji, kot so občine in gospodarske javne službe, nimajo ustreznih usmeritev in se v procesu prilagajanja soočajo s pomanjkanjem standardov ter smernic. Poleg tega se sredstva podnebnega sklada le v omejenem obsegu usmerjajo v prilagajanje na podnebne spremembe, saj še vedno manjkajo ustrezne pravne podlage in operativni načrti. Za učinkovito upravljanje vodnih virov bi bilo treba oblikovati akcijske programe oziroma operativne načrte za različna področja, kot so upravljanje vodnih virov, oskrba s pitno vodo, ogroženost zaradi morja, vodna infrastruktura, vodna in priobalna zemljišča, odvodnja padavinskih voda ter ponovna uporaba vode. Prav tako je nujno pripraviti ustrezne razpise in vzpostaviti celovit okvir za izvajanje teh ukrepov, vključno s financiranjem, izbiro izvajalcev, izvedbo posameznih ukrepov ter obratovanjem in vzdrževanjem infrastrukture.

¹¹ Tako že ZUreP-1 kot ZPNačrt

dvajset let¹² je temeljila na predpostavki, da je načrtovanje na morju izvirno v pristojnosti države, medtem ko splošna pristojnost načrtovanje na kopnem pripada občinam. ZUreP-3¹³ vpeljuje novo delitev pristojnosti, saj določa priobalni pas morja, ki sega 150 metrov od meje obale na morje.

Na tem morskem območju prostorsko načrtuje občina, medtem ko na območju zunaj tega pasu ohranja izključno pristojnost država. Država je pristojna planirati posege na vodnem zemljišču morja za vse prostorske ureditve zunaj priobalnega pasu, medtem ko v samem priobalnem pasu država ohranja pristojnost le za prostorske ureditve, ki so kot državnega pomena določene v drugih zakonih, kot to velja za kopno.

V praksi ta sprememba ne širijo pristojnosti obmorskih občin, saj so omejitve prostorskega načrtovanja na morju zelo podrobno določene v Pomorski prostorski plan Republike Slovenije¹⁴, ki ga je sprejela vlada in v predpisih, ki urejajo varstvo voda in narave.

Kljub splošnemu prenosu pristojnosti načrtovanja na morju na občine zakon ohranja državno pristojnost, ko gre za specifično infrastrukturo namenjeno varstvu pred poplavami. Zakon določa, da je načrtovanje **vodne infrastrukture**, ko je ta namenjena zmanjševanju poplavne ogroženosti na območjih pomembnega vpliva poplav (OPVP)¹⁵, **prostorska ureditev državnega pomena**.

Državna pristojnost nastopi, v primeru, da sta kumulativno izpolnjena dva zakonska pogoja in sicer načrtovana infrastruktura mora biti namenjena zmanjšanju poplavne ogroženosti in mora biti umeščena na poplavno ogrožena območja. Pristojnost izhaja iz namena in lokacije ter vrste infrastrukture. Nadaljnjo kvalifikacijo najdemo v drugem zakonu, ki definira vodno infrastrukturo. Zakon o vodah (ZV-1)¹⁶ definira **vodno infrastrukturo** kot objekte in naprave **ali ureditve namenjene urejanju voda**, kot so primeroma visokovodni nasipi, jezovi, zadrževalniki in druge podobne ureditve. Pravilnik¹⁷ o določitvi vodne infrastrukture dodatno navaja tudi gradbeno-inženirske objekte na morju, kot so pomoli, masivni obalni zidovi ali valolomi.

Nabor primeroma naštetih objektov na morju je zelo omejen oziroma slabo prilagojen potrebam ki jih sproža dvig morske gladine. Kaj vse sodi v nabor možnih prostorskih ureditev, ki so namenjene »varstvu pred škodljivim delovanjem voda« niti zakon niti podzakonski predpisi ne definirajo. Kot pri definiciji vodne infrastrukture, gre tudi v tem primeru za pomensko odprt pojem, ki bi ga bilo potrebno, v primeru dvigovanja morske gladine, razlagati teleološko.

Vrste prostorskih ureditev za prilagajanje dvigu morske gladine

¹² Jo je povzema ZUreP-2 je v 7. točki drugega odstavka 50. člena določal prostorske ureditve državnega pomena na vodnem zemljišču morja, pri čemer je nekatere izjeme, kot so lokalna pristanišča, plavajoči pomoli ali kopališča, opredelil kot prostorske ureditve lokalnega pomena

¹³ v 53. členu

¹⁴ Uradni list RS, št. 116/21

¹⁵ Direkcija Republike Slovenije za vode (2021) . Območja pomembnega vpliva poplav. <https://eprstor.gov.si/imps/srv/api/records/7b7d638f-3ae7-4037-a934-59ff1a8db278>

¹⁶ Zakon o vodah definira vodno infrastrukturo v 45. členu in sicer v 1. točki prvega odstavka in v drugem odstavku: (1) *Vodni objekt in naprava so:*

1. objekt in naprava ali ureditev, namenjena urejanju voda, zlasti visokovodni nasip, jez, prag, zadrževalnik, brez zemljišč na območju zadrževalnika, namenjenih občasnemu zadrževanju voda, zbiralnik ipd., ter izvajanju monitoringa voda (v nadaljnjem besedilu: vodna infrastruktura).

...

(2) *Za vodno infrastrukturo se, poleg objektov in naprav iz 1. točke prejšnjega odstavka, šteje tudi vodotok, ki je nastal zaradi prestavitve naravnega vodotoka ali njegove ureditve, ali vodni zbiralnik, ki je nastal z zajezitvijo tekočih voda ali zaradi drugega posega v prostor, če je namenjen izvajanju javnih služb po tem zakonu.*

¹⁷ (Uradni list RS, št. 46/05)

Kljub normativnem okviru, ki izpostavlja državno odgovornost¹⁸ in pooblastilo ukrepati na vodnih in priobalnih zemljiščih ostaja odprto vprašanje prepletanja nalog med državnim in občinski nivojem. Ob tem ne smemo spregledati dejstva, da so vplivi dvigovanja morske gladine stalni in vseobsegajoči in se zato razlikujejo od vlivov celinskih voda, kar zahteva še kompleksnejše ukrepe.

Primer ranljivosti, ki ga Študija posebej izpostavi je komunalna **infrastruktura kot je vodovod in sistem odvajanje odpadnih voda, ki ga dvig morske gladine izrazito prizadene**. Gre za sisteme, ki so skladno z zakonom, v celoti del občinskih pristojnosti in finančno ter organizacijsko bremenijo lokalno skupnost, čeprav so posledica poplavljanja morja, ki sodi v državno pristojnost.

Državno prostorsko planiranje

Primeri državnega prostorskega načrta, za vodno infrastrukturo namenjeno protipoplavni zašiti iz morja, še ni bilo in ga tudi ni v pripravi. Najobsežnejši obmorski državni prostorski načrt ureja koprsko gospodarsko pristanišče¹⁹ in vključuje vodno infrastrukturo ki je namenjena tudi zaščiti pristanišča pred dvigovanjem morske gladine, ni pa to njegov poglavitni namen. Pomembni del prostorskih ureditev namenjenih protipoplavni zaščiti²⁰, se je načrtoval z **državnimi lokacijskimi načrti** za verigo elektrarn na spodnjem toku reke Save.

Pomorski prostorski plan ki ga je za prenos *Direktive o vzpostavitvi okvira za pomorsko prostorsko načrtovanje*²¹, predvidel ZUreP – 2, pravtako sprejela vlada z uredbo²², je edini državni prostorski akt, ki obravnava celotno nacionalno obalo in morje. Prav Pomorski prostorski plan (PPP) se prvi dotakne vprašanja prilagajanja dviga morske gladine.

Gre za strateški, akcijski načrt, ki obravnava tako morje kot kopno. Dejavnosti oziroma ureditve na morju obravnava celovito, četudi le strateško, medtem, ko na kopnem določa podrobne usmeritve oziroma omejitve občinskem izvedbenem prostorskem načrtovanju. Vprašanja zaščite pred negativnimi vplivi dvigovanja morske gladine plan ne obravnava vsebinsko temveč ima zelo pomembno postopkovno določbo.

Posebno poglavje²³ namenja področju zmanjševanja poplavne in erozijske ogroženosti, kjer med upravljavskimi ukrepi naloži obveznost ministrstvu *pristojnemu za upravljanje voda, da v roku 2 let*

¹⁸ ZUreP -3 v prvem odstavku 3. člena: *11. gospodarska javna infrastruktura so prostorske ureditve, namenjene opravljanju gospodarskih javnih služb, in prostorske ureditve za druge namene v javnem interesu na področju energetike, prometa, elektronskih komunikacij in drugih gospodarskih dejavnosti, ki so kot take določene z zakonom ali odlokom lokalne skupnosti; gospodarska javna infrastruktura je državnega in lokalnega pomena;*

¹⁹ Uredba o državnem prostorskem načrtu za celovito prostorsko ureditev pristanišča za mednarodni promet v Kopru Uradni list RS, št. 48/11

²⁰ Hidroelektrarne na Spodnji Savi, d.o.o. (2017). Brošura HESS 2017. Dostopno na: https://www.hess.si/pdf/brosura_hess_2017_slo.pdf

»Izgradnja verige hidroelektrarn na spodnji Savi je bila zasnovana kot večnamenski projekt, kjer se poleg pridobivanja električne energije iz obnovljivih virov zasledujejo tudi drugi cilji, in sicer protipoplavna zaščita, ureditev vodotokov, varstvo podzemnih voda, dvig podtalnice in s tem ohranjanje zalog pitne vode ter infrastrukturna ureditev, s katero se poleg boljših cestnih povezav urejajo tudi do tedaj degradirane površine. Izgradnja hidroelektrarn lahko z možnostmi namakanja pozitivno vpliva na kmetijstvo. Hkrati je del večnamenskega projekta tudi zagon gospodarstva ter odpiranje možnosti za razvoj turizma in športa.

²¹ Obrazložitev predloga ZUREP-2 Prva obravnava EVA: 2016-2550-0006, navaja:

»Vlada s tem instrumentom sprejeme tudi akcijski program za izvajanje Strategije na morju, za katerega pripravo je odgovorno ministrstvo. Postopek priprave se izpelje smiselno v skladu z določbami tega zakona, ki urejajo postopek priprave regionalnega prostorskega plana, pri tem pa veljajo še nekatere posebnosti, ki izhajajo iz zahtev Direktive 2014/89/EU o vzpostavitvi okvira za pomorsko prostorsko načrtovanje. Tako je treba v postopku priprave zagotoviti sodelovanje drugih držav, vsebinsko gledano pa mora biti ta akt usklajen tudi z načrti upravljanja, ki so pripravljeni v skladu s predpisi, ki urejajo vode (v RS je to trenutno načrt upravljanja z morskimi okoljem).«

²² Uredba o Pomorskem prostorskem planu Slovenije (Uradni list RS, št. 116/21)

²³ 2.13 PODROČJE ZAŠČITE PRED POPLAVAMI

izdela celovito študijo poplavne in erozijske ogroženosti za obalno območje, ki obsega tudi druga območja, ki niso vključena v Območja pomembnejšega vpliva poplav (OPVP). Študija naj zajame tudi ukrepe za zmanjšanje poplavne in erozijske ogroženosti.

Iz določbe izhaja, da tako študija kot izvedbeni ukrepi sodijo med državne pristojnosti in da gre za študijo poplavne in erozijske ogroženosti ki se razlikuje od »celinskih«, saj presega območje pomembnega vpliva poplav po poplavni direktivi. PPP zahteva celovito in prilagojeno obravnavo obmorskega območja.

Poplavljanje morja zaradi podnebnih sprememb povzroča specifične erozijske pojave, ki jih dodatno potencira vpliv sladkovodnih prilivov, ki so prav tako pod vplivom podnebnih sprememb. Zato je opozorilo iz PPP, da so vplivi morja specifični in presegajo z uredbami določena poplavna območja, povsem upravičeno.

Posledično so predvidene začasne usmeritve (ker gre za strateški akt) do izdelave študije in predlaganih ukrepov. Načrt vključuje dopustne infrastrukturne ukrepe začasne narave, kot so vzdrževanje grajenih delov obale, ureditev sistema odvajanja meteornih vod, gradnja zadrževalnikov v zaledju, postavitve zidov ter povišanje urbaniziranih delov obale.

Poleg tega določa omejitve gradnje, in sicer: gradnja objektov in ureditev na območjih pomembnejšega vpliva poplav (OPVP) je dopustna le skladno z uredbo, ki določa pogoje in omejitve za posege v prostor ter izvajanje dejavnosti na območjih, ogroženih zaradi poplav in erozije celinskih voda ter morja. Ta določba je deklarativne narave, saj pogoji in omejitve gradnje že veljajo na podlagi zakona o vodah.

Druga določba, ki se glasi: »Na območjih, ki se glede na opozorilno karto poplav uvrščajo med poplavna območja, je gradnja stavb in objektov mogoča šele po izdelavi celovite študije poplavne in erozijske ogroženosti,« pogojuje dopustnost gradnje in načrtovanja objektov z izdelavo študije in ukrepov, ki so v rokah ministrstva. Tudi po preteku predvidenega roka gradnja stavb ostaja prepovedana, kar očitno otežuje prostorski razvoj občin.

Kljub temu, da je dvoletni rok za izdelavo študije in ukrepov že potekel, jih ministrstvo še ni sprejelo, zato se vsa prostorska vprašanja obravnavajo na podlagi začasnih ureditev, predvidenih v PPP. Obmorske občine so pri pripravi OPN vezane na nabor začasnih infrastrukturnih ukrepov.

Zakon o urejanju prostora predvideva možnost sprejema t. i. Uredbe o podrobnem državnem prostorskem redu, s katero se lahko določijo podrobnejša pravila urejanja prostora, na podlagi katerih je možno pridobiti gradbeno dovoljenje (GD) za gradnjo objektov. Zakon izrecno navaja: »**Podrobnejša pravila urejanja prostora se lahko uporabljajo neposredno pri dovoljevanju in izvajanju posegov v prostor in v tem delu nadomestijo prostorski izvedbeni akt.**«

Težko bi si zamislili, da bi z uredbo o podrobnem državnem prostorskem redu določili prostorske izvedbene pogoje za ureditve na območje morja in obalnega območja z namenom zavarovanja pred dvigom morske gladine²⁴. Takega namena zakonodajalec zagotovo ni imel, četudi bi se zakonski tekst lahko razumelo tudi v tej smeri.²⁵

1. Evidenca izvedenih prostorskih ukrepov, ki se izvajajo za zmanjšanje vpliva podnebnih sprememb in zmanjševanja poplavne ogroženosti, kot so na primer vzdrževanje grajenih delov obale, prednostna ureditev ustreznega odvajanja meteornih vod, gradnja zadrževalnikov v zaledju.
2. Izdelana celovita študija poplavne in erozijske ogroženosti, ki obsega tudi druga območja, ki niso vključena v Območja pomembnejšega vpliva poplav (OPVP). Študija mora zajeti tudi ukrepe za zmanjšanje poplavne in erozijske ogroženosti.

²⁴ Vkolikor nadomešča prostorske izvedbene pogoje, na podlagi katerih se pridobiva gradbeno dovoljenje, bi se tudi ta prostorska pravila mora sprejeti po postopku, s katerim se sprejemajo drugi državni prostorski akti, v katerega so ustrezno vključeni vsi pristojni nosilci urejanja prostora in javnost skladno z Aarhusko konvencijo.

²⁵ Taka podrobna prostorska pravila, ex lege nadomestijo prostorsko ureditev državnega ali lokalnega pomena v delu, ki ga sama določijo. Zakon ne navaja za katere namene ali ureditve oziroma območja sme vlada sprejeti ta specialna podrobnejša pravila urejanja prostora. Razen pravne oblike, torej uredbe, ki jo sprejeme vlada na predlog ministrstva pristojnega prostor, zakon ne določa postopka sprejema teh specialnih »pravil urejanja prostora«. Podrobni državni prostorski red ni prostorski akt, temveč naj bi predpisoval pravila urejanja prostora. Postopek njegovega sprejema ni predpisan.

Po drugi strani pa bi bil sprejem **državnega prostorskega načrta** (DPN), za ustrezno infrastrukturo in ureditvami na morju in obalnem pasu na celovit in sistematičen način, nedvoumno primeren instrument. Na podlagi predhodno široko usklajene strategije z aktivno udeležbo občin, bi lahko v enem prostorskem aktu, ki obsega celotno obalni pas predvidel tudi izvedbene rešitve, na podlagi katerih bi bilo mogoče pridobiti dovoljenje za gradnjo, ki omogoča črpanje namenskih sredstev klimatskih in drugih skladov. Tak DPN kot izvedbeni prostorski akt bi po izvedbi celovite presoje vplivov na okolje nadaljeval tam kjer se PPP ustavi.

Občinsko načrtovanje in gradnja objektov na območjih vpliva poplav

Avtonomija občin pri prostorskem urejanju na območjih pod vplivom voda je izrazito omejena oziroma določena državnimi navodili²⁶, ki so zelo konkretna in specifična. Namenska raba območij voda, kot jo opredeljuje Zakon o vodah (ZV-1), predstavlja temelj za urejanje vodnih zemljišč, ki so naravno javno dobro.

Občine so dolžne opredeliti ta območja na svojem ozemlju, kar vključuje implicitno vzpostavitev pravnega režima, skladnega z zakonodajo. Vodna infrastruktura, kot so jezovi, visokovodni nasipi in naprave za monitoring, pa je opredeljena kot grajeno javno dobro, ki se ustanavlja z odločbami pristojnih organov.

Čeprav imajo občine avtonomijo pri določanju podrobnih namenskih rab, je ta omejena z usmeritvami varstva voda, pri čemer varstvo pred poplavami ni izrecno navedeno med funkcijami te namenske rabe.

Priobalni pas, opredeljen v ZV-1, določa specifične razdalje od vodnih zemljišč, ki se razlikujejo glede na vrsto voda in njihovo lokacijo (od 5 do 40 metrov za celinske vode in 25 metrov za morje). Medtem ko zakon omogoča širitev priobalnega pasu izven naselij z vladnimi sklepi, pa zoženje pasu v naseljih zahteva strogo izpolnjevanje taksativno določenih pogojev.

Priobalni pas ni namensko del območij voda, temveč gre za prekrivajoč režim, ki zajema tudi kmetijska, gozdna in stavbna zemljišča. Čeprav priobalni pas ne vključuje opredelitve kot območja za vodno infrastrukturo, zakon dopušča posege, usmerjene v izboljšanje hidromorfoloških lastnosti in ohranjanje površinskih voda.

Poleg tega ZV-1 širi omejitve rabe prostora na zemljišča v varstvenih in ogroženih območjih, kar vključuje tudi poplavno ogrožena območja. Te omejitve, ki se morajo odražati v občinskih prostorskih načrtih (OPN), pogosto naletijo na težave zaradi neažurnih evidenc in dolgotrajnih postopkov posodabljanja prostorskih aktov.

Na območjih pomembnih vpliva voda, kamor sodijo območja pomembnega vpliva poplav, zaradi dvigovanja morske gladine, občine na podlagi smernic nosilcev urejanja prostora, določijo pogoje za posege v prostor. V konkretnem primeru gre za smernice Direkcije RS za vode (DRSV).

Direkcija izvaja vrsto nalog, ki jih določa Zakon o vodah (ZV-1). Med njimi so podajanje smernic in mnenj k občinskim (OPN) in državnim prostorskim aktom (DPN), izdajanje vodnih soglasij za posege, ki vplivajo na vodni režim, in izvajanje vzdrževalnih ter izrednih ukrepov za zaščito pred škodljivimi učinki voda. Njeno delovanje temelji na načelu prilagoditve človeških dejavnosti naravnemu vodnemu režimu, kar postavlja trajnostne prakse v ospredje. DRSV ima ključno vlogo pri ohranjanju naravne hidromorfologije in kakovosti vodnih virov, hkrati pa zagotavlja zaščito vodnega in priobalnega prostora.

Na občinski ravni ZV-1 nalaga občinam odgovornost za zaščito pred škodljivim delovanjem padavinskih voda, zlasti znotraj naselij. Občine izvajajo javno službo odvajanja in čiščenja padavinskih ter komunalnih odpadnih voda, kar ureja Zakon o varstvu okolja (ZVO-2). Ti ukrepi so konkretizirani z

²⁶ ZUreP-3 sicer v 2. poglavju določa pravila načrtovanja na območjih z omejitvami, med katere sodijo tudi poplavna območja in morje.

Uredbo o odvajanju in čiščenju komunalne odpadne vode ter z operativnimi programi, ki usmerjajo lokalne aktivnosti na tem področju. Kljub temu praksa pogosto pokaže na potrebo po večji koordinaciji med državnimi in občinskimi ravni za izboljšanje učinkovitosti upravljanja.

Če izpostavim primer občine Izola, je v OPN²⁷ povzela normativne omejitve posegov na poplavnih območjih. Gre za obliko varstva, ki je v celoti odvisno od investitorja. Tovrstna ureditev namreč zavezuje investitorja tako v postopku prostorskega načrtovanja kot v postopku gradnje. V obeh postopkih je potrebno pridobiti vodno dovoljenje.

V postopku se mora (skladno z OPN) ugotoviti, »da se ne povečajo obstoječe stopnje ogroženosti na poplavnem območju in izven njega. Če načrtovanje novih prostorskih ureditev oziroma izvedba posegov v prostor povečuje obstoječo stopnjo ogroženosti, je treba skupaj z načrtovanjem novih prostorskih ureditev načrtovati celovite omilitvene ukrepe za zmanjšanje poplavne ogroženosti, njihovo izvedbo pa končati pred začetkom izvedbe posega v prostor oziroma sočasno z njo.«

Poplavno varstveni režimi le (četudi znatno) omejijo rabo prostora. Ne predpisujejo posegov ali ukrepov z namenom varstva pred poplavami, temveč prepustijo načrtovanje in izvedbo le teh naslednji fazi podrobnega načrtovanja.

V primeru, da investitor ne pristopi k načrtovanju novih ureditev ali gradnji objektov v okviru veljavnih prostorskih aktov, smernice nosilcev urejanja prostora in posledično OPN, **ne predvideva dolžnosti izvedbe protipoplavnih (omilitvenih) ukrepov**. Gre tako za parcialno kot začasno ureditev, **ki ne odgovori na nobeno od težkih vprašanja**.

Drugi primer je občina Piran, ki predlaga Direkciji RS za vode, izvedbo projekta celovite protipoplavne zaščite starega mestnega jedra. Idejna zasnova projekta je sestavljena iz treh vrst infrastrukturnih posegov²⁸. Za te posege ni potrebno da bi občina ali država sprejela nove ali spremenila obstoječe prostorske akte. Tudi v tem primeru, ki je sicer v celoti v rokah javnega sektorja ostaja neodgovorjeno vprašanje financiranje celovite prenove komunalnega in vodovodnega omrežja.

Izvedba celovitih protipoplavnih ukrepov je v pristojnosti države. Posebna oblika sodelovanja za lokalno skupnostjo ni predpisana. Je pa zagotovo nujna prav zaradi nedoločene pristojnosti načrtovanja specifičnih prostorskih ureditev in nejasne pravne narave protipoplavnih bodisi gradbenih in še toliko bolj ne-gradbenih ukrepov.

Regionalno prostorsko planiranje: Okvir za usklajen razvoj protipoplavne zaščite

Zakonodajni okvir v Sloveniji opredeljuje tri ravni strateškega prostorskega načrtovanja: državno, občinsko in regionalno. Medtem ko sta državni in občinski ravni že uveljavljeni v praksi, regionalna raven predstavlja nov pristop k medobčinskemu sodelovanju z vlado, kot je določeno v Zakonu o spodbujanju skladnega regionalnega razvoja (ZSRR). Regionalni prostorski plan je zamišljen, kot

²⁷ Občina Izola je pripravila **Občinski prostorski načrt (OPN)**, vendar je bil na referendumu januarja 2022 zavrnjen. Po tem so se začeli postopki usklajevanja OPN z referendumskimi zahtevami, pri čemer je občina sodelovala s strokovnjaki in javnostjo l. **30. januarja** se je občinski svet seznanil z novim predlogom OPN, ki bo kmalu javno razgrnjen in obravnavan

²⁸ Območje Rt Madona obravnava protipoplavne ureditve vzdolž promenade ter območja hotela Piran, do korena glavnega pomola. Ta sklop predvideva izvedbo obalnega protipoplavnega zidu vzdolž Rta Madona, z ustreznim tesnjenjem, skalometom ter oblikovanjem dostopov v morje; Območje pristanišča obravnava protipoplavne ureditve na glavnem in carinskem pomolu z zapornico na ustju pristanišča. Ta sklop predvideva rekonstrukcijo glavnega pomola, izvedbo zaporničnega objekta na ustju pristanišča in dela povezana z zagotavljanjem vodotesnosti carinskega pomola; Odvajanje voda padavinskih voda zalednih površin, z ureditvijo zadrževalnih bazenov in izpustov v morje. Ta sklop obravnava celovite ukrepe za odvajanje zalednih voda (talnih in površinskih) in predvideva ureditev zbiranja padavinskih voda vzdolž obalne linije, z izvedbo odcepi za predvideno nadaljevanje izgradnje ločenega kanalizacijskega omrežja. Koncept predvideva težnostno odvodnjo v času nizkih gladin morja, oziroma zadrževanje v podzemnih zadrževalnih bazenih s prečrpavanjem v času visokih gladin morja.

mehanizem za uresničevanje načela usklajevanja interesov in sodelovanja med občinami in državo, na območju posamezne razvojne regije.

Osrednje vsebine regionalnega prostorskega načrtovanja Regionalni prostorski plan (RPP) zajema tri temeljne vsebinske sklope:

1. ***Strateške prostorske in okoljske usmeritve**, ki so zavezujoče za regijo ter tako za občine kot državo.*
2. ***Prostorske ureditve lokalnega pomena**, ki vplivajo na več občin in zahtevajo medsebojno dogovarjanje o njihovi lokaciji, pri čemer občine na zahtevo vključujejo tudi izključno lokalne ureditve.*
3. ***Umestitev prostorskih ureditev državnega pomena v regiji.***

Zakon določa obvezno izvedbo celovite presoje vplivov na okolje (CPVO) za vsak RPP. Rezultati CPVO so strnjeni v okolijskem poročilu, ki vrednoti vplive planskega akta na okolje ter predpisuje omejitve in ukrepe, ki jih mora pripravljavec vključiti v prostorski akt.

V teku je strokovni del priprave »prve generacije« regionalnih prostorskih planov (RPP). Postopek sprejemanja Regionalnega prostorskega plana, ki se v praksi še ni izvedel je določen v zakonskih predpisih in vključuje več ključnih korakov.

Predlog RPP mora pred sprejetjem na Regionalnem razvojnem svetu pridobiti soglasje Sveta regije, katerega člani so vsi župani posamezne regije. Sestavo in način odločanja Regionalnega razvojnega sveta ureja Zakon o skladnem regionalnem razvoju (ZSRR-2), medtem ko Svet regije svoj način odločanja določa z lastnim poslovnikom, ki ga sprejme z dvotretjinsko večino.

Protipoplavni ukrepi, bodo predvidoma v RPP vključeni v poglavja, ki obravnavajo upravljanje voda, varstvo okolja, podnebne spremembe in infrastrukturo. Poleg tega bo RPP za južnoprimorsko regijo moral vključevati zahteve Pomorskega prostorskega plana (PPP) na način, ki zagotavlja usklajenost med prostorskim načrtovanjem na kopnem in na morju.

Pri načrtovanju, kakor tudi pri izvedbi protipoplavnih ukrepov, se pogosto zastavlja vprašanje skladnosti za zahtevami varstva voda in narave. Obe področju sta normirani s pravom EU, pod nadzorom Komisije Evropske unije (EU) in sodne prakse Sodišča EU.

Varstvo pred poplavami in varstvo voda po pravu eu

Zakon o vodah uzakonja tako obveznosti iz *Direktive 2007/60/ES o oceni in obvladovanju poplavne ogroženosti*²⁹ (Direktive o poplavah), kot Vodne direktive, zato ga je potrebno razlagati v skladu z določbami in tudi s cilji teh direktiv. Namen direktive o poplavah je zmanjšati in obvladovati tveganja zaradi poplav, ki ogrožajo zdravje ljudi, okolje, infrastrukturo in lastnino. V njej je določeno, da morajo države članice opraviti predhodno oceno za določitev ogroženih povodij in z njimi povezanih obalnih območij ter pripraviti karte poplavne ogroženosti in načrte za upravljanje, osredotočene na preprečevanje, zaščito in pripravljenost.

Vodna direktiva temelji na sistemu varstva vodnih teles. Zakon prevzema tak sistem. Skladno s tem, so vodna telesa identificirana in določeno je njihovo ciljno dobro stanje voda. Slovenija kot država članica EU mora na vseh vodnih telesih zagotavljati določeno dobro stanje voda. Pravni pojem dobro stanje voda izhaja iz enovitega sistema skupnosti, ki je tudi pod nadzorom Komisije EU.

Vse te naloge je treba izvajati v skladu z okvirno direktivo o vodah in v njej opredeljenimi načrti upravljanja povodij. Razmerje med Vodno direktivo in Direktivo o poplavah določa slednja že v četrti uvodni izjavi:

(4)»Direktiva 2000/60/ES Evropskega parlamenta in Sveta z dne 23. oktobra 2000 o določitvi okvira za ukrepe Skupnosti na področju vodne politike (3) zahteva pripravo načrtov za obvladovanje na

²⁹ **Direktiva 2007/60/ES Evropskega Parlamenta in Sveta, z dne 23. oktobra 2007 o oceni in obvladovanju poplavne ogroženosti**

ravni povodja za vsako vodno območje, da se doseže dobro ekološko in kemijsko stanje, ter bo prispevala k blažitvi posledic poplav. Vendar zmanjšanje tveganja poplav ni eden glavnih ciljev te direktive, niti ne upošteva prihodnjih sprememb glede tveganja poplav, ki so posledica podnebnih sprememb.»

Predmet varstva vodne direktive in direktive o poplavah, se bistveno razlikujeta. Prva je namenjena celovitemu varstvu kvalitete vode z zahtevo po izboljšanju stanja vseh voda, vključno z obalnim morjem. Vzpostavlja javni interes skupnosti nad kvaliteto vode. Medtem, ko je slednja namenjena javni varnosti pred negativnimi vplivi voda. V tem primeru skupnost vzpostavi minimalni standard državam, da ocenijo poplavno ogroženosti, pripravijo načrte upravljanja poplav ter v postopke vključijo javnost. Sta pa direktivi po naravi stvari povezani, ker zahtevata pripravo načrtov upravljanja, ki morajo biti usklajeni s skupno vodno politiko.

Za vsak poseg v vodno telo mora biti, na podlagi direktive, izvedena presoja vpliva na stanje voda, ki je opredeljena v načrtu upravljanja. V kolikor načrtovani poseg predstavlja tveganje za doseganje cilja dobrega stanja voda, je nedopusten in ne sme pridobiti vodnega soglasja. Katerikoli novi posegi v vodno telo, ki jih načrt upravljanja ne predvideva, so praviloma prepovedani.

Tako Direktiva kot zakon dopuščata izjeme, ki omogočajo, da za posamezno vodno telo sme vlada določiti nižje cilje kvalitete voda, če so izpolnjeni pogoji v javnem interesu. Take izjeme so dopustne tako za vodna telesa, ki so bila že ob uveljavitvi zakona močno spremenjena zaradi človekove aktivnosti ali so sama umetnega nastanka, kakor tudi za nove človekove dejavnosti, ki se načrtujejo na vodnih telesih.

Vse izjeme morajo biti izrecno opredeljene v zakonu. Izvedena mora biti posebna presoja prevlade javnega interesa in vsaka izjema mora biti navedena v načrtu upravljanja voda ter o njej poročati komisiji EU in primernost le te periodično, na šest let, preverjati.

Tehtanje interesov poplavne varnosti in varstva voda po pravu eu

Sodišče Evropske unije (SEU) se je izreklo o obveznosti države članice v zvezi z direktivo o poplavah v sodbi Komisije zoper Španijo (**C-384/1**). SEU je obravnavalo vprašanje, ali je država članica ustrezno izvedla oceno tveganja poplav in pripravila načrte za obvladovanje poplavne ogroženosti v skladu z direktivo.

Sodišče je Španiji naložilo pripravo, objavo načrtov za obvladovanje poplavnih tveganj za hidrološka območja na Kanarskih otokih in ustrezno seznanitve Komisije EU³⁰. Bistveni del obveznosti, ki jih je zahtevalo sodišče je dokončanje postopkov javne obveščenosti in posvetovanja glede priprave teh načrtov, kar je zahteva iz člena 10(1) in 10(2) Direktive o poplavah.

Od države se zahteva kvalitetno pripravljenost na tveganje poplav na celotnem državne teritoriju vključno s čezmejnimi vplivi. Zagotovljeno mora biti javno obveščanje in sodelovanje javnosti pri pripravi načrtov.

Sodišče ni presojalo specifične situacije, ki bi predlagani protipoplavni ukrepi posegali v kvaliteto vodnih teles. Je pa odločalo o zatrevanju kršitvi vodne direktive zaradi načrtovane gradnje hidroelektrarne v Avstriji.

V zadevi **C-346/14 Komisija proti Avstriji** je SEU zavrnilo tožbo Evropske komisije. Komisija je trdila, da je Avstrija kršila **Okvirno vodno direktivo (2000/60/ES)**, ker je odobrila gradnjo hidroelektrarne na reki Schwarze Sulm, kar naj bi povzročilo poslabšanje stanja površinskih voda.

Sodišče je ugotovilo, da je projekt hidroelektrarne v skladu z izjemo iz člena 4(7) direktive, ki dovoljuje poslabšanje stanja vodnih teles, če je projekt **v prevladujočem javnem interesu** in ni boljše okoljske alternative. Ugotovilo je, da je proizvodnja električne energije iz obnovljivih virov v javnem interesu in da je Avstrija sprejela ukrepe za zmanjšanje negativnih vplivov projekta na okolje, ki so bili sprejeti po postopku in v okviru avtonomije, ki jo imajo države članice skladno z zahtevami direktive.

Primer **C-535/18: IL in drugi proti Land Nordrhein-Westfalen** je pomemben za razumevanje pravice do udeležbe javnosti v postopkih, povezanih z okoljem, in njegove povezave z **Direktive 2000/60/ES**

³⁰ Gran Canaria, Fuerteventura, Lanzarote, Tenerife, La Palma, La Gomera in El Hierro.

(Okvirna vodna direktiva). Šlo je za projekt, gradnje odseka avtoceste, ki ga je odobrila nemška zvezna dežela Severni Ren-Vestfalija. Prizadeti posamezniki (IL in drugi) so izpodbijali odločitev nemških oblasti, ki je odobrila projekt, ki bi lahko vplival na okolje, vključno z vodnimi telesi. Tožniki so trdili, da niso bili ustrezno vključeni v postopek odobritve projekta zaradi pomanjkanje pravočasnih in celovitih informacij o projektu in njegovih vplivih.

SEU je zato postavilo standard sodelovanja prizadete javnosti v postopku. Dokumentacija mora biti pravočasna, celovita in popolna; izdelana pred izvedbo posega; vključevati vse vplive tako na površinske kot podzemne vode; mora biti pregledna in razumljiva tudi laični javnosti. Sicer državi dopušča, da določi pogoje zadostnega pravnega interesa za dostop do sodnega varstva prizadetim posameznikom in organizacija, s statusom po Aarhuški konvenciji.

Vključevanje javnosti je skupni standard, ki ga SEU izpostavlja tako za vodno kot poplavno direktivo³¹. Sodna praksa zahteva izpolnjevanje treh pogojev za prevlado javnega interesa varstva pred poplavami na varstvom kvalitet vodnih teles.

1. Prevladujoči javni interes, pri poplavni varnosti zdravja, premoženja in okolja, temelji na izrecni politik skupnosti, ki je botrovala sprejemu direktive o poplavah.
2. Predhodna in celovita presoja vplivov protipoplavnega ukrepa na vodno telo, in sprejem ukrepov za zmanjšanje negativnih vplivov projekta na okolje.
3. Vodenje postopka skladno s standardi EU, ki vključujejo sodelovanje javnosti, vključno s pravico do sodnega varstva.

Ureditev prilagajanja klimatskim spremembam v italijanski in francoski republiki

Francija in Italija sta pri prilagajanju na dvig morske gladine ubrali različne pristope. Francoska ureditev³² temelji na **celostnem načrtovanju prostora**, ki združuje **zavezujoče ukrepe** in **mehke strategije upravljanja obale**, s poudarkom na ekosistemih in sodelovanju skupnosti. Tak pristop omogoča dolgoročne prilagoditve brez večjih konfliktov. Po drugi strani je italijanski sistem **razdeljen na več ravni**, kar prinaša raznolikost pogledov in pobud, a obenem razkriva **pomanjkljivosti**, zlasti pri prostorskem načrtovanju. Italija se opira na **strateške dokumente** in sodelovanje med državnimi ter lokalnimi institucijami, vendar ji manjka celovitost pri povezovanju prilagoditvenih politik.

Italijanska republika

Na strateški ravni je Ministrstvo za varstvo okolja, prostora in morja leta 2018 oblikovalo **Nacionalni načrt za prilagajanje klimatskim spremembam**. Dokument vsebuje analize in smernice za ukrepe ter možne vire financiranja, pri čemer se posebej naslanja na evropska sredstva. Vendar načrt ostaja v fazi osnutka, saj ga do danes še niso formalno potrdili, kar pomeni, da številne konkretne izvedbene rešitve ostajajo neuresničene.

Na področju **prostorskega načrtovanja** Italijanski pravni sistem razdeli naloge med več ravni upravljanja. Država se osredotoča predvsem na zakonodajne in strateške funkcije, kjer zagotavlja smernice za prostorski razvoj in deluje kot koordinator pri meddeželnih vprašanjih, kot je varstvo pred potresi. Na deželni ravni imajo dežele ključno vlogo pri sprejemanju **deželnih prostorskih načrtov**, ki so zavezujoči za občine in omogočajo določanje prepovedi v javnem interesu. Te načrte dopolnjujejo **pokrajinski infrastrukturni načrti**, ki vključujejo varstvo naravnih virov, ustanavljanje naravnih parkov in urejanje voda. **Občine** pa prevzamejo zadnjo stopnjo v verigi z občinskimi prostorskimi načrti (OPN), ki določajo namensko rabo zemljišč in pogoje gradnje. Pri tem imajo občinski župani tudi posebno vlogo, saj so odgovorni za nujne ukrepe v primerih grozečih nevarnosti za zdravje ljudi in okolje.

³¹ Ob tem je potrebno opozoriti, da je področje sodelovanja javnosti opredeljeno v 14. členu Vodne direktive in (navodil: CIS N° 8 - Public Participation in Relation to the Water Framework Directive). V slovensko zakonodajo je bila sicer navedena zahteva direktive prenesena z zakonom o vodah leta 2002 s petim poglavjem, ki je opredeljevala mehanizem sodelovanja preko konferenc za vode. Zakonska določila niso zaživel v praksi, zakonske določbe so bile črtane s spremembami ZV-1 leta 2012.

³² **Adaptation to sea level rise in France**, The Mediterranean System: a Hotspot for Climate Change and Adaptation, Published: 18 March 2024, Volume 35, pages 381–393, (2024)

Varstvo obalnega pasu, kjer bi se moralo odražati upravljanje učinkov dvigovanja morske gladine, ostaja nerazrešen izziv. Italijansko pravo na tem področju ne predvideva sistematičnih preventivnih ukrepov niti ne določa obveznih normativnih zahtev na deželni ali lokalni ravni³³.

Za izboljšanje koordinacije na področju varstva obalnega pasu je bil oblikovan **stalni koordinacijski organ (KDT)** na podlagi Protokola o sodelovanju med obmorskimi deželami in Ministrstvom za varstvo okolja. KDT vključuje predstavnike državnih in deželnih institucij ter deluje ob podpori Nacionalnega inštituta za raziskave in varstvo okolja (ISPRA). Ta zagotavlja tehnično podporo z naborom metodologij za vrednotenje ukrepov, naborom možnih rešitev za zaščito obale in z vključitvijo primerov dobrih praks. Kljub temu KDT nima formalne pristojnosti za usmerjanje postopkov prostorskega načrtovanja na lokalni ali deželni ravni.

Francoska republika

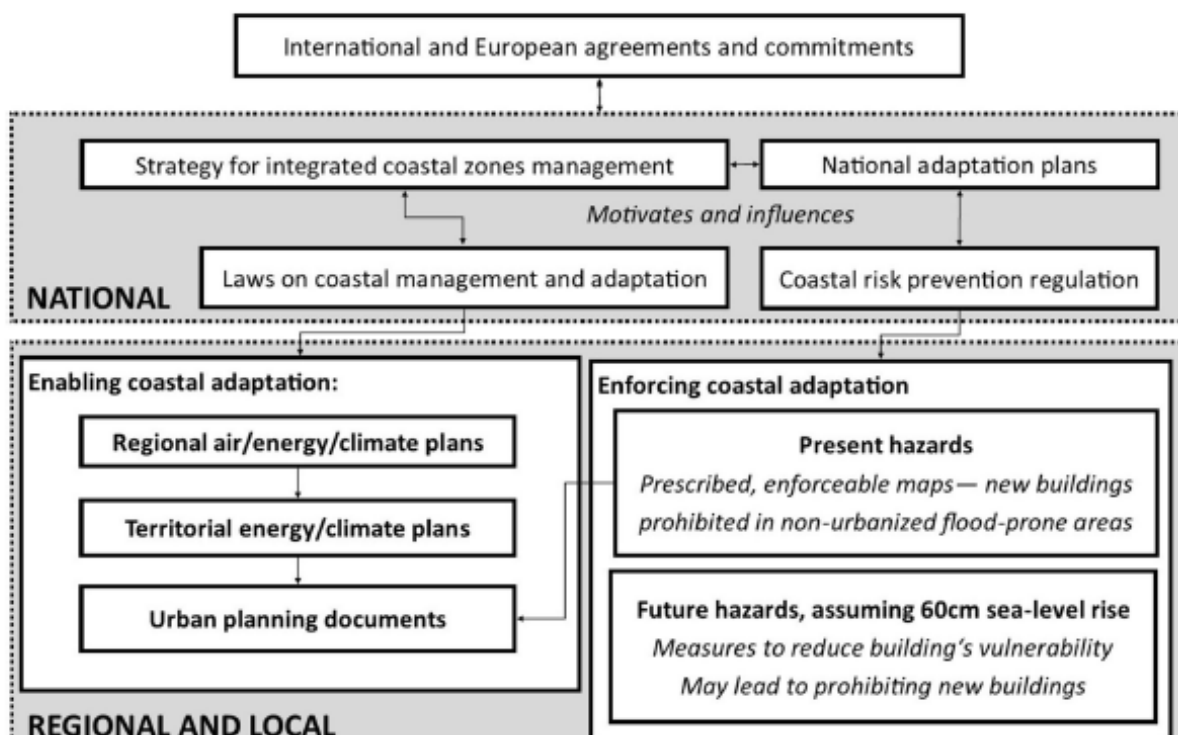
Francija je pri prilagajanju obalnih območij na dvig morske gladine prednjači predvsem na področju **načrtovanja rabe prostora**. To temelji na dveh procesih: **tekočem načrtovanju prilagajanja**, ki sledi podnebnim spremembam, ter **predpisih in strategijah**, osredotočenih na obalna območja. Francija že več kot desetletje izvaja **nacionalni načrt prilagajanja podnebnim spremembam**, ki obravnava vplive podnebnih sprememb in vključuje scenarij dviga morske gladine za 60 cm do leta 2100³⁴.

Poleg zavezujočih **načrtov za preprečevanje obalnih tveganj** Francija podpira **mehke strategije upravljanja obale**, ki upoštevajo ekosisteme, dolgoročne spremembe in lokalne prilagoditvene načrte. **Zakon o odpornosti in podnebj** iz leta 2021 je uvedel pravna orodja za spodbujanje takšnega pristopa, ki vključuje znatna finančna sredstva.

Francoski pravni in upravljavski okvir za celostno upravljanje obalnih območij (ICZM) odraža prehod od politike k praktični izvedbi. S prenovljeno Nacionalno strategijo upravljanja obale (2025–2030), ki bo sprejeta z vladno uredbo predvidoma poleti 2025, se osredotoča na pet ključnih strateških smernic:

³³Čeprav evropska Direktiva 2001/42 omogoča vključitev tveganja dvigovanja morske gladine v okoljska poročila, to v praksi pogosto ostane spregledano. Primer tega je izdaja koncesije za priobalna zemljišča v Deželi Furlaniji Julijski krajini leta 2022, kjer okoljsko poročilo ni obravnavalo tovrstnih vplivov.

³⁴Le Cozannet, G., & Cazenave, A. (2024). *Adaptation to sea level rise in France: The Mediterranean System – a Hotspot for Climate Change and Adaptation*. *Rendiconti Lincei. Scienze Fisiche e Naturali*, 35, str. 381–393 (stran 387):Simplified coastal adaptation framework in France (based on Deboudt 2010; DGPR 2014; MTES 2015)



izmenjava znanja, prilagoditev območij, razvoj prilagoditvenih orodij, vključevanje deležnikov in financiranje.

Francija spodbuja participativno upravljanje in naravne rešitve prek nacionalne opazovalne mreže, projektnih partnerstev in regionalno prilagojenih strategij. Kot primer celostnega načrtovanja je bil izpostavljen projekt *Basse Vallée de la Saône 2050* v Normandiji³⁵, ki združuje ekološko obnovo, preselitev infrastrukture in vključevanje deležnikov. Ta pristop poudarja prostorsko prilagoditev kot odgovor na podnebne izzive ter izpostavlja pomembnost lokalnega vodenja, usklajenega financiranja in pravnih inovacij za odpornost obalnih območij³⁶.

Možnosti uporabe italijanske in francoske prakse v Sloveniji

Slovenija bi lahko vzela zgled iz **celostnega upravljanja obalnih območij**, ki Franciji omogoča povezovanje različnih sektorjev – od **prostorskega načrtovanja** do **okoljskih strategij**. Prav tako bi bila lahko koristna vključitev **mehkejših pristopov**, ki se osredotočajo na ekosistemske storitve, vključevanje lokalnih skupnosti ter prilagodljive strategije upravljanja prostora. Pomembno je tudi, da prilagajanje ne temelji le na **zavezujočih predpisih**, ampak vključuje **sistem finančne podpore lokalnim skupnostim** in omogoča postopno prilagoditev ter dolgoročno načrtovanje brez večjih socialnih konfliktov.

Slovenija se lahko od Francije kot tudi od Italije nauči, da je prilagajanje najbolj učinkovito, če združuje **znanstvene analize, ekonomske strategije in vključevanje lokalnih deležnikov** v dolgoročne načrte. S tem bi lahko preprečila okoljske in socialne težave ter se bolje prilagodila na prihajajoče podnebne spremembe.

Izkušnje iz Italije ponujajo zgled za Slovenijo. Italijanski sistem namreč vzpostavlja mehanizme za medinstitucionalno sodelovanje in tehnično podporo, ki v praksi pogosto manjka formalizacija ukrepov. V Sloveniji bi se lahko temu izognili z vzpostavitvijo stalne koordinacije, ki bi imela ne le nalogo priprave smernic, temveč tudi pristojnost za njihovo integracijo v postopke prostorskega načrtovanja. Celovit pristop, ki bi združil tehnične rešitve z jasno delitvijo odgovornosti na nacionalni, regionalni in lokalni ravni, bi bil ključnega pomena za učinkovito prilagajanje na klimatske spremembe.

Vloga sodstva v procesu soočenja s klimatski spremembami

Sodišča so vsaj v Evropi prevzela vlogo korektiva demokratičnih procesov na področju klimatskih sprememb. V tem procesu se je razvil koncept varstva temeljnih človekovih pravic prihodnjih generacij, ki ga je artikuliralo nemško ustavno sodišče. Gre za širši trend razvoja »klimatske« jurisdikcije, ki ga lahko zasledimo že zadnje desetletje.

Tudi Slovensko ustavno sodišče se je pri vprašanju varstva pitne vode po 70. a. členu Ustave v zvezi z uporabo fitofarmacevtskih sredstev sklicevalo na interes prihodnjih generacij in ob tem citiralo prav odločitev Nemškega ustavnega sodišča v zadevi *Neubauer in ostali proti Nemčiji (zadeva Neubauer)*³⁷. Priča smo konstitucionalizaciji interesov prihodnjih generacij. Pravni koncept, ki sicer ni tuj sodobnim ustavnim tekstom³⁸, je z odločitvijo nemškega ustavnega sodišča pridobil mednarodno legitimacijo. Uvodoma bom predstavil to sodno odločitev in njene odmeve. Gre za jurisprudence³⁹, varstva prihodnjih

³⁵ <https://basse-saane-2050.com/>

³⁶ **Konferenčni prispevki:** Thiesse, E. (2025). *Trajnostno upravljanje obal v okviru Mediteranskega akcijskega načrta*. Predstavitev na srečanju PAP/RAC, 6–7 maj 2025, Atene, Grčija. Dostopno na: <https://paprac.org/news>

³⁷ Bundesverfassungsgericht (2021). *Odločba I BvR 2656/18*. Sprejeta 24. marca 2021. Dostopno na:

https://www.bundesverfassungsgericht.de/SharedDocs/Downloads/DE/2021/03/rs20210324_1bvr265618.html

³⁸ Araújo, R., & Koessler, L. (2021). *The Rise of the Constitutional Protection of Future Generations. LPP Working Paper Series*, št. 7-2021. Dostopno na: <https://ssrn.com/abstract=3933683>

³⁹ Ustavni svet Francoske Republike (2024). *Letno poročilo Ustavnega Sveta Francoske Republike*. September 2024. Dostopno na: <https://www.conseil-constitutionnel.fr/en/annual-reports>; Francoski ustavni svet je februarja 2024 v Parizu organiziral Mednarodni seminar na temo "pravičnost, prihodnje generacije in okolje," kjer so sodniki z vsega sveta razpravljali o pravicah prihodnjih generacij v povezavi z okoljsko pravičnostjo. Laurent Fabius: »Ali

generacij, ki je plod vedno širšega prepričanja, da so ukrepi zoper klimatske spremembe pomanjkljivi in prepozni. Sodstvo je zato sprejelo vlogo instrument s katerim prizadeti posamezniki predvsem pa nevladne organizacije poskušajo vplivati na nacionalno klimatsko politiko.

Prelomna podnebna sodba nemškega ustavnega sodišča

Nemško ustavno sodišče je marca 2021 z odločitvijo protiustavnosti zveznega zakona o klimatskih spremembah postavilo nove standarde v razumevanju pravnega varstva pred posledicami podnebnih sprememb. Razsodilo je, da zvezni zakon o klimatskih spremembah (iz leta 2019) ni ustaven, saj nesorazmerno preloži breme ukrepov zmanjševanje izpustov toplogrednih plinov na obdobje po letu 2030 in s tem omejuje ustavno varovano svobodo prihodnjih generacij⁴⁰. Sodišče je poudarilo, da podnebne spremembe neposredno vplivajo na temeljne pravice posameznika, kot sta pravica do življenja in pravica do zasebne lastnine, zaradi česar ima država dolžnost zaščititi te pravice že danes.

Odločitev Nemškega ustavnega sodišča sedaj že izpred štirih let je nosilna evropska odločitev na področju klimatske jurisprudence. Sicer tradicionalno konservativno Nemško ustavno sodišče, ki ni bilo aktivistično na področju varstva okolja oziroma varstva pozitivnih ustavnih pravic nasploh, je na področju klimatskih sprememb presenetilo. Pozitivne pravice so pravice posameznika, od oblasti zahtevati določeno aktivnost oziroma zagotovitev določenega stanja (varnost) ali storitev⁴¹.

Gre za prelomno odločitev v evropski ustavno sodni praksi. Ustavno sodišče je priznalo individualno pravico varstva pred klimatskimi spremembami, kot temeljno človekovo pravico, ki se varuje danes in v enaki meri, kot pričakovanja prihodnjih generacij. Poleg tega, gre za pravico, ki ni omejena z nacionalnimi mejami.

Država je po ustavi dolžna zagotavljati minimalne ekološke pogoje svojim državljanom⁴², zato je dostop do ustavnega sodišča razširjen, saj se lahko po novem na kršitev sklicuje velik krog oseb. Ustavno varstvo vključuje tudi interese prihodnjih generacij; ustavno sodišče v luči načela previdnosti, široko vrednoti poseg v človekove pravice, ki so zaradi prihodnjih negotovih razmer, potencialno podvržene nenadomestljivi škodi.

Ustavno sodišče utemlji to sodno varstvo na »varstvu naravnih pogojev življenja« (20a členu Ustave – temeljnega zakona)⁴³. Ustavna določba se pri varstvu naravnih temeljev življenja izrecno sklicuje na

se oblikuje nova dimenzija vloga sodnikov? Obravnava "pravic prihodnjih generacij" postaja vse bolj pomembna, zlasti v sodni praksi. Kompleksni sodobni fenomeni, kot so podnebne spremembe, vključujejo interdisciplinarne, mednarodne in medgeneracijske vidike. Naša dejanja—ali njihovo pomanjkanje—imajo posledice za sedanost ter bližnjo in oddaljeno prihodnost. Sodniki so vse pogostejše poklicani, da razsojajo v teh zapletenih primerih, kar odpira vprašanja glede dopustnosti, ocene škode, vzročne zveze, metod intervencije in pravnih sredstev«.

⁴⁰ Poleg tega zaveza o zmanjševanju izpusta toplogrednih plinov po posameznih panogah zakon ni opredelil v celoti dovolj natančno in predvidljivo in je s tem kršeno ustavno načelo pravne države.

⁴¹ Krämer-Hoppe, R. (2021). *The Climate Protection Order of the Federal Constitutional Court of Germany and the North-South Divide*. *German Law Journal*, 22, str. 1393–1408. doi:10.1017/glj.2021.84

Avtor izpostavlja, da Nemško Zvezno ustavno sodišče (ZUS) do nedavne sodbe ni igralo pomembne vloge pri varstvu okolja ali podnebnih spremembah, saj je v preteklosti restriktivno obravnavalo okoljsko zakonodajo. Nemški Temeljni zakon ne vključuje eksplicitne pravice do ugodnega okolja, temveč zgolj državno dolžnost varovanja okolja (člen 20a), ki pa do sodbe o varstvu podnebja ni imela konkretne vsebine. Sodišče je tradicionalno poudarjalo **negativno funkcijo** človekovih pravic, ki varujejo posameznika pred državnimi posegi, medtem ko je pozitivna funkcija, ki nalaga državi dolžnost zaščite, pogosto ostala v diskreciji zakonodajalca. Posledično noben argument za dolžnost varovanja okolja doslej ni bil uspešen pred ZUS. Sodba o varstvu podnebja pa je prvič opredelila člen 20a kot ustavno zavezo političnim oblastem za ukrepanje proti klimatskim spremembam ter kot varstvo pravic prihodnjih generacij.

⁴² Nemška ustava oziroma temeljni zakon v 20. a členu vključuje državno dolžnost varovanja okolja. Ker ne gre za človekovo pravico, ne more biti predmet varstva z ustavno pritožbo. Šele sodba o varstvu podnebja je dala vsebino členu 20a Temelnjega zakona. Opredeli jo na dva načina in sicer prvič kot ustavno zavezo političnim vejam oblasti, ukrepati tako nacionalno kot mednarodno zoper klimatske spremembe in drugič kot ustavno varstvo pravic prihodnjih generacij.

⁴³ Člen 20a:

Država, ob zavedanju svoje odgovornosti do prihodnjih generacij, varuje naravne temelje življenja in živali z zakonodajnimi ukrepi ter; v skladu z zakonom in pravičnostjo, z izvršilnimi in sodnimi dejanji, vse v okviru ustavnega reda.

odgovornost do prihodnjih generacij, kar sodišče uporabi za opredelitev ustavno varovanega objektivnega interesa prihodnje generacije.

Z 20a členom ne določa individualne pravice, ki jo varuje sodišče na podlagi ustavne pritožbe temveč za objektivno dolžnost varstva okolja, ki je v interesu tako sedanje kot prihodnjih generacij. To sicer naredi v dveh korakih prvič ugotovi, da 20a člen zavezuje državo k ukrepanju za zaščito naravnih temeljev življenja iz odgovornosti do prihodnjih generacij in drugič da sorazmernost državnega postopanja zahteva, da prihodnje generacije ne nosijo nesorazmerno težkega bremena pri teh ukrepih⁴⁴.

Sodišče vzpostavi neposredno povezavo med dejanskimi in grozečimi klimatskimi spremembami in varstvom temeljnih pravic do osebne fizične in premoženjske integritete posameznika. S tem vzpostavi neposredno zvezo med varstvom najosnovnejših individualnih pravic in varstvom okolja. Pri tem varstvu zahteva, da zakonodajalec izhaja iz znanstvenih dognanj in pravično oziroma sorazmerno razporedi breme ukrepanja zoper klimatske spremembe med sedanjimi in bodočimi generacijami⁴⁵.

Pariški sporazum⁴⁶ ustavno sodišče razglasi za minimalni ustavni standard, ki ga je država dolžna zagotavljati. Na le-tega, ali je zakonodajalec vezan in usklajen z njim, bo presojalo ustavno sodišče na podlagi individualnih ustavnih pobud⁴⁷.

Dolžnost ukrepanja države oziroma odgovornost države, da zagotavlja okoljsko varnost, kot obliko varstva temeljnih človekovih pravic, dobiva tudi izrecno ustavno pravno zaščito, ki pripada posamezniku in zavezuje državo k ukrepanju takoj z upoštevanjem interesov tudi bodočih generacij.

Pri tem je pomembno, da ustavno sodišče vključi časovno dimenzijo v varstvo temeljnih pravic posameznikov. Zaključi, da bo država neizbežno prisiljena v radikalne ukrepe proti klimatskim spremembam, ki bodo posegali v temeljne pravice posameznikov. Potrebni posegi bodo radikalnejši, manj časa bo na voljo za doseg »klimatske nevtralnosti«. S tem je ustavno sodišče tudi že vnaprej ugotovilo, da bodo posegi v imenu varstva okolja upravičeno znatno posegali v individualne pravice. Zato je to breme na podlagi znanstvenih dognanj, nujno nositi že danes.

Sodba po eni strani daje zakonodajalcu široka pooblastila posegati v temeljne človekove pravice pri ukrepih zoper klimatske spremembe a pri tem zahteva medgeneracijsko in globalne sorazmernost. In prav zakonodajalec, v transparentnem postopku mora sprejeti težke odločitve s katerimi razporedi breme zahtevanih ukrepov. Te naloge ne sme delegirati izvršilni veji oblasti, četudi gre za kompleksna in strokovna vprašanja.

⁴⁴ Odsek 193 sodbe se glasi: To potrjuje objektivni mandat zaščite iz člena 20a. Ko člen 20a GG nalaga državi obveznost varovanja naravnih temeljev življenja – delno iz odgovornosti do prihodnjih generacij – je njegovo primarno poslanstvo ohranitev teh temeljev za prihodnje generacije. Hkrati pa se nanaša tudi na način porazdelitve okoljskih obremenitev med različnimi generacijami. Objektivni mandat zaščite iz člena 20a GG zajema potrebo po skrbnem ravnanju z naravnimi temelji življenja in njihovem ohranjanju v takem stanju, da prihodnjim generacijam, ki si želijo nadaljevati njihovo varovanje, ne bo treba sprejemati radikalnih omejitev ([...]).

⁴⁵ Zakonodajalec je dolžan dovolj natančno in predvidljivo določiti kredibilne zahteve za zmanjšanje izpustov toplogrednih plinov do leta 2030 in 2040. Metoda, ki jo predvideva nemški zvezni krovni zakon o zaščiti podnebja, omejuje kvote izpustov CO₂ za posamezne sektorje, skladno s cilji Pariškega sporazuma. Po mnenju sodišča je ta metoda ustrezna, saj zahteva, da imajo zaveze zakonski značaj in da njihovo določanje ni prepuščeno vsakokratni vladi prek podzakonskih predpisov.

Omejitve morajo biti jasno določene vnaprej, da zagotavljajo pravno varnost in predvidljivost. Prav takšen pristop bo spodbudil inovativnost in razvoj znanja, ki bo omogočil prestrukturiranje in modernizacijo gospodarstva, s čimer bodo dosežene načrtovane omejitve ter hkrati zagotovljeno varstvo temeljnih človekovih pravic.

⁴⁶ Pariški sporazum, sprejet na podlagi Okvirne konvencije Združenih narodov o spremembi podnebja, podpisan 22. aprila 2016 v New Yorku, začel veljati 4. novembra 2016;

⁴⁷ Ob tem pa še izpostavi, da Ustava lahko zahteva tudi strožje omejitve izpustov, kot jih predvideva Pariški Dogovor, v kolikor bodo nova spoznanja pokazala, da zaveze iz Pariškega Dogovora na zadostujejo za zaščito temeljnih pravic, ki jih ogrožajo klimatske spremembe in z njimi povezani ekstremni podnebni dogodki.

Ustavno sodišče se postavi v položaj varuha pravic tistih, ki se danes ne morejo sami zavzemati za svoje pravice niti sodno niti v demokratičnem procesu. Sodišče nastopa kot »časovni« korektiv demokratičnega procesa, saj ugotavlja da v kolikor se ne bo hitro ukrepalo, je v prihodnosti ogrožen sam obstoj temeljnih pravic.

Varstvo pred klimatskimi spremembami po razlagi nemškega ustavnega sodišča izhaja iz varstva človekovih pravic. Poudarilo je, da mora zakonodaja temeljiti na znanstvenih dognanjih in pravično razporediti breme med generacijami. Poleg tega je Pariški sporazum⁴⁸ razglasilo za minimalni ustavni standard, kar državo zavezuje k doseganju mednarodnih podnebnih ciljev. S tem je sodišče odprlo vrata za široko razumevanje podnebnih oziroma okoljskih⁴⁹ politik kot osrednjega elementa zaščite človekovih pravic.

Podnebna pravna evolucija: sodne odločbe pred in v času nemške sodbe

Zadeva »Neubauer« je prelomna odločitev v evropski ustavno sodni praksi, ki sicer sledi trendu odločitev najvišjih sodnih oblasti, kot je Holandski primer »Urgenda«, Francoski primer »Oxfam in ostali« Irski primer »CLG«, ki v istem obdobju od držav zahtevajo ukrepanje zoper klimatske spremembe sklicujoč se na zaveze iz Pariškega sporazuma. V nemškem primer sodišče presoja ustavnost zakona s katerim se država zavezuje ukrepati zoper klimatske spremembe. Predmet ustavnega spora je zakonska zaveza same države, ki jo sodišče zaostri. V primeru, ko država ni sprejela posebnega zakona, kot sta Francija in Nizozemska, je sodišče vladi naložilo zavezo zmanjšanja emisij, na podlagi ustave oziroma Evropske konvencije za človekove pravice (EKŠP). V irskem primeru, pa Vrhovno sodišče razveljavi Vladni načrt, ker nezadostno konkretizira zakonske klimatske zaveze. Sodišče odloči o zakonitosti vladnih ukrepov.

Na podlagi tožb okoljevarstvenih organizacij, sodišča naložijo zakonodajalcu dolžnost ukrepati. Kljub ugovorom, da gre za določitev kompleksne celo mednarodne politike, ki po naravi stvari ne sodi v sodno sfero, sodišča vztrajajo, da so pravila dovolj določna in znanstvena dognanje dovolj dokazana ter škoda dovolj konkretizirana, da so izpolnjeni pogoji za sodno odločanje.

Je pa okvir sodnega odločanja omejen s prepovedjo »*Actio popularis*« ter načelom delitve oblasti. Prvo omejitev nekoliko korigira dostop do sodnega varstva okoljskih nevladnih organizacij. Čeprav Aarhuška konvencija, ne navaja klimatskih sprememb, je vloga okoljevarstvenih organizacij pri zastopanju klimatskih interesov bistvena za zagotavljanje kvalitetnega sodnega nadzora. Medtem, ko sodišča varujejo načelo delitve oblasti na način, da dopuščajo široko polje diskrecije zakonodajalcu, katerega ukrepe presojajo le z vidika splošne proporcionalnosti oziroma test racionalnosti.

Sodišča ne nadomeščajo zakonodajalčevih ali vladnih odločitev, temveč jim nalagajo obveznosti, ki so jih same sprejele s Pariškim sporazumom oziroma nacionalno zakonodajo. Sodišča ne oblikujejo konkretnih pravno-političnih predlogov, temveč zgolj »držijo politične veje oblasti za besedo«.

⁴⁸ V skladu s **Sklepom Sveta (EU) 2016/1841** je tudi Evropska unija sklenila sporazum, ki zavezuje vse države članice k skupnim prizadevanjem za omejitev globalnega segrevanja na precej pod 2 °C glede na predindustrijsko raven ter k prizadevanjem, da bi ga omejili na 1,5 °C.

⁴⁹ Pomembnost te odločitve se odraža tudi v primerljivih sodbah drugih držav. Špansko ustavno sodišče je v svoji odločbi novembra 2024 podprlo ustavnost Zakona 19/2022, ki je morski laguni »Mar Menor« podelil pravno osebnost. S to odločitvijo je poudarilo vlogo ustavnih sodišč pri varstvu ekosistemov in zagotavljanju medgeneracijske pravičnosti. Priznanje pravne osebnosti ekosistemom, kot je Mar Menor, ne predstavlja zgolj formalne ureditve, temveč simbolizira globoko povezanost med zdravimi ekosistemi in človekovo kakovostjo življenja. Špansko sodišče je sklicujoč se na nemško zadevo »Neubauer« navedlo, da dostojno življenje v zdravem naravnem okolju velja tako za sedanje kot za prihodnje generacije.

Usmerja ali sledi? Vloga Evropskega sodišča za človekove pravice v klimatskem pravu

Evropsko sodišča za človekove pravice (ESČP), v zadevi *Verein KlimaSeniorinnen Schweiz proti Švici* (april 2024)⁵⁰ vzpostavi standard varstva človekovih pravic vis a vis ukrepom zoper klimatske spremembe. Odločitev Sodišča poudarja pomembnost individualne in kolektivne zaščite v kontekstu podnebnih sprememb. Vzpostavlja odgovornost držav za zagotavljanje ustreznih ukrepov proti podnebnim spremembam, pri čemer omejuje njihovo diskrecijsko pravico na področju okoljske politike. Poudarja tudi vlogo združenj kot zagovornikov pravic ranljivih skupin, ko je ogroženo njihovo zdravje, življenjski pogoji in dobrobit.

Sodba ESČP se v svoji argumentaciji ni osredotočila zgolj na švicarske razmere. Sklicuje se na primere, kot so **Stichting Urgenda proti Nizozemski državi**, ki poudarja konkretne obveznosti držav pri zmanjšanju emisij, ter večkrat izpostavljen nemški primer »*Neubauer in ostali*«, ki osvetljuje načelo medgeneracijske pravičnosti. Vključeni so bili tudi primeri iz Irske, Norveške, Kolumbije in Pakistana, kar kaže na globalni značaj podnebnih tožb in njihovo povezavo z nacionalnimi pravnimi sistemi.

Poudarja, da so podnebne spremembe globalni problem, ki zahteva pravno odgovornost na nacionalni ravni, pri čemer se države ne morejo izogniti svojim dolžnostim z izgovorom na kompleksnost problema. **Države morajo zagotoviti sodno varstvo tako nad ukrepi s katerimi se zmanjšuje toplogredne pline, kot ukrepi s katerimi se blažijo negativni vplivi klimatskih sprememb. Državna dolžnost ukrepanja mora biti pod meritornim sodnim nadzorom skladno (člen 6 § 1) EKČP.**

Politične veje oblasti imajo sicer široko polje diskrecije⁵¹, pri oblikovanju ukrepov proti klimatskim spremembam. Je pa ta diskrecija omejena z resnostjo grožnje ki zahteva posamično in skupno ukrepanje⁵². Diskrecijo omejuje mednarodne zaveze, kot je Pariški dogovor⁵³, v določeni meri tudi Aarhuška konvencija⁵⁴ in sorazmernost pri posegih v pravice ki jih varuje EKČP. Gre za pozitivno

⁵⁰ Primer se nanaša na pritožbo združenja, ki zastopa več kot 2.000 starejših žensk, in štiri posameznice, starejše od 80 let, ki trpijo zaradi zdravstvenih težav, poslabšanih med vročinskimi valovi. Tožniki so očitali Švicarski konfederaciji, da ni sprejela ustreznih ukrepov za boj proti podnebnim spremembam, kar je v nasprotju z njihovimi pravicami do življenja (člen 2) ter zasebnega in družinskega življenja (člen 8) Evropske konvencije o človekovih pravicah. Združenje in posameznice so trdile, da švicarski vladni ukrepi niso zadostni za omilitve vplivov globalnega segrevanja. Njihove pritožbe na različnih nacionalnih ravneh, vključno z Zveznim vrhovnim sodiščem, so bile zavrnjene. Na tej podlagi so se obrnili na Evropsko sodišče za človekove pravice (ESČP).

⁵¹ 541. V skladu z načelom subsidiarnosti imajo nacionalni organi primarno odgovornost za zagotovitev pravic in svoboščin, opredeljenih v Konvenciji, pri čemer uživajo določeno diskrecijsko pravico, ki je predmet nadzorne pristojnosti Sodišča (glej med številnimi drugimi primeri *Garib proti Nizozemski* [GC], št. 43494/09, § 137, 6. november 2017; glej tudi preambulo Konvencije, uvedeno na podlagi 1. člena Protokola št. 15).

⁵² 543. Izhajajoč iz načela, da morajo države na tem področju uživati določeno mero diskrecijske pravice, zgornja razmišljanja zahtevajo razlikovanje med obsegom te diskrecijske pravice v zvezi, na eni strani, z zavezanostjo države k nujnosti boja proti podnebnim spremembam in njihovim negativnim učinkom ter določitvijo ustreznih ciljev in namenov na tem področju, in, na drugi strani, z izbiro sredstev za doseg teh ciljev. V zvezi s prvim vidikom narava in resnost grožnje ter splošni konsenz glede pomena zagotavljanja splošnega cilja učinkovite zaščite podnebja z določitvijo splošnih ciljev zmanjšanja emisij toplogrednih plinov, v skladu z zavezami Pogodbenic za doseg ogljične nevtralnosti, zahtevajo omejeno diskrecijsko pravico držav. Kar pa zadeva drugi vidik, torej njihovo izbiro sredstev, vključno z operativnimi odločitvami in politikami, sprejetimi za izpolnitev mednarodno določenih ciljev in zavez glede na prednostne naloge in vire, je treba državam priznati široko diskrecijsko pravico.

⁵³ 546. V skladu z mednarodnimi zavezami, ki so jih sprejele države članice, zlasti v okviru UNFCCC in Pariškega sporazuma, ter na podlagi prepričljivih znanstvenih dokazov, ki jih je zlasti podal IPCC (glej odstavke 104–120 zgoraj), morajo pogodbenice vzpostaviti potrebne predpise in ukrepe, namenjene preprečevanju povečanja koncentracij toplogrednih plinov v Zemljini atmosferi ter dviga povprečne globalne temperature, ki bi lahko povzročila resne in nepovratne negativne učinke na človekove pravice, zlasti pravico do zasebnega in družinskega življenja ter doma po 8. členu Konvencije.

⁵⁴ 494. Ugotovitve zgoraj omenjenih študij so bile potrjene s širšo primerjalno raziskavo, ki jo je Sodišče izvedlo za namene tega postopka (glej odstavke 232–234 zgoraj). Ta raziskava je pokazala skoraj univerzalno ratifikacijo Aarhuške konvencije s strani držav članic Sveta Evrope in da so združenja – ki izpolnjujejo določena merila, navedena v odstavku 233 zgoraj – na splošno pridobila procesno legitimacijo za sprožitev sodnih postopkov v

obveznost države⁵⁵. ESČP na švicarskem primeru ilustrira test sorazmernosti v 567 in 568: »V teh okoliščinah, glede na nujnost ukrepanja proti podnebnim spremembam in trenutno odsotnost zadovoljivega regulativnega okvira, ima Sodišče težave sprejeti, da zgolj zakonodajna zaveza k sprejetju konkretnih ukrepov »pravočasno«, kot je predvideno v Zakonu o podnebj, zadostuje za izpolnitev dolžnosti države, da zagotovi in učinkovito izvaja učinkovito zaščito posameznikov na svojem ozemlju pred škodljivimi vplivi podnebnih sprememb na njihovo življenje in zdravje...

Sam sprejem splošnih, četudi zakonodajnih zavez ne zadošča za izpolnitev obveznosti po konvenciji. Nacionalni zakonodajalec mora predvideti konkretne ukrepe v realnem časovnem okviru. Sklicevanja na zavrnitev ukrepov na referendumu, sodišče ne sprejema.⁵⁶ ESČP podeljuje aktivno legitimacijo v klimatskih sporih nevladnim organizacijam, ki po nacionalnem pravu varujejo okoljske interese. S tem zavrne ugovor neupravičenosti »actio popularis« in hkrati vzpostavi »kvalificiranega« varuha interesov, s klimatskimi spremembami prizadetih posameznikov⁵⁷ in skupin pred sodiščem.

Sodba vključuje tudi samostojno obveznost države sprejeti prilagoditvene ukrepe: »...da zgoraj omenjeni ukrepi za zmanjševanje tveganj vključujejo ukrepe za prilagajanje, **namenjene lajšanju**

interesu zaščite okolja in/ali v interesu zasebnih oseb, ki jih lahko prizadenejo specifične okoljske nevarnosti ali industrijski projekti. Čeprav je procesna legitimacija združenj v kontekstu postopkov glede podnebnih sprememb – ki jih Aarhuška konvencija ne zajema – še razvijajoče se vprašanje, se zdi, da v večini držav članic vsaj teoretično obstaja možnost, da okoljska združenja sprožijo primer glede podnebnih sprememb, v nekaterih državah pa so bila merila za takšno legitimacijo že določena bodisi v domači zakonodaji bodisi v sodni praksi domačih sodišč (glej odstavek 234 zgoraj).

501. V zvezi s tem, pri oblikovanju testa za procesno legitimacijo združenj v sodnih postopkih glede podnebnih sprememb po Konvenciji, Sodišče meni, da je primerno upoštevati Aarhuško konvencijo, katere pomen je bil že opažen v sodni praksi (glej Collectif national d'information et d'opposition à l'usine Melox – Collectif Stop Melox et Mox proti Franciji (odločitev), št. 75218/01, 28. marec 2006). Vendar mora Sodišče upoštevati razliko med osnovno naravo in namenom Aarhuške konvencije, ki je zasnovana za okrepitev javne udeležbe pri okoljskih vprašanjih, ter Konvencijo, ki je namenjena zaščiti človekovih pravic posameznikov. Prav tako mora upoštevati specifične značilnosti postopkov o podnebnih spremembah (glej odstavke 410–422 zgoraj) in razliko med podnebnimi spremembami ter bolj linearnimi in lokaliziranimi (tradicionalnimi) okoljskimi vprašanji, ki jih obravnava Aarhuška konvencija. Poleg tega, kolikor Aarhuška konvencija zagotavlja zelo široko procesno legitimacijo združenjem, kjer se domneva obstoj vpliva na »zadevno javnost« (pod pogojem, da je združenje ustrezno ustanovljeno v skladu z domačo zakonodajo), mora Sodišče upoštevati dejstvo, da njegov lastni pristop ne sme voditi v sprejetje actio popularis, ki kot načelo in ustaljena sodna praksa ni predviden v sistemu Konvencije.

⁵⁵545. V skladu s tem je obveznost države po 8. členu, da prispeva k zagotavljanju takšne zaščite. V tem kontekstu je primarna dolžnost države, da sprejme in učinkovito uporablja v praksi predpise in ukrepe, ki so sposobni ublažiti obstoječe in potencialno nepovratne prihodnje učinke podnebnih sprememb. Ta obveznost izhaja iz vzročne povezave med podnebnimi spremembami in uživanjem pravic po Konvenciji, kot je navedeno v odstavkih 435 in 519 zgoraj, ter iz dejstva, da predmet in namen Konvencije kot instrumenta za zaščito človekovih pravic zahteva, da se njene določbe interpretirajo in uporabljajo tako, da zagotavljajo pravice, ki so praktične in učinkovite, ne pa zgolj teoretične in iluzorne (glej na primer H.F. in drugi proti Franciji, navedeno zgoraj, § 208 in fine; glej tudi odstavek 440 zgoraj).

⁵⁶ 391. Kar zadeva izvedbo referenduma v zvezi z vprašanji podnebnih sprememb, so intervenienti opozorili na načelo iz 27. člena Dunajske konvencije o pravu mednarodnih pogodb,¹⁸³ po katerem država ne more sklicevati na svojo notranjo zakonodajo, da bi upravičila neupoštevanje svojih mednarodnih obveznosti. Kakorkoli že, ljudska pobuda ne more veljati kot način za vzpostavitev ustreznih obveznosti za zaščito temeljnih pravic pritožnikov.

⁵⁷ Starejšim posameznicam, sodišče ni priznalo statusa žrtve zaradi težkega prenašanja vročinskih valov v 553. točki obrazložitve: Čeprav je morda mogoče sprejeti, da so vročinski valovi vplivali na kakovost življenja pritožnikov, iz razpoložljivih gradiv ni razvidno, da bi bili izpostavljeni negativnim učinkom podnebnih sprememb ali da bi jim grozilo, da bodo kdaj v prihodnosti izpostavljeni z intenziteto, ki bi povzročila nujno potrebo po zagotovitvi njihove individualne zaščite, še posebej ob upoštevanju visokega praga, ki ga je treba doseči za izpolnitev meril, določenih v odstavkih 487 in 488 zgoraj. Ni mogoče trditi, da so pritožniki trpeli zaradi kakršnega koli kritičnega zdravstvenega stanja, katerega možno poslabšanje, povezano z vročinskimi valovi, ne bi bilo mogoče ublažiti z ukrepi prilagajanja, ki so na voljo v Švici, ali z razumnimi ukrepi osebne prilagoditve glede na obseg vročinskih valov v tej državi (glejte odstavek 88 in 90 zgoraj). Prav tako je treba ponovno poudariti, da je status žrtve v zvezi s prihodnjim tveganjem s strani Sodišča priznan le izjemoma, individualni pritožniki pa niso uspeli dokazati, da v njihovem primeru obstajajo takšne izjemne okoliščine (glejte odstavek 470 zgoraj).

najhujših ali neposrednih posledic podnebnih sprememb, ob upoštevanju morebitnih posebnih potreb po zaščiti. Tvrstni ukrepi za prilagajanje morajo biti vzpostavljeni in učinkovito uporabljeni v skladu z najboljšimi razpoložljivimi dokazi...⁵⁸

Država se svoje obveznosti ne reši s tem, da sprejme ustrezne ukrepe za dosego klimatske nevtralnosti, je še vedno dolžna za varstvo pravic po konvenciji sprejeti zaščitne ukrepe pred posledicami klimatskih sprememb.

»Odmev ali samostojna ustvarjalnost« v odločbah našega Ustavnega sodišča

Naša Ustava zagotavlja pravico do zdravega življenjskega okolja v 72. členu. Poleg tega pa podobno kot Nemška Ustava, varuje človekove pravice in temeljne svoboščine, kot je pravica do osebnega dostojanstva in varnosti iz 34. člena ustave. Nenazadnje med splošnimi določbami, ki zahtevajo ukrepanje države, je dolžnost varstva človekovih pravic in temeljnih svoboščin, iz 5. člena Ustave, ki zahteva skrb za naravno bogastvo in skladen civilizacijski razvoj. Gre za pozitivne obveznosti države, ki jih Ustava nalaga vsem vejam oblasti (zakonodajni, izvršilni in sodni)⁵⁹.

Slovenska jurisprudenca podobno kot nemška je postopoma vzpostavila ustavno varovanje individualnega interesa na podlagi 72. člena ustave.⁶⁰ S tem, da je pravica iz 72. člena za razliko od nemške po naši ustavnosodni praksi varovana z ustavno pritožbo.

Ustava zagotavlja pravico do zdravega življenjskega okolja v 72. členu, kot samostojno ustavno varovano vrednoto v okviru gospodarskih in socialnih razmerij, ki jo je dolžan zakonodajalec urediti z zakonom.

Ustavno sodišče se je glede obsega obveznosti, ki zavezujejo tako državo kot tudi lokalno skupnost na podlagi 72. člena ustave opredelilo že v odločbi U-I-297/08-19, z dne 7. 4. 2011⁶¹, sicer pri obravnavi

⁵⁸ 552. točka obrazložitve: *Poleg tega učinkovito varstvo pravic posameznikov pred resnimi negativnimi posledicami za njihovo življenje, zdravje, dobro počutje in kakovost življenja zahteva, da zgoraj omenjeni ukrepi za zmanjševanje tveganj vključujejo ukrepe za prilagajanje, namenjene lažšanju najhujših ali neposrednih posledic podnebnih sprememb, ob upoštevanju morebitnih posebnih potreb po zaščiti. Tvrstni ukrepi za prilagajanje morajo biti vzpostavljeni in učinkovito uporabljeni v skladu z najboljšimi razpoložljivimi dokazi (glejte odstavek 115 in 119 zgoraj) ter v skladu s splošno strukturo pozitivnih obveznosti države v tem kontekstu (glejte odstavek 538 (a) zgoraj).*

⁵⁹ Zupančič, B. M. (2002). *Komentar k prvemu odstavku 5. člena Ustave RS*. Dostopno na: <https://e-kurs.si/komentar/komentar-k-prvemu-odstavku-5-clena/>

⁶⁰ Knez, R. (2019). *Komentar k 72. členu Ustave RS*. Dostopno na: <https://e-kurs.si/cleni/72-clen/>

7. Naravnim dobrinam iz 72. člena US nudi enako varstvo kot človekovim pravicam (U-I-80/04, tč. 5; Up-629/02; Up-88/94; U-I-164/14), čemur pritrjuje tudi teorija (Čebulj v: KURS-A, s. 1027; Čebulj, s. 993). Tako je preseženo začetno stališče US, da pravica do zdravega življenjskega okolja ne spada med človekove pravice (U-I-30/92, za kritiko glej OLM Krivic). Po stališču US se pravica do zdravega življenjskega okolja, ki je lahko tudi podlaga za ustavno pritožbo, varuje s standardi, ki veljajo za posege v prostor in s standardi oziroma normami, ki zagotavljajo, da ne pride do takšnih vplivov na okolje, ki bi bili tako prekomerni, da bi ogrožali zdravje ljudi. Do nedopustnih posegov v okolje lahko pride v primeru, če gre pri omenjenih vplivih za čezmerne obremenitve okolja. Ustavna norma je programska; zakonodajalec mora na ravni zakona izvesti pravico. Poglavitni sistemski predpisi pravic iz 72. člena so: ZVO-1, ZON, ZV-1, ZUreP-2 in ZZZiv.

⁶¹ Natančneje v 28. obrazložitve: *»V okviru splošnih določb Ustava v prvem odstavku 5. člena navaja nekatere pozitivne obveznosti države, 15 med katere sodi tudi skrb države za ohranjanje kulturne dediščine. Dejstvo, da je Ustava skrb za ohranjanje kulturne dediščine izrecno umestila ob skrb za varstvo človekovih pravic in temeljnih svoboščin in med splošne določbe, v katerih med drugim ureja temeljna ustavna načela, že kaže na pomembnost te ustavno varovane dobrine. Poseben poudarek ji je zagotovila še v 73. členu, kjer je k skrbi za ohranjanje kulturne dediščine poleg države zavezala tudi lokalne skupnosti (drugi odstavek 73. člena Ustave). V prvem odstavku tega člena Ustave pa je k varovanju kulturnih spomenikov, ki sodijo v kulturno dediščino, obvezala vsakogar. Ne glede na to, da Ustava v drugem odstavku 73. člena ne odkazuje izrecno na zakon, je jasno, da država to pozitivno obveznost lahko uresniči samo na podlagi ustrezne zakonske ureditve. Ustava sama namreč ne opredeljuje natanko*

varstva kulturne dediščine. Sodišče zaključi, da ustava zahteva sprejem zakonodaje, ki zagotavlja ukrepe varstva 72. člena. Opustitev sprejema zakonodaje predstavlja kršitev ustave, medtem ko ustavna pušča zakonodajalcu svobodo pri določanju ukrepov varstva ustavne vrednote, ki jo mora ohraniti tudi za »prihodnje rodove«.

Zakonodajalec je še nekoliko manj svoboden, na področju varstva narava, saj ga poleg ustave omejuje tudi pravo in načela EU, med katera sodi tudi načelo previdnosti⁶², na kar opozori ustavno sodišče v sporu med državo in občino Pivka glede omejitev gradnje infrastrukturnih objektov v Krajinskem parku presihajoča Pivških jezer. Sodišče, sklicujoč se na obveznost upoštevanju načela skladne razlage nacionalnega prava v luči zahtev prava EU, oceni, da je občina ustrezno ocenila, da je za ohranitev naravnih vrednot in naravnih procesov ter habitatov prepoved gradnje novih infrastrukturnih objektov na celotnem območju krajinskega parka sorazmerna in zakonita.

Sodišče je okoljske interese prihodnjih generacij prvič artikuliralo v zadeve U-I-182/16⁶³, ko je obravnavalo ustavnost zakona o varstvu okolje, na zahtevo Državnega Sveta. Prvič je test uporabilo v primeru U-I-416/19, pri presoji ustavnosti Zakona o fitofarmacevtskih sredstvih, na pobudo posameznika – uporabnika vodovodnega sistema.

Ustavno sodišče varuje pravico do zdravega življenjskega okolja posredno, po ustaljeni sodni praksi, ki jo ponovno izpostavi, ob tem pa doda samostojno ustavno presojo, ker gre za vprašanje kvalitete **pitne vode in interes prihodnje generacije**, tako da zaključi da skladnost z zakonskimi standardi »danes« še ni nujno dovolj. V primeru ogrožanja pitne vode, okoljske standarde, ki jih sodišče varuje na podlagi 72. člena zaostri s testom zmanjšanja tveganja na najnižjo možno raven, ki jo še dopušča pravo EU.

*»30. Iz ustavnosodne presoje izhaja, da se pravica do zdravega življenjskega okolja varuje s standardi oziroma normami, ki zagotavljajo, da ne pride do vplivov na okolje, ki bi bili tako prekomerni, da bi ogrožali zdravje ljudi. Vendar je treba, ko gre za pravico do pitne vode, upoštevati tisti njen vidik, ki pitno vodo zagotavlja ne le sedanjim, **temveč zlasti prihodnjim generacijam**. Načelo trajnostnega razvoja namreč narekuje spodbujanje takega gospodarskega in socialnega razvoja družbe, ki pri zadovoljevanju potreb sedanje generacije upošteva enake možnosti zadovoljevanja potreb prihodnjih ter omogoča*

vsebine in obsega tistih vrednot, ki so kot civilizacijski dosežki prednikov izjemnega pomena ne le za sedanji obstoj in identiteto naroda, pač pa je njihova ohranitev neprecenljivega pomena tudi za prihodnost. Tako vsebina in obseg kulturne dediščine, kakor tudi način njenega varovanja danes, da bi se **dosegla ohranitev za bodoče rodove**, so zato že po naravi stvari prepuščeni zakonu. Pri tem zakonodajalec glede na navedene ustavne določbe ni svoboden v odločitvi o potrebnosti zakonskega urejanja, ker bi njegova opustitev pomenila kršitev ustavne zapovedi iz 5. in 73. člena Ustave. Svoboden pa je, v ustavnih okvirih seveda, glede določanja ukrepov, potrebnih za ohranjanje kulturne dediščine, ukrepov torej, ki zagotavljajo njeno varstvo danes na način, ki jo bo ohranil tudi v prihodnje.

⁶² V 23. točki obrazložitve: ... Takšna oblika varstva ima podlago tudi v načelu previdnosti, ki je eno temeljnih načel evropske in slovenske okoljske politike. Na ravni EU obveznost uporabe načela previdnosti v okoljskih zadevah in v zadevah ohranjanja narave ureja tretji odstavek 6. člena Direktive Sveta 92/43/EGS z dne 21. maja 1992 o ohranjanju naravnih habitatov ter prostoživečih živalskih in rastlinskih vrst (UL L 206, 22. 7. 1992 – v nadaljevanju Direktiva o habitatih),²⁷ kot eno temeljnih načel varstva okolja pa ga vsebuje tudi Zakon o varstvu okolja (Uradni list RS, št. 39/06 – uradno prečiščeno besedilo, 70/08, 108/09, 48/12, 57/12, 92/13, 56/15, 102/15, 30/16 in 158/20 – v nadaljevanju ZVO-I).²⁸ Načelo previdnosti želi preprečiti nastanek škode tudi v primeru dvoma glede obstoja ali obsega škodljivih učinkov posameznih dejanj na okolje oziroma naravo ter tudi v takih primerih zahteva ukrepanje za zagotovitev varstva okolja.

⁶³ 24. ... Ustava omogoča različne pristope k varovanju okolja, ki se lahko izvedejo na zakonodajni ravni. Vendar pa je treba zahtevo po zdravem človekovem okolju razumeti v širšem kontekstu pozitivne dolžnosti države glede ohranjanja narave in varovanja okolja kot takega. Ne gre torej le za dobrobit človeka. Vez med varovanjem okolja in za človeka zdravim okoljem je seveda tesna. Dobrobit posameznika tako sedanje kot tudi prihodnjih generacij je neločljivo povezana z varovanjem okolja. Pri poseganju v okolje pa gre za konstantni trk interesov posameznikov, oblasti in okolja samega, le da slednje svojega interesa ne more zastopati samo. Zato je temeljnega pomena zahteva prvega stavka drugega odstavka 72. člena Ustave, ki državi nalaga skrb za zdravo življenjsko okolje...

dolgoročno ohranjanje okolja. Zato zgolj dejstvo, da odvzeti vzorci danes ustrezajo v Pravilniku o pitni vodi določenim parametrom, ne zadošča za zaključek o ustavni skladnosti izpodbijane ureditve.»

Pred tem, je sodišče sicer specifično področje jedrske varnosti »*uvrstilo med sestavne dela pravice do zdravega življenjskega okolja*«, ki nalaga državi, »*z odločitvijo za uporabo jedrske energije sprejeti tehnične, organizacijske in druge ukrepe, ki bodo tveganje za možnost nastanka nesreče zmanjšali na najnižjo možno raven.*«⁶⁴, vse v okviru zahtev 72. člena, zadovolji z zakonsko ureditvijo, ki zavezuje državo.

Zato se posluži metode ustavno skladne razlage evropsko pravne ureditve ter razveljavi tako zakonski predpis, kot na njegovi podlagi sprejet podzakonski predpis zaradi kršitve načela pravne države oziroma zaradi prepovedi prekomernega pooblastila izvršilni veji oblasti, podobno kot nemško ustavno sodišče v primeru »*Neubauer in ostali*«.

Ali gre za nov test ustavnosti po nemškem vzoru, še ni jasno. Za kakšen test sploh gre oziroma ali gre za specifično ustavno varstvo pravice do pitne vode iz 70.a člena? Tudi naše sodišče se namreč sooča s sorodnimi dilemami, kot ostala evropska sodišča. Omejuje ga narava sodnega odločanja o strokovno-političnih vprašanjih v skladu z načelom delitve oblasti. Ob tem se izpostavlja tudi načelo supremacije evropskega prava na tem področju ter tehtanje drugih ustavno varovanih interesov posameznikov in lokalne skupnosti.⁶⁵

Sodišče še ni obravnavalo spora o obveznostih države zaradi podnebnih sprememb, a že iz dosedanje prakse lahko sklepamo, da bo do takega spora prej ali slej prišlo v luči sodne prakse ESČP.

Ustavnosodno odločanje o prilagajanju dvigu morske gladine

Sodna praksa ESČP vzpostavlja dolžnost učinkovitega pravnega varstva na področju prilagajanja podnebnim spremembam, med katere sodijo tudi ukrepi za blaženje posledic dviga morske gladine. Ali bi lahko ustavno sodišče na podlagi tega novega precedensa poseglo v opustitve političnih oblasti pri ukrepanju proti podnebnim spremembam in njihovemu blaženju?

⁶⁴ U-I-22/15, z dne 27. 3. 2019. Skrb za sprejetje ukrepov jedrske in sevalne varnosti je izključna državna pristojnost. Gradnja jedrskih objektov, njihovo varno delovanje ter uporaba so namenjeni zadovoljevanju potreb in interesov vseh prebivalcev države.²¹ Zato ta pristojnost po naravi stvari ne spada med lokalne javne zadeve, ker presega interese lokalne skupnosti. Ustavno sodišče je jedrsko varnost zaradi intenzivnosti vpliva jedrske energije na okolje in ljudi že uvrstilo med sestavne dele pravice do zdravega življenjskega okolja (prvi odstavek 72. člena Ustave). Razložilo je, da mora država hkrati z odločitvijo za uporabo jedrske energije sprejeti tehnične, organizacijske in druge ukrepe, ki bodo tveganje za možnost nastanka nesreče zmanjšali na najnižjo možno raven. Zato prvi in drugi odstavek 72. člena Ustave nalagata državi dolžnost, da zagotovi visoko stopnjo jedrske varnosti. To jasno izhaja tudi iz načela celovitosti iz 4. člena ZVISJV-1, s katerim se je država zavezala dolžnosti, da pri sprejemanju predpisov, izdajanju soglasij in dovoljenj ter pri izvajanju nadzora zagotovi vse možne (primerne in razumne) ukrepe za preprečitev škode za zdravje ljudi in radioaktivne kontaminacije življenjskega okolja.²³ Temu logično sledi tudi preostala ureditev po ZVISJV-1, ki izpeljuje državno pristojnost za določanje varstvenih ukrepov in posledičnih omejitev rabe prostora na območju jedrskega objekta.

⁶⁵ Ustavni sodnik Knez v komentarju ustave izpostavlja posebno naravo uporabe 72. člena v jurisprudenci: 6. *Naravnim dobrinam iz 72. člena US nudi enako varstvo kot človekovim pravicam (U-I-80/04, tč. 5; Up-629/02; Up-88/94; U-I-164/14), čemur pritrjuje tudi teorija (Čebulj v: KURS-A, s. 1027; Čebulj, s. 993). Tako je preseženo začetno stališče US, da pravica do zdravega življenjskega okolja ne spada med človekove pravice (U-I-30/92, za kritiko glej OLM Krivic).*

7. *Po stališču US se pravica do zdravega življenjskega okolja, ki je lahko tudi podlaga za ustavno pritožbo, varuje s standardi, ki veljajo za posege v prostor in s standardi oziroma normami, ki zagotavljajo, da ne pride do takšnih vplivov na okolje, ki bi bili tako prekomerni, da bi ogrožali zdravje ljudi. Do nedopustnih posegov v okolje lahko pride v primeru, če gre pri omenjenih vplivih za čezmerne obremenitve okolja. Ustavna norma je programska; zakonodajalec mora na ravni zakona izvesti pravico. Poglavitni sistemski predpisi pravic iz 72. člena so: ZVO-1, ZON, ZV-1, ZUreP-2 in ZZZiv.*

Opustitev že samega sprejema strategije prilagajanja dvigu morske gladine bi lahko bila tak primer. Vlada se je sama zavezala k sprejemu strategije in si določila rok, ki je že znatno prekoračen. S tem je kršeno načelo, ki je že botrovalo sodnemu ukrepanju v drugih državah, kjer se oblasti niso držale niti zavez, ki so si jih same določile.

Skupni zaključki in predlogi

Članek obravnava ključne pravne, institucionalne in strateške vidike upravljanja prostora, varstva okolja ter prilagajanja klimatskim spremembam, pri čemer se osredotoča na slovenski zakonodajni okvir ter analizira tuje prakse za primerjavo. Zaključki razkrivajo pomanjkljivosti v koordinaciji pristojnosti med državo in lokalnimi ravni ter potrebo po okrepitvi pravne podlage, medtem ko predlogi ponujajo konkretne korake za izboljšanje upravljanja in zaščite, še pred posegom sodne oblasti.

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Spatial Quality of Life in Nursing Homes: A Comparison Between Urban and Rural Settings in Croatia

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Abstract:

As the global population continues to age, institutional care settings are increasingly scrutinised for their capacity to support the wellbeing of older adults. While much attention has been given to medical and social care aspects, the spatial characteristics of nursing homes remain underexplored, particularly in the context of rural-urban disparities. This study investigates how spatial factors—specifically accommodation quality, accessibility, and natural surroundings—influence residents' quality of life in two Croatian island-based nursing homes: one in the urban environment of Krk, and the other in the rural setting of Rab. Using a quantitative cross-sectional design, data were collected through structured questionnaires administered to 68 residents. Responses were measured on 5-point Likert scales and analysed using descriptive statistics, Mann-Whitney U tests, and Spearman's rank correlation coefficients. Results revealed that residents in the urban home reported significantly greater satisfaction with the physical infrastructure and equipment ($U = 28.500$, $p < 0.001$). Moreover, spatial accessibility was positively associated with overall life satisfaction ($\rho = 0.468$, $p < 0.01$), as was satisfaction with the surrounding natural environment ($\rho = 0.531$, $p < 0.01$). These findings emphasise the importance of spatially inclusive and environmentally sensitive design in long-term care facilities. Infrastructural quality and access to nature both contribute to emotional wellbeing, with implications for care models in both rural and urban settings. Given the increasing policy focus on age-friendly environments, the study underscores the need for planning frameworks that integrate spatial justice, accessibility, and therapeutic landscapes into institutional elder care. This research contributes empirical evidence to spatial gerontology and supports the development of care environments that enhance dignity, autonomy, and life satisfaction among older adults.

Keywords: spatial quality, institutional care, nursing homes, ageing, urban-rural comparison, accessibility, nature-based wellbeing

Introduction

Demographic changes associated with population ageing represent one of the most complex challenges faced by contemporary societies—on social, healthcare, and economic levels. According to the World Health Organization, by 2050, the number of older adults worldwide is expected to nearly double, which will further burden long-term care systems (World Health Organization, 2015). In this context, increasing attention is being paid to the quality of life of older individuals residing in institutional settings.

Quality of life in old age encompasses various dimensions, including physical health, psychological well-being, levels of social inclusion, and satisfaction with the physical and social environment (Kane, 2001). Research shows that older adults living in residential care homes often report lower levels of life satisfaction compared to those who remain in their own homes (Lin et al., 2020). However, some studies suggest that individuals who prefer institutional living may perceive their health more positively and report higher levels of satisfaction, especially due to opportunities for social interaction and the formation of new relationships that mitigate feelings of loneliness (Altay et al., 2023).

Therefore, the adaptation of the physical environment to the needs of older people is crucial for maintaining their quality of life. Particular attention must be paid to the characteristics of rural areas, which are often marked by lower population density, greater distances, and limited economic and infrastructural resources. These factors may lead to a lack of qualified personnel and reduced availability of services (Lučan, 2025). The loss of daily contact with family members in institutional settings can further diminish user satisfaction, while those who remain in their own homes often express greater contentment, partly due to the emotional connection to their living space (Matarese et al., 2022).

Changes in the living environment can affect one's sense of identity and life continuity, especially in old age. In institutional care, architectural solutions and the availability of natural elements significantly influence the daily experiences of residents. Studies confirm that environments adapted to mobility and offering features such as gardens and terraces positively affect users' emotional well-being and sense of dignity (Marquardt et al., 2014).

Urban and rural environments also differ in lifestyle, social connectivity, and resource availability. Rural areas are often characterised by stronger social cohesion and closer connection to nature, whereas urban spaces provide better healthcare and infrastructure services but also carry a higher risk of social isolation (Joseph Rowntree Foundation, 2004). Research indicates that older adults in rural areas more frequently experience unmet needs, especially concerning nutrition and healthcare, due to economic constraints and poorer housing conditions (Duan et al., 2024).

Global ageing trends demand the adaptation of health and social care systems and the development of policies that acknowledge the differences between urban and rural environments (Chalise, 2023). While urban residential care homes often boast better equipment, older adults in rural settings may enjoy a stronger sense of belonging and psychological stability. Nevertheless, differences in spatial accessibility, space organisation, and service availability contribute to variations in subjective perceptions of quality of life (Yang & Xie, 2024).

Some studies indicate that older adults in urban areas tend to report higher quality of life, primarily due to better access to medical services and public infrastructure (Yılmaz et al., 2025), while others highlight the unequal distribution of resources between urban and rural care institutions (Lee & Tak, 2022). Individuals in rural areas are particularly vulnerable due to higher multimorbidity rates and limited access to healthcare services (Rony et al., 2024). Ensuring accessible environments, as part of universal design, is essential for preserving older people's independence and their positive perception of daily life (Imrie, 2012).

In the Croatian context, it has been found that care home users frequently express dissatisfaction with spatial design and infrastructural limitations, especially in smaller and more isolated communities, which confirms the need for further analysis and adaptation of institutional conditions (Šućur, 2014).

Research Aim

The aim of this study is to examine the level of satisfaction among residents of elderly care homes located in urban (Krk) and rural (Rab) environments. The research focuses on perceptions of

accommodation quality, room and communal area facilities, spatial accessibility, and the influence of outdoor surroundings (garden, courtyard, nature) on overall life satisfaction within the care home.

Research Questions

- RQ1: Are there differences in satisfaction with accommodation and facilities between residents of urban and rural care homes?
- RQ2: How do residents assess the accessibility of space (rooms, corridors, common areas) in relation to their mobility?
- RQ3: To what extent does the natural environment surrounding the care home influence residents' emotional well-being?

Methodology and Results

Hypotheses

- H1: Residents in the urban care home (Krk) express a higher level of satisfaction with facility equipment compared to residents in the rural care home (Rab).
- H2: Greater spatial accessibility has a positive effect on overall life satisfaction among care home residents.
- H3: Satisfaction with the home's natural surroundings is significantly correlated with emotional perceptions of quality of life.

Methodology

Study Design

The research **used** a quantitative cross-sectional design, and data **were collected** via a standardised questionnaire containing closed-ended statements rated on a Likert scale (1 – strongly disagree to 5 – strongly agree).

Population and Sample

Spatial Population

- Elderly Care Home Mali Kartec – Krk (urban setting)
- Elderly Care Home Mali Kartec – Rab (rural setting)

Temporal Population

The research was conducted in April 2025.

Actual Population

Residents aged 65 and over who permanently reside in the homes and are capable of completing the questionnaire independently.

Sample

A total of 68 participants (42 from Krk, 26 from Rab), selected non-randomly (based on voluntary participation and availability).

Inclusion and Exclusion Criteria

Inclusion:

- Aged 65 or older
- Permanent residents of the care home

- Capable of understanding and completing the questionnaire independently
- Provided informed consent for participation

Exclusion:

- Under the age of 65
- Residents with cognitive impairments that prevent questionnaire completion
- Temporary users of the care home
-

Measuring Instrument

A custom-designed questionnaire was used, consisting of 10 statements rated on a 5-point Likert scale (1 – strongly disagree to 5 – strongly agree). The items cover four areas:

- (1) satisfaction with accommodation,
- (2) room and facility equipment,
- (3) accessibility,
- (4) outdoor environment.

Results

Sample Description

The study included 68 residents of elderly care homes located on the islands of Krk and Rab, with no missing data reported. The most represented age group was 80+ years, accounting for 41.2% of the total sample. Gender distribution was equal (34 women and 34 men). Regarding location, 61.8% of respondents resided in the Krk care home, while 38.2% were from the Rab care home.

Table 1. Socio-demographic characteristics of the sample

	NUMBER (n)	PERCENTAGE (%)
Gender		
Male (M)	34	50.0
Female (F)	34	50.0
Age		
60–69	13	19.1
70–79	27	39.7
80+	28	41.2
Care Home		
Rab	26	38.2
Krk	42	61.8

Hypothesis Testing

Hypothesis 1: Residents in the urban care home (Krk) express a higher level of satisfaction with facility equipment compared to residents in the rural care home (Rab).

- X1: My room is comfortable.
- X1a: My room is functional.
- X2: Common areas are pleasant and encourage social interaction.

Hypothesis 2: Greater spatial accessibility has a positive impact on overall life satisfaction among care home residents.

- X3: I can move independently within the care home.
- X3a: I can move safely within the care home.
- X4: The entrance and hallways are adapted for people with limited mobility.

Hypothesis 3: Satisfaction with the home's natural surroundings is significantly correlated with the emotional experience of quality of life.

- X5: I am satisfied with the outdoor areas of the care home.
- X6: The care home's environment has a positive effect on my mood.
- Y1: I am generally satisfied with life in the care home.
-

Descriptive Statistics of Variables

To ensure that the data were suitable for hypothesis testing, to select the appropriate statistical test, and to interpret the results correctly, basic descriptive statistics were calculated for all numerical (interval-level) variables. These included:

- Mean (M)
- Standard Deviation (SD)
- Skewness
- Kurtosis

These statistics were calculated by gender, and the results are presented in Figure 1. In addition, median values are shown in Figure 1, while the frequency distributions of responses are displayed in Figure 2.

Descriptives

	Spot		Statistic	Std. Error
X1_Udobnost_sobe	M	Mean	3.41	.134
		95% Confidence Interval for Mean	Lower Bound	3.14
			Upper Bound	3.68
		5% Trimmed Mean	3.40	
		Median	3.00	
		Variance	.613	
		Std. Deviation	.783	
		Minimum	2	
		Maximum	5	
		Range	3	
		Interquartile Range	1	
		Skewness	.310	.403
		Kurtosis	-.121	.788
	Z	Mean	3.68	.162
		95% Confidence Interval for Mean	Lower Bound	3.35
			Upper Bound	4.01
		5% Trimmed Mean	3.70	
		Median	4.00	
		Variance	.892	
		Std. Deviation	.945	
		Minimum	2	
		Maximum	5	
		Range	3	
		Interquartile Range	1	
		Skewness	-.201	.403
		Kurtosis	-.767	.788

X1a_Funkcionalnost_sobie	M	Mean		3.65	.152
		95% Confidence Interval for Mean	Lower Bound	3.34	
			Upper Bound	3.96	
		5% Trimmed Mean		3.66	
		Median		4.00	
		Variance		.781	
		Std. Deviation		.884	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.057	.403
		Kurtosis		-.640	.788
	Z	Mean		3.91	.154
		95% Confidence Interval for Mean	Lower Bound	3.60	
			Upper Bound	4.23	
		5% Trimmed Mean		3.96	
		Median		4.00	
		Variance		.810	
		Std. Deviation		.900	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		2	
		Skewness		-.349	.403
		Kurtosis		-.692	.788

X2_Ugodnost_zajednickih_prostora	M	Mean		3.35	.126
		95% Confidence Interval for Mean	Lower Bound	3.10	
			Upper Bound	3.61	
		5% Trimmed Mean		3.36	
		Median		3.00	
		Variance		.538	
		Std. Deviation		.734	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.188	.403
		Kurtosis		-.352	.788
	Z	Mean		3.97	.161
		95% Confidence Interval for Mean	Lower Bound	3.64	
			Upper Bound	4.30	
		5% Trimmed Mean		4.02	
		Median		4.00	
		Variance		.878	
		Std. Deviation		.937	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		2	
		Skewness		-.644	.403
		Kurtosis		-.326	.788

X3_Samostalno_kretanje_unutra	M	Mean		3.24	.207
		95% Confidence Interval for Mean	Lower Bound	2.81	
			Upper Bound	3.66	
		5% Trimmed Mean		3.26	
		Median		3.00	
		Variance		1.458	
		Std. Deviation		1.208	
		Minimum		1	
		Maximum		5	
		Range		4	
		Interquartile Range		2	
		Skewness		.066	.403
		Kurtosis		-.925	.788
	Z	Mean		3.74	.186
		95% Confidence Interval for Mean	Lower Bound	3.36	
			Upper Bound	4.11	
		5% Trimmed Mean		3.82	
		Median		4.00	
		Variance		1.170	
		Std. Deviation		1.082	
		Minimum		1	
		Maximum		5	
		Range		4	
		Interquartile Range		1	
		Skewness		-.959	.403
		Kurtosis		.759	.788

Figure 1. Output of descriptive statistics from SPSS for numerical (interval) variables by groups – Part 1 (mean, standard deviation, median, skewness, and kurtosis)

X3a_Sigurno_kretanje_unutra	M	Mean		3.38	.215
		95% Confidence Interval for Mean	Lower Bound	2.94	
			Upper Bound	3.82	
		5% Trimmed Mean		3.42	
		Median		4.00	
		Variance		1.577	
		Std. Deviation		1.256	
		Minimum		1	
		Maximum		5	
		Range		4	
		Interquartile Range		1	
		Skewness		-.693	.403
		Kurtosis		-.255	.788
	Z	Mean		3.44	.194
		95% Confidence Interval for Mean	Lower Bound	3.05	
			Upper Bound	3.84	
		5% Trimmed Mean		3.49	
		Median		4.00	
		Variance		1.284	
		Std. Deviation		1.133	
		Minimum		1	
		Maximum		5	
		Range		4	
		Interquartile Range		1	
		Skewness		-.443	.403
		Kurtosis		-.439	.788

X4_Pristupacnost_ulaz_hodnici	M	Mean		3.26	.181
		95% Confidence Interval for Mean	Lower Bound	2.90	
			Upper Bound	3.63	
		5% Trimmed Mean		3.24	
		Median		3.00	
		Variance		1.110	
		Std. Deviation		1.053	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		2	
		Skewness		.256	.403
		Kurtosis		-1.120	.788
	Z	Mean		3.62	.146
		95% Confidence Interval for Mean	Lower Bound	3.32	
			Upper Bound	3.92	
		5% Trimmed Mean		3.63	
		Median		4.00	
		Variance		.728	
		Std. Deviation		.853	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.080	.403
		Kurtosis		-.493	.788

X5_Zadovoljstvo_vanjskim_prostorom	M	Mean		3.62	.179
		95% Confidence Interval for Mean	Lower Bound	3.25	
			Upper Bound	3.98	
		5% Trimmed Mean		3.63	
		Median		3.50	
		Variance		1.092	
		Std. Deviation		1.045	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		2	
		Skewness		.006	.403
		Kurtosis		-1.189	.788
	Z	Mean		3.82	.161
		95% Confidence Interval for Mean	Lower Bound	3.50	
			Upper Bound	4.15	
		5% Trimmed Mean		3.86	
		Median		4.00	
		Variance		.877	
		Std. Deviation		.936	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.568	.403
		Kurtosis		-.347	.788

X6_Utica_okolisa_na_ra spolozenje	M	Mean		3.38	.140
		95% Confidence Interval for Mean	Lower Bound	3.10	
			Upper Bound	3.67	
		5% Trimmed Mean		3.37	
		Median		3.00	
		Variance		.668	
		Std. Deviation		.817	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.128	.403
		Kurtosis		-.498	.788
	Z	Mean		3.85	.153
		95% Confidence Interval for Mean	Lower Bound	3.54	
			Upper Bound	4.16	
		5% Trimmed Mean		3.89	
		Median		4.00	
		Variance		.796	
		Std. Deviation		.892	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.513	.403
		Kurtosis		-.256	.788

Y1_Opce_zadovoljstvo	M	Mean		3.71	.161
		95% Confidence Interval for Mean	Lower Bound	3.38	
			Upper Bound	4.03	
		5% Trimmed Mean		3.73	
		Median		4.00	
		Variance		.881	
		Std. Deviation		.938	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.058	.403
		Kurtosis		-.907	.788
	Z	Mean		3.74	.142
		95% Confidence Interval for Mean	Lower Bound	3.45	
			Upper Bound	4.02	
		5% Trimmed Mean		3.76	
		Median		4.00	
		Variance		.685	
		Std. Deviation		.828	
		Minimum		2	
		Maximum		5	
		Range		3	
		Interquartile Range		1	
		Skewness		-.137	.403
		Kurtosis		-.448	.788

Figure 2. Output of descriptive statistics from SPSS for numerical (interval) variables by groups – Part 2 (mean, standard deviation, median, skewness, and kurtosis)

		Statistics								
N		X1_Udobnost_sobe	X1a_Funkcionalnost_sobe	X2_Ugodnost_zajednickih_prostora	X3_Samostalno_kretanje_unutra	X3a_Sigurno_kretanje_unutra	X4_Pristupacnost_ulaz_hodnici	X5_Zadovoljstvo_vanjskim_prostorom	X6_Utica_okolisa_na_raspolozenje	Y1_Opce_zadovoljstvo
	Valid	68	68	68	68	68	68	68	68	68
	Missing	0	0	0	0	0	0	0	0	0
Median		3.50	4.00	4.00	4.00	4.00	3.00	4.00	4.00	4.00

Figure 3. SPSS output showing the median values for all numerical (interval) variables in the total sample

Frequency Table

Samostalno_kretanje					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Da	45	66.2	66.2	66.2
	Ne	23	33.8	33.8	100.0
	Total	68	100.0	100.0	

X1_Udobnost_sobe					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	7	10.3	10.3	10.3
	3	27	39.7	39.7	50.0
	4	24	35.3	35.3	85.3
	5	10	14.7	14.7	100.0
	Total	68	100.0	100.0	

X1a_Funkcionalnost_sobe					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	5	7.4	7.4	7.4
	3	21	30.9	30.9	38.2
	4	26	38.2	38.2	76.5
	5	16	23.5	23.5	100.0
	Total	68	100.0	100.0	

X2_Ugodnost_zajednickih_prostora

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	7	10.3	10.3	10.3
	3	21	30.9	30.9	41.2
	4	28	41.2	41.2	82.4
	5	12	17.6	17.6	100.0
	Total	68	100.0	100.0	

X3_Samostalno_kretanje_unutra

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	4	5.9	5.9	5.9
	2	10	14.7	14.7	20.6
	3	18	26.5	26.5	47.1
	4	21	30.9	30.9	77.9
	5	15	22.1	22.1	100.0
	Total	68	100.0	100.0	

X3a_Sigurno_kretanje_unutra

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	1	7	10.3	10.3	10.3
	2	6	8.8	8.8	19.1
	3	19	27.9	27.9	47.1
	4	24	35.3	35.3	82.4
	5	12	17.6	17.6	100.0
	Total	68	100.0	100.0	

X4_Pristupacnost_ulaz_hodnici					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	13	19.1	19.1	19.1
	3	22	32.4	32.4	51.5
	4	23	33.8	33.8	85.3
	5	10	14.7	14.7	100.0
	Total	68	100.0	100.0	

X5_Zadovoljstvo_vanjskim_prostorom					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	9	13.2	13.2	13.2
	3	18	26.5	26.5	39.7
	4	24	35.3	35.3	75.0
	5	17	25.0	25.0	100.0
	Total	68	100.0	100.0	

X6_Utica_okolisa_na_raspolozenje					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	8	11.8	11.8	11.8
	3	20	29.4	29.4	41.2
	4	30	44.1	44.1	85.3
	5	10	14.7	14.7	100.0
	Total	68	100.0	100.0	

Y1_Opce_zadovoljstvo					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	5	7.4	7.4	7.4
	3	23	33.8	33.8	41.2
	4	26	38.2	38.2	79.4
	5	14	20.6	20.6	100.0
	Total	68	100.0	100.0	

Figure 4. SPSS output showing the frequency distribution for all numerical (interval) and categorical variables

Impact of Facility Equipment on Resident Satisfaction in Urban and Rural Areas

The null hypothesis (H_0) tested was:
There is no statistically significant difference in satisfaction with facility equipment between residents of the urban care home (Krk) and those in the rural care home (Rab).

The alternative hypothesis (H_1) stated:
Residents in the urban care home (Krk) express a higher level of satisfaction with the facility equipment compared to residents in the rural care home (Rab).

Variables examined in this hypothesis were:

- Independent variable: location of the care home (Krk vs Rab)
- Dependent variable: satisfaction with facility equipment in the elderly care home

Assumption:

Residents of the urban care home (Krk), on average, report a higher level of satisfaction with the equipment of their rooms and communal areas compared to residents of the rural care home (Rab).

The following questionnaire items were used to collect data on the relevant variables:

1. My room is comfortable. (X1)
2. My room is functional. (X1a)
3. Common areas are pleasant and encourage social interaction. (X2)

All questions were measured using a 5-point Likert scale (1 – strongly disagree to 5 – strongly agree). Satisfaction with facility equipment was calculated as the mean score of these three questionnaire items. To test the null hypothesis (H_0), an independent samples t-test was initially planned. The assumptions for this test include the normality of data distribution.

Therefore, a normality test was first conducted in SPSS, specifically the Shapiro–Wilk test, to verify whether the distribution of responses met the criteria for parametric analysis.

Tests of Normality						
	Kolmogorov-Smirnov ^a			Shapiro-Wilk		
	Statistic	df	Sig.	Statistic	df	Sig.
Zadovoljstvo_prostorom	.164	68	.000	.962	68	.038

a. Lilliefors Significance Correction

Figure 5. SPSS output of the normality test (Shapiro–Wilk)

Based on the results of the test, the p -value was found to be less than 0.001, indicating that the variable *satisfaction with facility equipment* is not normally distributed.

Given the violation of the normality assumption, it was concluded that the independent samples t-test was not appropriate for testing differences between the care homes.

Therefore, the non-parametric Mann–Whitney U test was conducted as an alternative method.

Zadovoljstvo_prostorom across lme_doma

Independent-Samples Mann-Whitney U Test Summary

Total N	68
Mann-Whitney U	28.500
Wilcoxon W	379.500
Test Statistic	28.500
Standard Error	78.243
Standardized Test Statistic	-6.614
Asymptotic Sig.(2-sided test)	.000

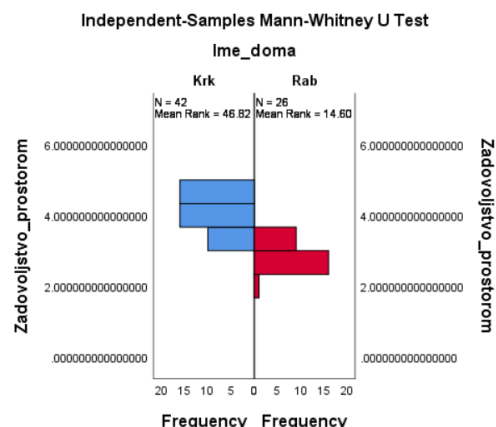


Figure 6. SPSS output of the non-parametric Mann–Whitney U test

The results of the Mann–Whitney U test indicate a statistically significant difference in satisfaction with facility equipment between residents of the Krk and Rab care homes.

The test value was $U = 28.500$, with a standardised test statistic = -6.614 and a p -value < 0.001 , which is significant at the 0.05 level. Since the mean rank for Krk residents (46.82) was substantially higher than for Rab residents (14.60), it can be concluded that residents in the urban area (Krk) are, on average, more satisfied with the facility equipment.

Therefore, the null hypothesis (H_0) is rejected, and the alternative hypothesis (H_1) is accepted.

Conclusion: There is a statistically significant difference in satisfaction with facility equipment between residents of urban (Krk) and rural (Rab) care homes. Residents of the Krk home report higher average satisfaction, suggesting that the facilities in urban institutions may be more functional, pleasant, and better adapted to residents' needs.

The Impact of Spatial Accessibility on Overall Resident Satisfaction

The null hypothesis (H_0) tested was: There is no statistically significant association between perceived spatial accessibility and overall satisfaction among care home residents.

The alternative hypothesis (H_1) stated: There is a statistically significant association between perceived spatial accessibility and overall satisfaction among care home residents.

Variables examined in this hypothesis were:

- Independent variable: Perceived spatial accessibility (calculated as the average score of X3, X3a, and X4)
- Dependent variable: Overall satisfaction with living in the care home

Assumption:

A higher level of spatial accessibility (safe and independent movement, and spatial adaptation) is associated with a higher level of overall satisfaction among care home residents.

The following questionnaire items were used to measure these variables:

1. I can move independently within the care home. (X3)
2. I can move safely within the care home. (X3a)
3. The entrance and hallways are adapted for people with limited mobility. (X4)
4. I am generally satisfied with life in this care home. (Y1)

All items were measured using a 5-point Likert scale (1 – strongly disagree to 5 – strongly agree).

Spatial accessibility was calculated as the average score of items X3, X3a, and X4, while overall satisfaction was measured using the self-assessed item Y1.

To test the null hypothesis (H_0), Pearson's correlation coefficient was originally planned. However, this test assumes a normal distribution of data.

Therefore, a Shapiro–Wilk normality test was conducted in SPSS to verify this assumption.

Tests of Normality						
	Kolmogorov-Smirnov ^a			Shapiro-Wilk		
	Statistic	df	Sig.	Statistic	df	Sig.
Pristupacnost_prostora	.145	68	.001	.953	68	.013
Y1_Opce_zadovoljstvo	.213	68	.000	.871	68	.000

a. Lilliefors Significance Correction

Figure 7. SPSS output of the Shapiro–Wilk normality test

Based on the results of the test, the p -values for both variables were less than 0.001, indicating that the variables are not normally distributed.

Given this violation of the normality assumption, Pearson's correlation coefficient was deemed inappropriate for testing the association between the variables.

As a result, the non-parametric Spearman's rank correlation coefficient was used instead.

Correlations			Pristupacnost _prostora	Y1_Opce_zad ovoljstvo
Spearman's rho	Pristupacnost_prostora	Correlation Coefficient	1.000	.468**
		Sig. (1-tailed)	.	.000
		N	68	68
	Y1_Opce_zadovoljstvo	Correlation Coefficient	.468**	1.000
		Sig. (1-tailed)	.000	.
		N	68	68

** . Correlation is significant at the 0.01 level (1-tailed).

Figure 8. SPSS output of the non-parametric Spearman's rank correlation test

Based on the results of Spearman's correlation, there is a statistically significant association between spatial accessibility and overall satisfaction among elderly care home residents ($\rho = 0.468$, $p < 0.01$). This positive correlation suggests that higher ratings of spatial accessibility—such as safety and independent movement—have a positive impact on overall satisfaction with living in the care home. Therefore, the null hypothesis (H_0) is rejected, and the alternative hypothesis (H_1) is accepted.

Conclusion: There is a statistically significant association between spatial accessibility and overall satisfaction with care home life. Residents who rate spatial accessibility—particularly safety and independence of movement—more highly tend to report greater overall life satisfaction within the care home.

The Impact of Satisfaction with the Natural Environment on Emotional well-being as part of Quality of life in Elderly Care Home Residents

The null hypothesis (H_0) tested was:

There is no statistically significant association between satisfaction with the natural environment of the care home and the emotional well-being as part of quality of life among elderly care home residents.

The alternative hypothesis (H_1) stated:

There is a statistically significant association between satisfaction with the natural environment of the care home and the emotional well-being as part of quality of life among elderly care home residents.

Variables examined in this hypothesis were:

- Independent variable: Satisfaction with outdoor spaces and the surrounding environment of the care home
- Dependent variable: Overall satisfaction with life in the care home (Y1)

Assumption:

Higher satisfaction with the natural surroundings of the care home—including outdoor space and the environment's impact on mood—is associated with higher overall life satisfaction among residents.

The following questionnaire items were used to collect data for this hypothesis:

1. I am satisfied with the outdoor areas of the care home. (X5)
2. The care home's surroundings have a positive effect on my mood. (X6)
3. I am generally satisfied with life in this care home. (Y1)

All items were measured using a 5-point Likert scale (1 – strongly disagree to 5 – strongly agree).

Satisfaction with the natural environment was calculated as the mean score of items X5 and X6, while overall satisfaction was measured using item Y1.

To test the null hypothesis (H_0), Pearson's correlation coefficient was initially planned. However, this test requires that the data be normally distributed.

Therefore, the Shapiro–Wilk normality test was first conducted in SPSS to verify distributional assumptions

Tests of Normality						
	Kolmogorov-Smirnov ^a			Shapiro-Wilk		
	Statistic	df	Sig.	Statistic	df	Sig.
Zadovoljstvo_okolišem	.197	68	.000	.924	68	.000
Y1_Opce_zadovoljstvo	.213	68	.000	.871	68	.000

a. Lilliefors Significance Correction

Figure 9. SPSS output of the normality distribution test

Based on the results of the normality test, the p -values for both variables were less than 0.001, indicating that the variables are not normally distributed.

Given this, it was concluded that Pearson's correlation coefficient was not suitable for testing the relationship between the variables.

As a result, the non-parametric Spearman's rank correlation coefficient was used instead.

Correlations				
Spearman's rho	Zadovoljstvo_okolišem	Correlation Coefficient	Zadovoljstvo_okolišem	Y1_Opce_zadovoljstvo
		Sig. (1-tailed)	.	.000
		N	68	68
	Y1_Opce_zadovoljstvo	Correlation Coefficient	.531**	1.000
		Sig. (1-tailed)	.000	.
		N	68	68

**_. Correlation is significant at the 0.01 level (1-tailed).

Figure 10. SPSS output of the non-parametric Spearman's rank correlation test

Based on the results of Spearman's correlation, there is a statistically significant association between satisfaction with the natural environment and overall satisfaction among elderly care home residents ($\rho = 0.531$, $p < 0.01$). This positive correlation suggests that higher ratings of satisfaction with the environment—including outdoor space and its impact on mood—have a positive effect on overall satisfaction with care home life.

Therefore, the null hypothesis (H_0) is rejected, and the alternative hypothesis (H_1) is accepted.

Conclusion: There is a statistically significant association between satisfaction with the natural environment of the care home and overall satisfaction among residents. Those who express greater satisfaction with the outdoor space and surrounding environment also report higher overall life satisfaction in the care home.

Discussion

Facility Equipment and Resident Satisfaction (H1)

The results confirmed Hypothesis H1, which stated that residents in the urban care home (Krk) report higher satisfaction with facility equipment compared to residents in the rural care home (Rab). A statistically significant difference was confirmed by the Mann-Whitney U test ($U = 28.500$; $p < 0.001$), with Krk residents showing greater satisfaction regarding the comfort and functionality of their rooms, as well as the quality of shared spaces.

This finding aligns with previous literature, which shows that housing conditions and physical infrastructure significantly shape the subjective experience of quality of life in later life (Hoogerbrugge & Burger, 2024). In the Croatian context, Šućur (2014) emphasised that users—particularly in isolated

communities—often express dissatisfaction with infrastructural conditions, reinforcing the need to adapt facilities to users' needs.

Internationally, urban areas are often associated with better housing conditions. For instance, in Japan, care home residents in urban settings rated their environments more positively, though potential negative effects of over-urbanisation were noted (Miyazaki et al., 2018). On the other hand, the so-called "rural paradox" has been observed in Italy and China, where older adults in rural areas—when their basic needs are met—report higher levels of subjective well-being due to stronger social ties and a sense of belonging (Biagi & Meleddu, 2024).

The present study clearly demonstrates that the physical quality of the environment in urban settings such as Krk can contribute to higher quality of life among residents; however, the importance of social relationships and psychological factors must also be considered in shaping overall satisfaction.

Spatial Accessibility and Resident Satisfaction (H2)

Hypothesis H2, which proposed that greater spatial accessibility contributes to higher overall satisfaction with life in the care home, was supported by a significant positive correlation between perceived accessibility (X3, X3a, X4) and general satisfaction (Y1), as measured by Spearman's correlation ($\rho = 0.468$; $p < 0.01$).

In the context of institutional care, spatial accessibility is not only a matter of mobility, but also of autonomy, self-confidence, and safety. Imrie (2012) notes that barriers such as narrow corridors and unsuitable communal spaces can negatively impact daily functioning. While many homes may meet technical accessibility standards, users' perceptions often reveal a need for further improvements (Lee & Tak, 2022).

The discussion also highlights the importance of spatial organisation: overly complex layouts can lead to disorientation, particularly among residents with cognitive impairments (Akan & Ünlü, 2015). Design must include clear orientation points and non-intrusive assistive features that support independence and dignity rather than emphasising disability.

These findings reinforce the significance of subjective spatial perception as part of the broader context of quality of life. Investment in safety, functionality, and inclusive design represents a key step toward improving care home environments.

Natural Environment and Emotional Well-being (H3)

Hypothesis H3, which proposed that satisfaction with the care home's natural environment is positively correlated with emotional perception of quality of life, was also confirmed ($\rho = 0.531$; $p < 0.01$). Residents who positively evaluated the outdoor areas and the influence of the surrounding environment on their mood reported higher overall life satisfaction.

These results are consistent with literature emphasising the psychological and emotional benefits of exposure to natural environments. Numerous studies show that elements such as greenery, natural light, plants, and water reduce stress, enhance tranquillity, and promote social connectivity (Carver et al., 2020; White et al., 2019).

Positive effects of nature have even been documented among people with dementia, where regular time spent outdoors has been associated with reduced agitation and improved mood (Meneghetti et al., 2023; Zieris et al., 2023). Importantly, the benefits of nature are not limited to outdoor areas—integration of plants, natural materials, and sensory stimuli into indoor spaces is especially valuable for residents with limited mobility (Smart et al., 2020; Scott et al., 2016).

However, access to natural elements may be limited due to weather, poor spatial organisation, or lack of staff (Rappe et al., 2006), further underscoring the need for strategic planning of accessibility. In conclusion, satisfaction with the natural environment is a key predictor of emotional well-being and subjective quality of life in institutional care, highlighting its importance in policy and facility design.

Conclusion

This study offers valuable insight into the subjective perception of quality of life among older adults in institutional care, with a specific focus on the comparison between urban and rural environments. By analysing three key aspects—facility equipment, spatial accessibility, and natural surroundings—it was found that each of these factors significantly contributes to overall resident satisfaction.

The results confirm that residents of the urban care home (Krk) report higher satisfaction with facility equipment; that greater accessibility improves perceptions of life quality; and that the presence and quality of the natural environment positively affect emotional well-being.

The study contributes to both practice and theory, providing empirical support for existing theoretical assumptions about the importance of environmental factors in old age, and offering specific insights within the Croatian institutional context, which remains under-researched.

The findings expand current knowledge on urban–rural differences in long-term care, emphasising the need for an approach that considers the spatial, functional, and emotional context of older adults' lives in care facilities.

Limitations of the study include a small and non-random sample ($n=68$), which may affect the generalisability of results. The study was also conducted at only two locations, which may not represent all urban and rural contexts in Croatia. Furthermore, the study relied solely on quantitative methods, without incorporating qualitative data that could further illuminate users' subjective experiences.

Implications for future practice include the need for continued investment in the physical and functional quality of care homes, particularly in rural areas. Spatial planning should integrate principles of accessibility and universal design, while respecting users' individual needs and dignity. Additionally, the findings underscore the importance of integrating natural elements into living environments, which should become a strategic priority in social care facility planning.

For future research, it is recommended to expand the sample size, apply mixed methods (quantitative and qualitative), and conduct longitudinal studies to track changes in quality of life perceptions over time. This would support the development of evidence-based policies tailored to the demographic and geographic specificities of the ageing population.

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Legal foundations of real estate valuation

Between Law and Practice: Challenges Faced by Court-Appointed Valuers/Experts (Real Estate) and Proposals for Improving the Legal Framework

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Abstract:

The article “*Legal Foundations of Real Estate Valuation*” examines the legal, professional, and practical challenges related to real estate valuation in Slovenia, particularly the distinction between certified valuers (licensed by the Slovenian Institute of Auditors) and court-appointed valuers (appointed by the Ministry of Justice). The author grounds the discussion in the constitutional principle of the right to home and stresses the importance of correctly interpreting legal provisions in practice. The paper provides a detailed overview of the statutory framework (the Constitution of the Republic of Slovenia, the Auditing Act, the Courts Act, and subordinate regulations), as well as the Slovenian Business and Financial Standards (SPS) and the Hierarchy of Valuation Rules, which define methodological guidelines for certified valuers. A central issue highlighted is that court-appointed valuers are not required to use the International Valuation Standards (IVS/ MSOV), resulting in methodological inconsistencies and reduced comparability of expert opinions. While certified valuers must adhere to MSOV, court valuers operate mainly under the legal standard of “rules of science and profession,” a concept that lacks precise methodological definition.

The author therefore proposes:

1. Amending the Courts Act to allow professional associations of court-appointed valuers and experts to issue binding methodological guidelines.
2. Introducing mandatory (or recommended) use of MSOV for court valuers, adapted to Slovenian legislation.
3. Establishing an intervention act to enable rapid activation of valuers in cases of natural disasters (e.g., floods, ice storms), ensuring efficient deployment with uniform remuneration and without bureaucratic obstacles.

The article concludes that a unified legal framework is essential to enhance professional standards, legal certainty, and public trust by harmonising the methodologies and obligations of court-appointed valuers/experts and certified valuers.

Keywords: Real estate valuation, Court-appointed valuers, International Valuation Standards (IVS/MSOV), Legal Framework, Methodological consistency

Introduction

When presenting the legal foundations of real estate valuation, it is necessary to acknowledge a limitation that must be taken into account. My interpretation of the legal bases proceeds from the perspective of real estate practice, which means that the explanation is not necessarily *legally* “correct” in every instance, but it does provide a foundation for further discussion.

Our aim is to address the question of what the legal bases for real estate valuation in the Republic of Slovenia actually are. At the same time, we also highlight the problem of understanding specific concepts. What does this mean?

Let me offer a simple example:

Today we often hear the statement, “*Population ageing is a problem.*” What is wrong with this sentence? Problems are meant to be solved. Thus, we could “solve” this problem by eliminating the idea of sustainability, living unhealthily again, eating fatty pork cracklings for breakfast, avoiding exercise, using pesticides, drinking as much liquor as possible, and having everyone smoke. In that case, no one would reach old age. Problem solved. What, then, is wrong with this statement? Correctly phrased, it should be: “*Population ageing is a blessing.*” This example illustrates how important it is to understand legal bases correctly—here, from a real-estate perspective. It is then the task of legal experts to properly integrate this perspective (and terminology) into the legal framework.

Following the principle of legal hierarchy, the highest legal act is the Constitution of the Republic of Slovenia.

The **Constitution of the Republic of Slovenia** (Official Gazette RS, No. 33/91-I, 42/97 – UZS68, 66/00 – UZ80, 24/03 – UZ3a, 47, 68, 69/04 – UZ14, 69/04 – UZ43, 69/04 – UZ50, 68/06 – UZ121,140,143, 47/13 – UZ148, 47/13 – UZ90,97,99, 75/16 – UZ70a, and 92/21 – UZ62a)

states in Article 36 (summary) that *the home is inviolable*. From this provision arises the **Right to Home** as an autonomous substantive right, which was explicitly recognised in Slovenia in 2017 by decision No. U-I-64/14. It is therefore essential to understand the concept of *home*.

The concept of home has multiple meanings: it may refer to a physical structure providing protection from the external environment, or it may represent a private space in which an individual may live as they choose, thereby expressing and realising their identity. Through stable residence in a particular place, an individual develops a sense of belonging and a relationship with the surrounding community. Everyone needs a home—a place or address to which they are legally and officially connected in order to carry out everyday business, vote, and exercise various rights. Home is a fundamental element of a person’s social identity. It may even be a space or structure unlawfully occupied or illegally built, provided the individual can demonstrate sufficient and continuous ties to that place.

In relation to the right to home, it is important to distinguish between judicial practice that:

1. assesses the principle of proportionality through procedural safeguards (under Article 8 of the Convention, the existence and adequacy of procedural guarantees are decisive in determining whether the state remained within its margin of appreciation, enabling the court to assess the proportionality of the interference), and
2. the issue of substantive legal entitlement to the sale of property for the purpose of settling debts.

Why is this important? Consider, for example, the question of how to value an illegally constructed building erected by spouses on their own agricultural land. Imagine it is a residential house connected to utilities (electricity, water, etc.). After 20 years of shared use, the spouses are divorcing. The court orders a valuation. The valuer determines, in accordance with the law, that legalisation is not possible—not now, nor in the long term. The value of the house is therefore assessed at EUR 0.00. As a result,

both spouses want the property in the divorce proceedings—after all, its value is zero. This raises the question: is the house truly worth EUR 0.00? Or might it even have *negative* value (demolition costs)?

Two aspects are relevant in answering this question. First, reaching a demolition order can take many years. Second, the enforcement of the right to home may prolong eviction for many additional years. Does the house still have a value of EUR 0.00 under such circumstances?

Certified Real Estate Valuer or Court-Appointed Valuer?

One online service provider states: *“In Slovenia, real estate valuations are performed by several types of valuers; formally, only the status of certified real estate valuers and court-appointed valuers is regulated.”*

Is this correct?

Certified real estate valuers perform valuations of all types of properties for various purposes (purchase, sale, rental, mortgage lending, inheritance, tax proceedings, contributions in kind, insolvency proceedings, etc.). They are supervised by the Slovenian Institute of Auditors (SIR) and the Agency for Public Oversight of Auditing. These supervisory bodies verify whether a valuer meets the required criteria, complies with the standards, and whether their work withstands professional review. The Ministry of Justice appoints court valuers for an indefinite term. Court valuers have the right and duty to provide valuations for court proceedings. They may use their title when performing valuations at the request of a court or an administrative authority. They may also work for private clients, but only if they are members of an association that regulates and supervises valuer activity.

Is the above statement correct?

If we limit ourselves to the internal dynamics of the profession in Slovenia, my observations indicate the existence of notable “discrepancies” between certified valuers and court-appointed valuers. This divide is also confirmed by Lenkič (2018), whose interviews reveal differing perceptions within the profession. I will not comment on the interviews themselves, but the findings illustrate intriguing viewpoints in the Slovenian context.

As early as 2008, the following commentary appeared (Source: *Delo*, <https://old.delo.si/gospodarstvo/ocenjevalci-ali-cenilci-za-koga-se-odlociti.html>):

Andrej Kocuvan of the Association of Court Valuers and Experts of Slovenia for Construction (SICGRAS) stated: *“Simplifying somewhat, certified valuers emphasise valuation techniques and procedures for objects whose characteristics they do not necessarily need to know in depth, whereas court valuers know the characteristics of the object very well, and valuation techniques are of secondary importance. Whether we hire a certified valuer or a court valuer is essentially irrelevant, as both must work in accordance with the valid standards for market valuation and professional practice.”* Marjan Odar of the supervisory board of SIR added that the valuation of a property has an argumentative or non-binding nature and therefore there should be no formal distinction in the appropriateness of certified valuers and court valuers.

Almost 20 years have passed since this commentary, yet—at least in my view—the situation remains largely unchanged. Therefore, I propose a shift in approach. There is no point in seeking artificial synergies; rather, from the perspective of court valuers and experts, we should learn from criticism and address the areas where criticism is justified. In other words, we should eliminate the causes of criticism, which, in my view, are valid.

The main criticisms, as identified in Lenkič (2018), are summarised in the table below:

Subject	Certified Real Estate Valuers	Court-Appointed Valuers	My Opinion
Professional competence	Master's degree; passing a demanding professional examination to obtain certification.	At least a higher education degree; passing the professional examination for court valuers.	When ethical and moral principles are respected, the listed competences are appropriate for both groups.
Legal basis	Auditing Act (ZRev-2); supervision by the Slovenian Institute of Auditors (SIR) and the Agency for Public Oversight of Auditing.	Courts Act (Zakon o sodiščih); Ministry of Justice as appointing authority; internal rules of court proceedings.	The legal framework for court valuers needs clearer and more precise regulation.
Standards	Mandatory use of the International Valuation Standards (IVS/MSOV), Slovenian Business-Financial Standards (SPS) and the Hierarchy of Valuation Rules.	Not obliged to use IVS/MSOV; work is based on the legal standard "rules of science and profession."	A consequence of the current legal framework—this article precisely addresses this gap.
Form of reports	Detailed, structured reports following SPS and IVS requirements, including scope, assumptions, methods, and valuer's declaration.	No uniform requirement; format often varies significantly between valuers.	A consequence of the legal framework—this article seeks to address this inconsistency.
Supervision	Continuous supervision by SIR and the Agency for Public Oversight of Auditing.	No formal supervisory body; oversight depends on courts and professional associations.	I oppose excessive repression, but appropriate supervision increases professionalism and trust.
Education and certification	Mandatory continuous professional development; renewal of licence; strict requirements for maintaining certification.	Similar structure, but financially more accessible; fewer mandatory specialised trainings.	Similar system, although for court valuers training is less financially burdensome.

In 1991, the Housing Act was adopted (Official Gazette RS, No. 69/03, 18/04 – ZVKSES, 47/06 – ZEN, 45/08 – ZVEtL, 57/08, 62/10 – ZUPJS, 56/11 – CC decision, 87/11, 40/12 – ZUJF, 14/17 – CC decision, and 27/17; hereinafter *SZ-1*), which provided the legal basis for transforming socially owned apartments into privately owned dwellings. Tenants were allowed to purchase apartments under various favorable conditions, resulting in a significant increase in private ownership and greater mobility. Due to legislative changes, valuation began to be performed for the purposes of ownership restructuring of enterprises. This led to the introduction of a new concept—*real estate valuation*—which formed the basis for the substantive differentiation between real estate valuers and court-appointed valuers in the field of construction (Grum, 2012).

On the basis of the Auditing Act (Official Gazette RS, No. 11/01; hereinafter *ZRev-1*), the Slovenian Institute of Auditors (SIR) was granted the authority to conduct professional training, issue licenses, and supervise certified real estate valuers. SIR adopted three business–financial standards and the **Hierarchy of Valuation Rules** (Official Gazette RS, No. 106/10, 91/12, and 2/15).

Slovenian Business–Financial Standards (SPS):

- **SPS 1** – Business Valuation
- **SPS 2 (9)** – Valuation of Rights to Real Property (Official Gazette RS, No. 48/18 and 7/25)
- **SPS 3** – Valuation of Equipment

In 2002, Slovenia joined the group of countries applying the International Valuation Standards (IVS/MSOV).

For court experts and court-appointed valuers, the following legal bases apply:

- **Courts Act** (Official Gazette RS, No. 94/07 – official consolidated version, 45/08, 96/09, 86/10 – ZJNepS, 33/11, 75/12 – ZSPDSLS-A, 63/13, 17/15, 23/17 – ZSSve, 22/18 – ZSICT, 16/19 – ZNP-1, 104/20, 203/20 – ZIUPOPdve, 18/23 – ZDU-1O, and 42/24 – CC decision)

- **Rules on Court Experts, Court Valuers, and Court Interpreters** (Official Gazette RS, No. 84/18, 148/21, 18/24, and 34/25)
- **Rules on Professional Training, Types of Evidence, and Procedures for Assessing the Competence of Court Experts, Court Valuers, and Court Interpreters** (Official Gazette RS, No. 84/18, 148/24, and 34/25)

Auditing Act (ZRev-2)

Official Gazette RS, Nos. 65/08, 63/13 – ZS-K, 84/18, 115/21, and 85/24

The Auditing Act introduced the concept of the *Certified Valuer* into the Slovenian legal system. The Act provides the legal basis for the establishment of the Institute (the Slovenian Institute of Auditors).

The key provisions are as follows:

Article 3 states (summary):

“A *Certified Valuer* is a natural person holding the professional title of Certified Valuer of businesses, real estate, or machinery and equipment, who has obtained a valid licence to perform valuation tasks in accordance with this Act.”

Article 9 states (summary) that the Institute organises professional training, conducts examinations of professional competence, and issues certificates for performing the tasks of a certified valuer.

Article 87 states (summary):

“A Certified Real Estate Valuer is a natural person who has obtained a licence from the Institute to perform the tasks of a certified real estate valuer.”

Slovenian Business–Financial Standard 2 – Valuation of Rights to Real Property

This standard sets out the procedures and principles that must be followed in valuation, in work relating to valuation, in preparing analyses and forming valuation opinions, and in the presentation of findings to clients and users. In accordance with the standard, it is essential that the certified valuer (hereinafter: *valuer*) prepares appropriate analyses and presents the opinion impartially, reasonably, and without misleading the user. Valuers must consistently comply with this standard.

An important provision of the standard is the requirement concerning the **form and content** of valuation reports. Another key provision is the valuer’s **declaration**, which must accompany each report.

Hierarchy of Valuation Rules

The essence of this legal act is outlined in Article 2, which states (summary) that the hierarchy of professional valuation rules is established to determine the priority of individual rules for mandatory application.

Article 13 defines the levels of rules:

1. First Level

- a) Auditing Act;
- b) International Valuation Standards (IVS/MSOV);
- c) Other laws regulating valuation of individual forms of property and their implementing regulations;
- č) Slovenian Business–Financial Standards (SPS);
- d) Code of Professional Ethics for Valuers.

2. Second Level

- a) Technical and informational material issued by the International Valuation Standards Council;
- b) Interpretations of the Institute’s Expert Council;
- c) Instructions of the Institute’s Expert Council;
- č) Methodological materials and handbooks issued by the Institute;
- e) Generally accepted valuation rules in domestic and international practice.

3. Third Level

a) Scholarly literature and published professional contributions (domestic and international).

Important limitations – Articles 10 and 11

Article 10 states that scholarly literature and published professional contributions (domestic and international) are recognised works—particularly those introducing innovations in valuation practice—that help clarify professional rules. The list of recognised literature forming part of the valuation rules is determined by the Institute’s Expert Council and, after obtaining approval from the Agency, published on the Institute’s website.

Article 11 states that generally accepted valuation rules in domestic and international practice are solutions widely recognised and applied in the profession (e.g., standards and principles issued by professional organisations). These cover specialised areas not fully addressed by IVS but relevant for valuers. Recommendations for Slovenian valuers must be confirmed by the Expert Council and, after Agency approval, published by the Institute.

This limitation entirely excludes court experts and court-appointed valuers. Regardless of the scientific or professional quality of findings published in, for example, *Vestnik* (SICGRAS), scientific monographs, or scholarly articles, these materials become *binding* for certified valuers only if approved by the Institute’s Expert Council. To date, I am not aware of any example where the Council has confirmed external material not originating from the Institute itself. I consider this a systemic issue, further confirming the findings of Lenkič (2018).

Courts Act

Article 84 states (summary) that court experts are appointed for an indefinite term and have the right and duty to provide the court, upon request, with findings and opinions on professional questions as defined by law or where the court needs expert assistance. Court valuers are appointed for an indefinite term and must provide the court with findings on the economic characteristics of property or rights and assess their value or damage.

Article 85 states (summary) that persons appointed as court experts or court valuers may use this title when providing findings, opinions, or valuations at the request of a court in judicial proceedings, an administrative authority in administrative proceedings, or where another law or regulation requires their involvement.

It is crucial to understand that a court valuer may perform valuations in two distinct roles:

a) As a court valuer in judicial proceedings:

Acting upon the request of the court, prosecutor, or another state authority. The valuation has the status of official evidence. The valuer must act in accordance with professional rules and the ethical code of court valuers.

b) As a private expert on the open market:

The law does not prohibit court valuers from performing valuations for private clients (individuals or companies). In such cases, the valuation is *not* a “court valuation” but a private expert valuation. It does not carry the evidentiary weight of a court valuation unless the court explicitly accepts it.

Rules on Court Experts, Court Valuers, and Court Interpreters

According to Article 1, the Rules set out the procedures for appointment and removal of experts, the content and form of ID cards and seals, disciplinary procedures, the content and method of examinations of professional competence, and remuneration and reimbursement of expenses. Article 2 states (summary) that court experts, court valuers, and court interpreters must perform their work regularly, conscientiously, accurately, and in accordance with the rules of science and profession, and must submit their findings or valuations within the deadlines set by the court or administrative authority. This is

similar to the Code of Ethical Principles for Valuers, which obliges valuers to act professionally, ethically, and with integrity. Article 16 states that candidates who pass the examination are issued a certificate indicating their name, date and place of birth, and confirmation that the examination was passed for a specific field and sub-field or language.

Clarification No. 1: Definition of an Independent Real Estate Valuer under IVS (SICGRAS, 14.10.2010)

The clarification states:

An *independent real estate valuer* is a person who meets all requirements fully in accordance with the International Valuation Standards (IVS/MSOV), adopted by the International Valuation Standards Council (IVSC). These include provisions in sections 3.3, 3.5, 3.6, 4.0, 5.0, and 6.0 of the IVS Code of Conduct and sections 6.13.1, 6.13.3, and 6.13.4 of the IVS Application Standard 2 (Valuation for Secured Lending). According to the clarification, independent valuers are those entered in the Ministry of Justice register and members of SICGRAS who have completed the specialised valuation seminar for banking purposes and hold the appropriate certificate issued by the Ministry of Justice.

This raises the question: Is this correct, and what exactly is the difference between a “real estate valuer” and an “independent real estate valuer”?

The clarifications are certainly welcome, as SICGRAS states in its statute (summary) that it is responsible for preparing proposals for professional standards, monitoring international alignment, and cooperating with state institutions in drafting regulations, criteria, and tariffs. Clarification No. 1 is particularly interesting because, in my view, it indirectly acknowledges the necessity of applying the International Valuation Standards (IVS/MSOV) in real estate valuation conducted by court-appointed valuers.

International Valuation Standards (IVS/MSOV)

With regard to the obligatory use of IVS/MSOV by court-appointed valuers, I summarise here the key points from the article by Dr. A. Dežman (*Proceedings, Post-Conference CIRRE 2016*, pp. 10–12. Ljubljana: Institute for Real Estate Studies). In summary, the use of IVS/MSOV in the work of court-appointed valuers is nowhere explicitly or generally mandated (except in certain sector-specific regulations for particular cases, such as ZRev-2, ZFPPIPP, or the aforementioned Decree on Credit Collateral). Court valuers are required to act in accordance with the legal standard of the *rules of science and profession*, a standard that is abstract and indeterminate in nature. If one were to adopt the legal-interpretative position that the prevailing view within the Slovenian valuation profession (and judicial practice) considers IVS/MSOV to be part of the general professional rules in the field of real estate valuation, then it could indeed be argued that their use is obligatory. However, no such consensus currently exists, nor are there judgments from the highest courts that would support such an interpretation (even though case law in Slovenia is not a formal legal source).

Proposed Amendment to the Courts Act (ZS)

in the form of a new article that would provide a legal basis enabling professional associations of court-appointed valuers and experts to obtain the authority to issue professional guidelines that would be mandatory for court valuers and experts. Court-appointed valuers and experts play a crucial role in judicial proceedings, as their expert opinions significantly influence the establishment of the facts of a case and, consequently, the legality and correctness of judicial decisions. In areas where the value of real estate, agricultural land, forests, equipment, and other types of property is assessed, it is essential for consistent, professional, and objective work that clearly defined professional rules and guidelines exist—rules based on the *Hierarchy of Valuation Rules* (Official Gazette RS, Nos. 106/10, 91/12, and 2/15). At present, the legislation does not allow professional associations of court valuers and experts (e.g., associations for construction, agriculture, forestry, equipment, etc.) to have legal authority to issue binding professional guidelines, even though these associations comprise highly qualified experts with extensive experience and well-developed methodological approaches.

As a result, court valuers and experts frequently rely on their own interpretation when applying valuation rules, which leads to inconsistencies in practice, reduced comparability of expert opinions, and diminished predictability of judicial outcomes. An amendment to the Courts Act would address this gap.

Article ... (Use of the International Valuation Standards)

(1) In preparing valuations and value assessments, court-appointed valuers shall use as their basis the *International Valuation Standards (IVS/MSOV)* issued by the International Valuation Standards Council (IVSC), as officially published in the Official Gazette of the Republic of Slovenia together with their authorised translation.

(2) The minister responsible for justice shall, by decree, determine:

- the method of publication and authorised translation of the current version of the International Valuation Standards; and
- the manner of their appropriate application in accordance with the legal system of the Republic of Slovenia and the *Hierarchy of Valuation Rules* (Official Gazette RS, Nos. 106/10, 91/12, and 2/15).

(3) If a specific issue is not regulated by the International Valuation Standards, court-appointed valuers shall apply:

- the professional guidelines issued by authorised professional associations of court-appointed valuers in accordance with Article 87.a of this Act; and
- national methodological guidelines adopted with the approval of the Ministry of Justice.

(4) Departure from the use of the International Valuation Standards is permissible only if their application would contradict mandatory regulations of the Republic of Slovenia. In such a case, the court-appointed valuer must clearly explain the reasons for the departure in the expert opinion.

Why this solution is elegant and legally stable

1. **Mandatory yet flexible incorporation:**
The International Valuation Standards (IVS/MSOV) become part of the national legal order through reference, without needing to be transposed in full into the Act or subordinate regulations.
2. **Ensures proper legal hierarchy:**
Standards function as professional rules of mandatory application, not as legislation—thus preserving the distinction between law (framework) and standards (technical implementation).
3. **Ministerial oversight preserved:**
The minister ensures translation, publication, and regular updates (similar to accounting standards or European technical standardisation).
4. **Integrates with domestic guidelines and the Hierarchy of Valuation Rules:**
Aligns international standards with the existing national valuation system.
5. **Legally neutral and EU-consistent:**
Entirely aligned with the principle of subsidiarity and EU practice, which frequently relies on referenced international standards (e.g., in accounting, auditing, and asset valuation).

The purpose of this provision is to ensure a unified and internationally comparable methodology in property valuation used in judicial proceedings. The International Valuation Standards are widely recognised across EU member states and form the foundation of professional valuation practice. Adoption of this provision would enhance transparency, professionalism, and comparability of valuations in Slovenia, improving the quality of expert opinions and reducing methodological disputes.

Intervention Act – Proposal

Slovenia has repeatedly faced a very real problem (e.g., the 2023 floods, the 2014 ice storm): the state was slow in assessing damage because no mechanism existed for rapid mobilisation and payment of valuers. A viable legal solution would therefore be the introduction of a special *Intervention Act on Damage Assessment in Natural Disasters*, containing permanent provisions activated only upon the declaration of a disaster.

Intervention Act on Damage Assessment in Natural Disasters

Draft Legislative Text

Article 1 – Purpose of the Act

This Act regulates the rapid and effective mobilisation of authorised valuers for the assessment of damage caused by natural and other disasters, provides a uniform tariff for their work, and simplifies engagement procedures without public procurement.

Article 2 – Activation of the Act

The provisions of this Act are automatically activated upon the declaration of a natural disaster under the *Act on Protection Against Natural and Other Disasters (ZVNDN)*, when the Government of the Republic of Slovenia declares a disaster in a specific area.

Article 3 – Register of Valuers for Emergency Situations

The ministry responsible for the environment and spatial planning shall maintain a register of authorised valuers for emergency situations. Court-appointed valuers, certified real estate valuers, and experts who meet competence requirements and voluntarily apply may be entered into the register. The register is updated annually.

Article 4 – Mobilisation of Valuers

Upon the declaration of a natural disaster, the minister shall issue a mobilisation order specifying the area of operation, deadlines, and reporting procedures. Mobilised valuers must begin fieldwork within 24 hours unless justified reasons prevent this.

Article 5 – Payment and Tariff

The Government of the Republic of Slovenia shall determine, by regulation, a uniform tariff for damage assessment that reflects type of damage, complexity, and urgency. The tariff is indexed annually to cost-of-living growth. Payments are made directly from the state budget, budget reserve, or the disaster relief fund.

Article 6 – Simplified Procedures

The provisions of the *Public Procurement Act (ZJN-3)* do not apply to the engagement of valuers under this Act. Valuers are considered providers of a public service under emergency conditions.

Article 7 – Reporting and Oversight

All valuers must enter their assessments into the Central Information System for Damage Assessment (CIŠOŠ), enabling real-time data collection and verification. Oversight is performed by the Administration for Civil Protection and Disaster Relief.

Article 8 – Sanctions and Liability

A valuer who unjustifiably refuses mobilisation or misses deadlines without cause may be removed from the register for up to three years. Intentional or negligent misvaluation is subject to disciplinary action under the rules of relevant chambers and associations.

Article 9 – Transitional and Final Provisions

The Government shall adopt the implementing regulations within three months of the Act's entry into force. The Act remains in force permanently and is activated only upon the declaration of a natural disaster.

Summary of the Idea

This is a pre-prepared legal mechanism enabling:

- rapid mobilisation of valuers without bureaucratic delays;
- uniform payment according to a pre-approved tariff;
- centralised management and oversight of valuation activities;
- exemption from public procurement procedures to avoid loss of critical time.

Conclusion

For efficient, professional, and legally reliable real estate valuation in Slovenia, it is essential to ensure a unified methodological framework and a clear legal structure. The divide between certified valuers and court-appointed valuers creates legal uncertainty, inconsistent practice, and reduced trust in expert opinions, which often play a decisive role in judicial and administrative proceedings. Introducing mandatory use of the International Valuation Standards (IVS/MSOV) and empowering professional associations to issue binding methodological guidelines would improve comparability, transparency, and quality of valuations. Such an approach would strengthen the professional standing of the valuation field, contribute to shorter and fairer judicial processes, and align Slovenian practice with European and international standards. This would represent a significant step toward the systemic professionalisation of valuation practice and toward enhancing legal certainty for all participants in the real estate market.

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The role of the private rental sector in housing provision

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Abstract

The private rental sector (PRS) has assumed very different roles over time – from being the dominant form of housing in the nineteenth century, through the post–Second World War period, when it was marginalised by the expansion of homeownership and public housing, to regaining importance during neoliberal reforms and the growing influence of financial markets. Its position has always reflected broader economic, political and social conditions that have continuously reshaped housing systems.

This paper analyses these shifts with particular emphasis on landlords as the central actors. It distinguishes between small, professional and institutional owners and shows how their different approaches shape the dual character of the PRS.

While the sector provides flexibility, adaptability and mobility, it also creates insecurity, maintains problems of affordability and deepens housing inequality and spatial stratification (the separation of residents according to location as well as the level of rents and overall housing costs).

Special attention is also given to regulation. The paper traces how different forms of rent control have developed over time, shifting from strict limitations on rents to more flexible and mixed approaches. It further draws on the distinction between unitary housing systems, where renting is treated on an equal footing with ownership, and dualist systems, where renting is placed in a subordinate and less favourable position.

Seen from this perspective, the Slovenian case provides a specific post-socialist experience: it has been shaped by mass privatisation, the predominance of small landlords, and fragmented legislation that has often failed to keep pace with the actual changes in the rental market.

The findings suggest that the PRS cannot be understood as permanently marginal or universally dominant, but as a form of housing whose significance is shaped primarily by institutional and legal frameworks, while historical development helps to explain why these frameworks differ across countries.

Its future will depend on the extent to which private investment is complemented by more effective legislation, fiscal measures and the professionalisation of the sector, since without these the PRS struggles to provide accessible and high-quality housing.

Further research is needed on how appropriate regulation can strengthen the role of the PRS as an essential pillar of housing provision.

Keywords:

housing systems, housing provision, housing policy, regulation, rental market, private rented sector (PRS), tenancy arrangements, investment, affordability, landlords

1. Uvod

Zasebni najemni sektor (ZNS) ima v sodobnih stanovanjskih sistemih ključno vlogo, saj je postal nujen, a hkrati zapleten sestavni del stanovanjske preskrbe.

Zgodovinsko gledano je vloga ZNS nihala med osrednjim in obrobim (rezidualnim) položajem v stanovanjskih sistemih. Tako je bil v preteklosti pogosto razumljen kot obrobna ali zgolj začasna rešitev za tiste, ki niso imeli dostopa do lastništva ali do javnega najema, danes pa v številnih razvitih gospodarstvih predstavlja enega od temeljnih stebrov celotnega stanovanjskega sistema. Rezidualnost je pomenila, da je bil ZNS razumljen kot nujno zasilno zatočišče za socialno šibkejše, za gospodinjstva z nizkimi dohodki, za migrante in za vse tiste, ki iz različnih razlogov niso mogli dostopati do lastništva ali javnih najemnih stanovanj (Doling, 1999; Kemeny, 2006; Kemp, 2011).

Prav zaradi tega se je ZNS dolgo dojemal kot prehodna postaja na poti do stabilnejšega in varnejšega stanovanja v lasti. Koncept »najemniške lestvice« (housing ladder), značilen predvsem za večino zahodnoevropskih in anglosaških držav, jasno ponazarja takšno razumevanje: posamezniki naj bi svojo stanovanjsko pot začeli v zasebnem najemu in nato postopoma napredovali do lastništva, ki je bilo zamišljeno kot družbeni in politični ideal (Ronald & Elsinga, 2012; Kemeny, 1995).

Vendar pa v postsocialističnem kontekstu, kot je slovenski, ta koncept deluje drugače in ponuja edinstven izziv k prevladujočim teorijam. Namesto postopnega napredovanja po »lestvici« se je večina prebivalstva v Sloveniji in drugih postsocialističnih državah čez noč spremenila v lastnike z množično privatizacijo stanovanj po letu 1989. Posledično ZNS ni nastajal "spodaj" kot prehodni trg, ampak se je razvil "od zgoraj" – iz t. i. »naključnih najemodajalcev«, ki so oddajali nepremičnine, ki so jih prejeli v lastništvo. Ta fundamentalna razlika je ključna za razumevanje njegove specifične vloge v postsocialističnih državah. Ta proces je dodatno zapletla tranzicija iz socializma, kjer je stanovanje veljalo za socialno pravico, v kapitalizem, kjer je postalo tržna dobrina, kar je še poudarilo stigmo najema v primerjavi z lastništvom.

V tem okviru je bil ZNS torej ne le obrobni, ampak v kulturnem in političnem smislu pogosto tudi stigmatiziran, saj je simboliziral začasnost, negotovost in nepopolnost v primerjavi z lastništvom, ki je predstavljalo stabilnost, varnost in status. Empirični primeri potrjujejo, da takšno razumevanje ni bilo enako v vseh državah.

V Združenih državah Amerike se je po drugi svetovni vojni stanovanje dokončno zasidrilo kot del »ameriških sanj«, pri čemer sta zvezni instituciji Federal Housing Administration (FHA) in Veterans Affairs (VA) z ugodnimi posojili množično spodbujali lastništvo, najem pa je postal sinonim za prehodno in manj zaželeno obliko bivanja (Schlagenhauf et al., 2011; Ronald, 2013). Velika Britanija je s programom Right-to-Buy (RTB) v osemdesetih letih utrdila idejo o »družbi lastnikov«, pri čemer se je ZNS skrčil in bil razumljen kot rezidualen, dokler se po letu 2000 zaradi novih migracijskih valov in finančne krize ni znova povečal (Hodkinson & Robbins, 2013; Crook & Kemp, 2014).

Skandinavske države, kot sta Švedska in Danska, so zasebni najem dolgo obravnavale kot manj pomemben segment, saj so v ospredje postavljale javna in zadružna stanovanja, ki so zagotavljala večjo socialno stabilnost (Kemeny, 2006; Bengtsson, 2017).

Povsem drugače je bilo v Nemčiji in Avstriji, kjer je zasebni najem ohranil stabilno in pomembno vlogo, saj sta ti državi vzpostavili tradicijo dolgoročnih in strogo reguliranih najemnih razmerij, zaradi česar ZNS tam nikoli ni bil povsem potisnjen na rob (Kholodilin & Kohl, 2023; Haffner, 2018).

Podoben proces, čeprav z lastnimi posebnostmi, je zaznamoval tudi Slovenijo, kjer je privatizacija stanovanj po letu 1989 ustvarila »družbo lastnikov« (Mandić, 2001; Sendi, 2003), medtem ko je možnost javnega najema ostala omejena in predvsem socialno pogojena.

Takšne primerjave jasno pokažejo, da rezidualnost ni univerzalna lastnost ZNS, ampak rezultat različnih normativnih in institucionalnih ureditev.

V zadnjih dveh desetletjih pa je prišlo do preobrata skoraj povsod. Procesi financiranja stanovanj (Fields & Uffer, 2014; Aalbers, 2016); demografske spremembe, kot so odloženo oblikovanje družin,

naraščanje enočlanskih gospodinjstev in večja poklicna mobilnost (McKee, 2012; Lennartz et al., 2016), ter globalni migracijski tokovi (Helfer et al., 2023; Unal et al., 2024) so ZNS ponovno postavili v ospredje.

Če je bil še pred nekaj desetletji v številnih državah institucionalno in politično marginaliziran, je danes postal eden od ključnih stebrov stanovanjskih sistemov, pri čemer nosi dvojno vlogo: omogoča fleksibilnost in hitro prilagodljivost na spremembe, na drugi strani pa prav zaradi svoje narave ustvarja nestabilnosti, negotovosti ter pogloblja stanovanjsko neenakost in prostorsko razslojenost.

Namen tega prispevka je zato kritično preučiti razvoj in sodobni pomen zasebnega najemnega sektorja, osvetliti njegove ključne funkcije in notranje napetosti ter prikazati, kako se je skozi zgodovino preoblikoval iz obrobne v osrednji segment stanovanjskih politik v številnih razvitih državah.

Prispevek izhaja iz teze, da je brez natančnega razumevanja ZNS kot integriranega dela stanovanjskega sistema nemogoče oblikovati učinkovito in dolgoročno vzdržno stanovanjsko politiko. Zanemarjanje njegove vloge pa ne pomeni le povečevanja stanovanjskega primanjkljaja, temveč tudi poglobljanje družbenih neenakosti in širjenje prekarne oblike bivanja.

Metodološko se članek opira na analizo obstoječe znanstvene literature, ki povezuje primerjalno-historične študije z empiričnimi raziskavami sodobnih trendov. Poseben poudarek je namenjen teoretskim konceptom regulacije zasebnega najemnega sektorja, kot so različne generacije omejitve oziroma nadzora nad najemninami (v nadaljevanju ang. izraz: rent control) (Arnott, 1995; Turner & Malpezzi, 2003; Abbott, 2021), vprašanje varnosti najema (Hulse, Milligan & Easthope, 2011) ter razlikovanje med unitarno in dualistično ureditvijo (Kemeny, 1995, 2006). Analiza vključuje tudi sodobne razprave o financiaciji in hibridnih oblikah regulacije (Fields & Uffer, 2014; Aalbers, 2016; Brill & Durrant, 2021), ki so postale ključne za razumevanje transformacij stanovanjskih trgov. V tem okviru je slovenski primer umeščen v primerjalno perspektivo, saj razkriva posebnosti postsocialističnih držav in odpira vprašanja o tem, kako oblikovati učinkovit regulativni pristop glede ZNS, da bo ustrezno umeščen znotraj stanovanjskega sistema.

2. Zgodovinski razvoj zasebnega najemnega sektorja

Če sledimo razvoju ZNS skozi čas, hitro opazimo, da nikoli ni bil enoten niti stabilen, ampak se je njegova vloga neprestano spreminjala glede na družbene, politične in gospodarske okoliščine.

V nekem obdobju je predstavljal prevladujočo obliko stanovanjske oskrbe, v drugem je bil potisnjen na rob kot prehodna ali celo nezaželena rešitev, danes pa se znova pojavlja kot eden ključnih stebrov stanovanjskih sistemov.

V devetnajstem in na začetku dvajsetega stoletja je bil ZNS v večini evropskih in severnoameriških mest prevladujoča oblika bivanja. Liberalna ureditev po načelih laissez-faire je pomenila, da so bili stanovanjski trgi skoraj povsem prepuščeni interesom lastnikov, država pa je posegala le z osnovnimi sanitarnimi ukrepi (Harloe, 1985). Takšna ureditev je omogočala hitro prilagoditev potrebam industrializacije in urbanizacije, saj so na tisoče ljudi selili v mesta, kjer so potrebovali takojšnje in prilagodljive stanovanjske rešitve. Toda hkrati je tak sistem ustvarjal ogromne socialne probleme: stanovanjski standardi so bili nizki, najemnine visoke, razmere pa pogosto nevzdržne. Že v prvi polovici 19. stoletja je Engels (1845/2009) v svojem klasičnem delu o položaju delavskega razreda v Angliji opisal bedo najemnikov, ki so živeli v prenatrpanih, nehigienskih prostorih brez osnovnih življenjskih pogojev. Takšne razmere so se ohranile tudi kasneje in so bile dokumentirane še v drugih mestih, na primer v Londonu in New Yorku, kjer so nastajali obsežni slumi (Daunton, 1990; Power, 1993).

Prva svetovna vojna je razmere samo še poslabšala. Uničenje stanovanjskega fonda, selitve prebivalstva in povratki vojakov so ustvarili ogromen pritisk na obstoječe stanovanjske trge. V Nemčiji je hiperinflacija razvrednotila najemnine do točke, ko lastnikom ni bilo več ekonomsko smiselno vzdrževati stanovanj, zato so številne stavbe propadale ali pa so bile prodane pod ceno (Power, 1993). V teh okoliščinah so se začeli prvi resni državni posegi: regulacija višine najemnin, omejitve pri odpovedi najemnih razmerij in zaščitni ukrepi za najemnike. To je bil prvi korak k prepoznavanju, da

stanovanjsko vprašanje presega zgolj zasebno pogodbeno razmerje in da ima širši družbeni pomen (Kholodilin & Kohl, 2018).

Po drugi svetovni vojni je vloga ZNS v številnih državah močno upadla. Povojna gospodarska rast, baby boom in širitev srednjega razreda so ustvarili novo povpraševanje po stanovanjih, države pa so odgovorile z močno podporo lastništvu in z obsežno gradnjo javnih najemnih stanovanj. V Združenih državah Amerike sta instituciji Federal Housing Administration (FHA) in Veterans Affairs (VA) s svojimi programi omogočili milijonom družin dostop do hipotekarnih posojil in lastništva, kar je dokončno utrdilo stanovanje kot del »ameriških sanj« (Schlagenhauf et al., 2011; Ronald, 2013). V zahodni Evropi so podobne procese oblikovale Francija, Nizozemska in druge države, ki so prek davčnih olajšav, subvencij in gradnje javnih stanovanj spodbujale lastništvo in marginalizirale zasebni najem (Boelhouwer & Heijden, 1994; Whitehead, 2015; Haffner, 2018).

V tem času se je uveljavila tudi ideja t. i. »najemniške lestvice«, po kateri naj bi posamezniki svojo stanovanjsko kariero začeli v zasebnem najemu, nato pa prešli v lastništvo kot družbeni in politični cilj stabilnosti. Lastništvo se je utrdilo kot kulturna in politična norma, ki je predstavljala stabilnost, status in varnost, medtem ko je bil najem v kulturnem diskurzu obravnavan kot manjvreden, začasen in zgolj prehodni način bivanja (Kemeny, 1995; Ronald & Elsinga, 2012). To je veljalo tudi za Jugoslavijo in Slovenijo, kjer je sistem sicer formalno preprečeval investiranje v proizvodna sredstva, a so ljudje zaradi inflacije vrednost svojih prihrankov ohranjali tako, da so gradili »zidove lastnih hiš« (Brezar, 1995). ZNS je bil posledično stigmatiziran, povezan s slabšo kakovostjo stanovanj, visokimi najemnini in negotovimi najemnimi razmerji (Winters in Vermeir, 2013; Sendi in Mali, 2015).

Obdobje osemdesetih in devetdesetih let je prineslo povsem drugačen zasuk. Neoliberalne reforme so pomenile deregulacijo, privatizacijo in zmanjševanje javnega najemnega fonda. V Veliki Britaniji je program Right-to-Buy (RTB) omogočil množično prodajo javnih stanovanj in bistveno spremenil razmerje med lastništvom in najemom (Hodkinson & Robbins, 2013). V postsocialističnih državah, vključno s Slovenijo, pa je tranzicija ustvarila »družbo lastnikov«, saj je večina družbenih stanovanj prešla v zasebno last, javni sektor pa je dejansko v zelo kratkem času postal skoraj povsem rezidualen. Medtem ko je program RTB v Veliki Britaniji obsegal približno petino takratnega javnega fonda, je v Sloveniji privatizacija po letu 1989 zajela skoraj vsa družbena stanovanja. Posledično je imela ta transformacija še dolgoročneje posledice na oblikovanje ZNS.

Deregulacija je povečala negotovost najemnikov, kot denimo angleški Housing Act iz leta 1988, ki je uvedel odpoved najema brez krivde (no-fault eviction) (Hulse et al., 2010; Lowe, 2011). Ob tem se je pojavila nova kategorija vlagateljev, t. i. »buy-to-let« lastnikov, ki so stanovanja kupovali izključno za oddajanje, kar je še dodatno spremenilo logiko ZNS (Crook & Kemp, 2014).

Svetovna finančna kriza leta 2008 je odprla novo fazo. Nizke obrestne mere, presežek kapitala in iskanje stabilnih donosov so pritegnili institucionalne vlagatelje. Na trg so vstopili nepremičninski investicijski skladi (Real Estate Investment Trusts – REIT-i), skladi zasebnega kapitala in korporativni modeli Build-to-Rent (BTR), ki so prinesli profesionalizacijo sektorja in koncentracijo lastništva (Beswick et al., 2016; Alexandri & Janoschka, 2018). Aalbers (2016) opozarja, da se stanovanja vse bolj obravnavajo kot finančni produkti, ne več zgolj kot osnovna dobrina, kar ima za posledico dvig cen in izrinjanje lokalnega prebivalstva. Fields in Uffer (2014) sta na primeru Berlina in New Yorka pokazala, kako globalni kapital preoblikuje mestne stanovanjske trge.

Najnovejše raziskave (Aalbers, 2020; Wijburg, 2021) kažejo, da je pandemija COVID-19 spodbudila tretji val financializacije, pri katerem so države z javnimi garancijami in subvencijami posredno podpirale zasebne investitorje. Demografske spremembe so ob tem še dodatno krepile pomen najema. Prekarizacija dela, študentski dolgovi, odloženo oblikovanje družin in rast enočlanskih gospodinjstev so mlajše generacije oddaljili od lastništva (McKee, 2012; Lennartz et al., 2016). Najem je postal realnejša možnost, saj nakup stanovanja ni bil več dosegljiv, hkrati pa se je povečala poklicna in prostorska mobilnost, kar je ZNS naredilo privlačnejši za tiste, ki so potrebovali fleksibilnost (Clark, 2013). Migracije so povsod po Evropi dodatno dvigovale najemnine: v Švici je prosti pretok oseb povzročil opazen pritisk na cene (Helfer et al., 2023), v Nemčiji pa so raziskave pokazale, da že enoodstotno povečanje mednarodnih migracij prinese približno enoodstotno rast najemnin (Unal et al., 2024).

Če povzamemo, zgodovinski razvoj zasebnega najemnega sektorja kaže, da je bil njegov položaj vedno odvisen od širših družbenih in gospodarskih okoliščin. V enem obdobju je predstavljal prevladujočo obliko stanovanjske oskrbe, v drugem je bil potisnjen na rob kot prehodna ali celo nezaželena rešitev, v zadnjih desetletjih pa se je znova začel uveljavljati kot pomemben del stanovanjskih sistemov. V tem gibanju od središča k obrobju in nazaj se razkrivajo protislovja, ki jih nosi v sebi: fleksibilnost in mobilnost na eni strani, negotovost in prekarizacija na drugi. Prav ti zgodovinski obrati so pomembni, ker nam pomagajo razumeti, zakaj je današnji ZNS tako raznolik, zakaj ni enoznačnih rešitev in zakaj ga ni mogoče obravnavati samo kot dopolnilo lastništvu ali javnemu najemu.

V nadaljevanju prispevka bo zato več pozornosti namenjene vprašanju, kako se te notranje napetosti kažejo danes in kako jih obravnavajo različne oblike regulacije.

3. Preoblikovanje strukture najemodajalcev

Ko pogledamo razvoj zasebnega najemnega sektorja (ZNS) v zadnjih desetletjih, postane jasno, da se ni spreminjal samo njegov obseg, ampak tudi sama notranja sestava. Najemodajalci niso enotna skupina, kot bi se morda zdelo na prvi pogled, ampak zelo raznolika paleta akterjev. Med njimi najdemo posameznike, ki oddajajo eno stanovanje, ker ga sami trenutno ne potrebujejo, in sklade, ki imajo v lasti na stotine ali celo tisoče enot. To pomeni, da ZNS ni mogoče razumeti brez natančnega vpogleda v strukturo lastnikov, saj prav razlike med posameznimi skupinami najemodajalcev določajo, kako ZNS hkrati ustvarja priložnosti in generira protislovja, ki zaznamujejo delovanje sektorja. Ta raznolikost se kaže tudi v odzivu na krize, kjer mali lastniki pogosto umikajo stanovanja s trga zaradi osebnih tveganj, medtem ko institucionalni akterji izkoriščajo nizke obresti za širitev.

V številnih državah še vedno prevladujejo mali zasebni najemodajalci. Gre za ljudi, ki so do nepremičnin prišli naključno – bodisi z dedovanjem, bodisi zaradi selitve, bodisi v postsocialističnih državah z množično privatizacijo v devetdesetih letih (Mandić, 2010). Ti lastniki so pogosto imenovani »naključni najemodajalci« in za njih je oddajanje stanovanja dodatni dohodek, ne pa organizirana gospodarska dejavnost. V Sloveniji se je ta pojav razvil prav zaradi privatizacije, ki je velik del prebivalstva spremenila v lastnike. Marsikdo je kasneje, ob selitvi ali spremembi življenjskih okoliščin, začel oddajati stanovanje, čeprav za to ni imel ne posebnega znanja ne poslovne strategije. Podoben vzorec najdemo tudi drugod, na primer na Madžarskem, Poljskem ali Češkem, kjer se je po tranziciji oblikovala množica malih lastnikov, ki predstavljajo temelj ZNS, a delujejo predvsem improvizirano in pogosto neformalno (Yates, 1996; Crook & Kemp, 2016).

Čeprav mali lastniki prevladujejo tudi v razvitih državah, se njihova vloga pogosto razlikuje. V Avstraliji in ZDA recimo še danes govorijo o »mom and pop landlords«, torej o posameznikih in družinah, ki imajo eno ali dve nepremičnini, ki ju oddajajo kot dolgoročno naložbo. Ti lastniki imajo pogosto stabilen položaj, ker so financirani prek hipotek, a hkrati ostajajo ranljivi, saj lahko že manjše spremembe zakonodaje ali davčnega sistema pomembno vplivajo na njihovo delovanje (Hulse et al., 2019). V Nemčiji so mali lastniki dolgo predstavljali prevladujoč del trga, toda v zadnjih dveh desetletjih so se začeli umikati institucionalnim vlagateljem, zlasti v velikih mestih, kjer so cene nepremičnin narasle in so trge prevzeli skladi z močnejšo finančno podlago (Kholodilin & Kohl, 2023).

Ob malih najemodajalcih so se po letu 2000 začeli hitreje razvijati profesionalni vlagatelji. Ti se od prvih razlikujejo predvsem po motivaciji: njihov cilj je ustvarjanje dobička, zato oddajanje stanovanj razumejo kot podjetniško dejavnost. V številnih državah so ti akterji začeli igrati pomembnejšo vlogo po letu 2008, ko so nizke obrestne mere spodbudile iskanje novih naložb, nepremičnine pa so postale privlačen vir stabilnih donosov (Aalbers, 2016). Profesionalni najemodajalci običajno upravljajo več enot, pogosto imajo zaposlene upravnike in uporabljajo standardizirane prakse.

V Sloveniji se takšen tip lastnikov šele začenja uveljavljati, čeprav v precej manjšem obsegu kot na večjih trgih, saj visoke cene nepremičnin in majhna razpršenost trga omejujejo njihov razvoj (Cirman & Pahor, 2019).

Še bolj izrazit pa je bil vstop institucionalnih vlagateljev. Po svetovni finančni krizi leta 2008 so nepremičnine postale globalno priljubljen finančni produkt. Na trg so vstopili nepremičninski investicijski skladi (Real Estate Investment Trusts – REIT-i), skladi zasebnega kapitala in pokojninski

skladi, ki so imeli dostop do obsežnega kapitala in so lahko kupovali celotne stanovanjske komplekse (Beswick et al., 2016). Ti akterji v sektor prinašajo logiko profesionalizacije in centraliziranega upravljanja, kar pomeni večjo preglednost in ekonomijo obsega, hkrati pa tudi oddaljevanje stanovanj od lokalnega prebivalstva, saj postajajo predmet finančnih kalkulacij. Fields in Uffer (2014) sta na primeru Berlina in New Yorka pokazala, kako globalni kapital preoblikuje stanovanjske trge in ustvarja nove oblike izključevanja. Poseben primer institucionalizacije predstavljajo projekti Build-to-Rent (BTR). Gre za stanovanjske soseske, ki se gradijo izključno z namenom oddajanja. Najprej so se pojavili v Veliki Britaniji, danes pa jih najdemo tudi drugod po Evropi. Ti projekti kažejo, da ZNS ni več omejen le na obstoječi stanovanjski fond, ampak lahko aktivno ustvarja novo ponudbo (Brill & Durrant, 2021). A ta nova ponudba ni nujno dostopna vsem, saj so stanovanja pogosto usmerjena v srednji ali višji cenovni segment, kar pomeni, da prispevajo k segregaciji in socialni selekciji.

Pandemija COVID-19 je prinesla še en obrat. Najnovejše raziskave kažejo, da je kriza spodbudila tretji val financializacije, ko so države z različnimi subvencijami, jamstvi in drugimi ukrepi posredno podpirale zasebne investitorje. Aalbers (2020) opozarja, da je vloga države postala ključna pri zagotavljanju stabilnosti stanovanjskih trgov, medtem ko Wijburg (2021) govori o »state-led financialization«, pri kateri so javna sredstva zmanjševala tveganja za zasebne akterje, ti pa so ohranjali dobičke. Posledica je bila, da so institucionalni investitorji še okrepili svoj položaj in utrdili nadzor nad vedno večjim delom urbanih stanovanjskih trgov.

Pogosto pa pri teh razpravah ostane spregledano, da so razlike med tipi lastnikov več kot zgolj kvantitativne. Prav te razlike neposredno oblikujejo »dvojni značaj« ZNS. Mali, naključni lastniki s svojo improvizacijo in pomanjkanjem znanja ustvarjajo negotovost, problem kakovosti in nestabilne pogodbe za najemnike. Nasprotno, institucionalni investitorji, ki vstopajo na trg z logiko maksimizacije dobička in ekonomije obsega, sicer vnašajo profesionalizacijo in prožnost za kapital, a hkrati poglobljajo cenovno nedostopnost in prostorsko razslojevanje. Te razlike so ključne, saj se pogosto spregledajo v okviru regulacije ZNS, ki torej zmotno predpostavlja, da so vsi najemodajalci enaki. Tako pride do zelo neugodnih situacij, kjer ista pravila veljajo za posameznika z enim stanovanjem in za sklad, ki ima v lasti tisoč enot, čeprav so njune možnosti, interesi in vpliv na trg povsem različni. Posebej izraziti so bili učinki v državah, kjer je vstop institucionalnih akterjev sprožil politične razprave in proteste.

Na Irskem so po krizi številni skladi odkupili velike dele stanovanjskega fonda, kar je povzročilo javno nezadovoljstvo in pritisk na vlado, da uvede strožje omejitve (Waldron, 2021). V Španiji so gibanja proti »fondos buitres« (t. i. jastrebski skladi) opozarjala, da institucionalni investitorji povzročajo dvig najemnin in izrinjanje domačih prebivalcev iz mestnih središč (García-Lamarca, 2021). Ti primeri kažejo, da preoblikovanje strukture najemodajalcev ni samo tehnični proces, ampak politično in socialno vprašanje, ki odpira razprave o tem, komu so stanovanja sploh namenjena.

Če povzamemo, preoblikovanje strukture najemodajalcev pomeni, da danes ne govorimo več o enem tipu lastnika, ampak o kompleksni prepletenosti malih, profesionalnih in institucionalnih akterjev. Vsak ima svojo logiko, svoje omejitve in svoje posledice za delovanje ZNS. Prav v tem prepletanju nastajajo napetosti, ki določajo, kako sektor deluje in kakšne so možnosti za njegovo regulacijo.

Brez natančnega vpogleda v to strukturo ne moremo razumeti niti sodobnega pomena ZNS niti izzivov, ki jih prinaša za stanovanjsko politiko.

4. Ponudbena funkcija zasebnega najemnega sektorja

Ko govorimo o ponudbeni funkciji zasebnega najemnega sektorja (ZNS), se odpre vprašanje, kako različni tipi najemodajalcev – od malih posameznikov do velikih institucionalnih akterjev – konkretno prispevajo k razpoložljivosti in strukturi stanovanj.

Že na prvi pogled je očitno, da ponudba ni homogena, ampak močno raznolika. Nekateri lastniki ustvarjajo nova stanovanja, drugi zgolj oddajajo obstoječe, tretji pa se s svojimi praksami osredotočajo na kratkoročne dobičke. Ta raznolikost oblikuje kompleksno podobo ZNS, kjer se prepletajo interesi lastnikov in potrebe najemnikov, kar pogosto vodi do napetosti.

Mali zasebni najemodajalci, ki jih še vedno najdemo v večini držav kot prevladujoč tip, praviloma ne ustvarjajo novih stanovanj, temveč v ponudbo vnašajo obstoječe enote. V postsocialističnih državah, tudi v Sloveniji, je bil ta proces tesno povezan z množično privatizacijo v devetdesetih letih (Mandić, 2010). Stanovanja, ki so jih prebivalci pridobili z odkupom, so ob selitvah ali spremembah življenjskih razmer pogosto končala v najemu. Takšna ponudba je seveda dragocena, ker povečuje obseg ZNS, hkrati pa je neenakomerna, saj so ta stanovanja prostorsko in kakovostno zelo različna. Podobne trende poznajo tudi v Poljski in na Madžarskem, kjer privatizirana stanovanja še danes predstavljajo temelj zasebnega najemnega trga (Lux & Sunega, 2012). V državah, kot sta Avstralija in ZDA, mali zasebni najemodajalci pogosto nastopajo kot dolgoročni vlagatelji, ki kupijo eno ali dve nepremičnini in ju oddajajo, da si zagotovijo dodaten dohodek ali pokojninsko varnost (Hulse et al., 2019). Njihov prispevek k ponudbi je stabilen, a hkrati omejen, saj gre večinoma za obstoječa stanovanja. V Nemčiji je bil dolgo časa prav ta segment ključni nosilec ponudbe, dokler se v zadnjih dveh desetletjih ni začel umikati institucionalnim vlagateljem, ki so prevzeli vodilno vlogo, zlasti v urbanih središčih (Kholodilin & Kohl, 2023).

Profesionalni vlagatelji, ki oddajanje stanovanj razumejo kot podjetniško dejavnost, imajo vlogo pri povečanju stabilnosti in predvidljivosti ponudbe. Čeprav praviloma ne ustvarjajo novih stanovanj, pogosto prispevajo k boljši uporabi obstoječih, saj jih prenavljajo, standardizirajo pogoje najema in ponujajo bolj transparentno upravljanje. Po letu 2008 so postali pomembnejši, ker so številni posamezniki zaradi gospodarske negotovosti opustili vlaganja v nepremičnine, medtem ko so profesionalci ohranili svoje položaje in celo širili portfelje (Aalbers, 2016). A njihov interes ostaja komercialen – to pomeni, da je njihova ponudba bolj usmerjena v segmente trga, kjer so donosi višji, manj pa v tiste, kjer je družbena potreba največja.

Še izrazitejši vpliv na ponudbo so imeli institucionalni akterji, ki so se po finančni krizi 2008 pojavili kot nova sila. Nepremičninski investicijski skladi (Real Estate Investment Trusts – REIT-i), pokojninski skladi in skladi zasebnega kapitala so z množičnimi nakupi celotnih stavb in sosesk začeli preoblikovati stanovanjske trge (Beswick et al., 2016). Njihova ponudba je kvantitativno pomembna, saj lahko z enim poslom v sektor vnesejo več sto novih najemnih enot, toda hkrati je pogosto usmerjena v višji cenovni segment, kar zmanjšuje dostopnost za širše prebivalstvo (Fields & Uffer, 2014). Empirični primeri iz Berlina, Dublina ali Barcelone jasno kažejo, kako vstop globalnega kapitala dviguje najemnine in povzroča napetosti med lokalnim prebivalstvom in investitorji (Waldron, 2021; García-Lamarca, 2021). Projekti Build-to-Rent (BTR) so posebna oblika institucionalne ponudbe, ki kažejo, da ZNS lahko deluje tudi kot generator nove ponudbe. Brill in Durrant (2021) analizirata širitev tega modela v Veliki Britaniji in njegovo umeščanje v širši okvir stanovanjske politike. Na podlagi njune raziskave lahko sklepamo, da BTR sicer dodaja nove enote na trg, vendar so te pogosto usmerjene v višji cenovni segment, kar omejuje dostopnost za širše prebivalstvo in krepi socialno selekcijo. Ti razvojni modeli kažejo tudi na postopno profesionalizacijo najemnega sektorja, kar odpira nova vprašanja o njegovem dolgoročnem položaju.

Ponudbena funkcija ZNS pa ni le stvar kvantitete, temveč tudi kakovosti in stabilnosti. Mali lastniki so pogosto fleksibilni, vendar lahko zaradi osebnih potreb hitro umaknejo stanovanje s trga. Profesionalni vlagatelji zagotavljajo večjo predvidljivost, toda njihov obseg je omejen. Institucionalni akterji ustvarjajo obsežne portfelje, a njihovi poslovni modeli povečujejo tveganje koncentracije lastništva in zmanjšujejo vpliv lokalne skupnosti.

Te razlike so pomembne, ker pokažejo, da ni mogoče govoriti o enotni ponudbi ZNS, ampak o različnih mehanizmi, ki se prepletajo in pogosto nasprotujejo drug drugemu.

Empirični primeri potrjujejo, da so prav razlike v ponudbeni funkciji tiste, ki oblikujejo napetosti v sodobnih stanovanjskih sistemih. Na Irskem so institucionalni vlagatelji po krizi odkupili velik del stanovanjskega fonda, kar je sprožilo proteste in zahteve po omejitvah njihovega delovanja (Waldron, 2021). V Španiji so gibanja proti »fondos buitres« opozarjala, da takšni investitorji dvigujejo najemnine in izrivajo prebivalce iz mestnih središč (García-Lamarca, 2021). V Nemčiji so raziskave pokazale, da institucionalni lastniki ponujajo stanovanja z višjimi najemnini in strožji pogoji kot mali zasebni lastniki (Kholodilin & Kohl, 2023). Te izkušnje kažejo, da ponudbena funkcija ZNS ni nevtralna, ampak je neločljivo povezana z vprašanjem dostopnosti in pravičnosti.

Če vse skupaj povežemo, vidimo, da ZNS deluje kot preplet različnih ponudbenih mehanizmov. Mali najemodajalci dopolnjujejo trg z obstoječimi enotami, profesionalni vlagatelji poskušajo ustvariti bolj stabilne oblike ponudbe, institucionalni akterji pa vnašajo nove obsege in profesionalizacijo, a pogosto tudi višje cene in večjo socialno selekcijo. Ta kompleksnost je ključna za razumevanje sodobnega pomena ZNS, saj brez vpogleda v ponudbeno funkcijo ne moremo razumeti niti notranjih napetosti niti izzivov, ki jih sektor prinaša za stanovanjsko politiko.

5. Napetosti v oskrbovalni funkciji zasebnega najemnega sektorja

Ko smo skozi zgodovinski pregled, spremembe v strukturi najemodajalcev in analizo ponudbene funkcije pokazali, kako se je ZNS oblikoval, se zdaj zastavlja vprašanje, kako ta sektor dejansko deluje kot del stanovanjskega sistema. Tu se odpre ključna tema: napetosti v njegovi oskrbovalni funkciji.

ZNS na eni strani zagotavlja nujno fleksibilnost, mobilnost in dopolnjevanje preostalih oblik stanovanjske preskrbe, na drugi strani pa prav zaradi svoje narave ustvarja nestabilnosti, negotovosti ter pogloblja stanovanjsko neenakost in prostorsko razslojenost. Prav v teh protislovjih se pokaže, zakaj ga ni mogoče razumeti zgolj kot nevtralno dopolnilo lastništvu in javnemu najemu, temveč kot segment, ki aktivno oblikuje širše razmere na stanovanjskem področju.

Ena od osrednjih napetosti je vprašanje cenovne dostopnosti. V številnih državah so najemnine v ZNS v zadnjih dveh desetletjih naraščale bistveno hitreje kot dohodki gospodinjstev. Empirični podatki kažejo, da so se v Berlinu med letoma 2007 in 2017 najemnine povečale za več kot 70 % (Fields & Uffer, 2014), v Barceloni pa za več kot 60 % (García-Lamarca, 2021). Podobno na Irskem, kjer so skladi po krizi prevzeli velik del stanovanjskega fonda, so se najemnine dvignile tako visoko, da so sprožile proteste in politične zahteve po regulaciji (Waldron, 2021). V Sloveniji so cene najemnin v urbanih središčih, predvsem v Ljubljani, rasle hitreje od povprečnih plač, kar je povzročilo, da so mladi, študenti in prekarni delavci med najbolj prizadetimi skupinami (Sendi, 2017). Dostopnost je tako temeljna točka, kjer se ZNS pokaže kot segment, ki namesto rešitve pogosto pogloblja problem.

Druga napetost izhaja iz vprašanja kakovosti stanovanj. Mali zasebni najemodajalci, ki še vedno prevladujejo v številnih državah, pogosto nimajo znanja ali sredstev za sistematično vzdrževanje. V postsocialističnih državah je to posebej izrazito: privatizirana stanovanja so raznolika po kakovosti, številna so energetske potratna in slabo vzdrževana (Lux & Sunega, 2012). V Sloveniji se je pokazalo, da so prav zasebna najemna stanovanja pogosto tista, kjer so stanovalci v slabših razmerah, z manj stabilnimi pogodbami in večjim tveganjem za hitro odpoved (Mandić, 2010). Profesionalni in institucionalni akterji sicer v sektor vnašajo večjo standardizacijo in višjo kakovost, a njihova stanovanja so praviloma dražja, kar ponovno omejuje dostopnost. Tako se kakovost in cenovna dostopnost pogosto izključujeta, kar ustvarja napetost, ki je značilna za ZNS v skoraj vseh državah.

Tretja napetost je povezana z negotovostjo najemnih razmerij. V večini držav so pravila v ZNS zasnovana tako, da omogočajo lastnikom večjo fleksibilnost kot v javnem najemu. V Veliki Britaniji je Housing Act 1988 uvedel t. i. »no-fault eviction«, možnost odpovedi brez utemeljenega razloga, kar je močno oslabilo varnost najemnikov (Hulse et al., 2010). V Sloveniji so odpovedni roki kratki, varovalke za najemnike omejene, kar pomeni, da so gospodinjstva v ZNS pogosto v stalnem občutku negotovosti (Sendi, 2003). Negotovost se dodatno krepi zaradi razširitve kratkoročnih najemov, ki zmanjšujejo razpoložljivost stabilnih dolgoročnih pogodb, kar sta pokazala tudi Obrč in Kerbler (2020) v svoji analizi vpliva Airbnb na ljubljanski stanovanjski trg. Negotovost je v nekaterih državah delno ublažena z dolgoročnimi najemnimi pogodbami (npr. Nemčija, Avstrija), toda tam so trgi specifični in zgodovinsko oblikovani, drugod pa so to prej izjeme kot pravilo (Kholodilin & Kohl, 2023). Prav ta negotovost razkriva protislovje med interesom lastnikov po fleksibilnosti in interesom najemnikov po stabilnosti.

Četrta napetost zadeva geografsko in socialno neenakost. ZNS je izrazito koncentriran v mestih, kjer je povpraševanje največje in kjer se najemnine posledično tudi najbolj dvigujejo. To vodi v proces, ki ga pogosto opisujejo kot »dvojno izrinjanje«: najprej socialno, saj se revnejše skupine umikajo na obrobja, nato še prostorsko, saj se zaradi višjih cen spreminja struktura prebivalstva v samih mestnih središčih (Lees et al., 2008). Migracije še dodatno krepijo te pritiske: v Švici je prosti pretok oseb iz EU povečal povpraševanje in dvignil cene (Helfer et al., 2023), v Nemčiji pa raziskave kažejo, da že enoodstotno

povečanje migracij povzroči enoodstotno rast najemnin (Unal et al., 2024). V Sloveniji so se ti procesi najbolj pokazali v Ljubljani, kjer je pritisk študentov, priseljencev in mladih gospodinjstev povzročil pomanjkanje dostopnih enot in povečal segregacijo.

Peta napetost se kaže v razliki med družbeno vlogo in tržno logiko ZNS. Na eni strani sektor opravlja nujno družbeno funkcijo, saj zagotavlja stanovanja tistim, ki ne morejo ali ne želijo vstopiti v lastništvo. Na drugi strani pa je stanovanje za zasebne najemodajalce predvsem naložba, ki mora prinesiti donos. To protislovje je še posebej izrazito pri institucionalnih akterjih. Njihov vstop v ZNS prinaša večjo profesionalizacijo in povečuje ponudbo, hkrati pa vodi v dvig najemnin, saj je glavni cilj maksimizacija dobička. Izkušnje Španije in Irske kažejo, da med družbenim interesom in investicijsko logiko pogosto prihaja do napetosti (Waldron, 2021; García-Lamarca, 2021). V Sloveniji to protislovje ni tako izrazito, ker institucionalni segment najema ostaja šibko razvit. Kljub temu se v javnih razpravah pojavlja vprašanje, ali naj država zasebni najem spodbuja z davčnimi olajšavami in subvencijami, čeprav bi takšni ukrepi lahko dodatno obremenili najemnike (Cirman & Pahor, 2019).

Šesta napetost je povezana s kratkoročnimi najemi in vplivom platform, kot je Airbnb. V številnih mestih so lastniki stanovanja preusmerili iz dolgoročnega v kratkoročni najem, ker so tam donosi višji. Rezultat pa je zmanjšanje ponudbe dolgoročnih najemov in s tem dodatno zvišanje cen. To je posebej izrazito v turističnih mestih, kot so Barcelona, Lizbona in Dunaj (Cócola Gant, 2016). V Sloveniji se ta proces vidi v Ljubljani in na obali, kjer so številna stanovanja umaknjena s trga dolgoročnih najemov, kar še povečuje pritisk na tiste, ki iščejo stalno bivališče.

Če vse te napetosti povežemo, dobimo sliko ZNS kot segmenta, ki je hkrati nujen in problematičen. Njegova oskrbovalna funkcija prinaša fleksibilnost, mobilnost in dopolnjevanje stanovanjskega sistema, toda vsaka od teh prednosti ima svojo ceno – višje najemnine, slabšo kakovost, večjo negotovost in socialno izključevanje. Prav v teh protislovjih je mogoče razumeti, zakaj je ZNS danes v središču akademskih in političnih razprav.

V nadaljevanju prispevka se zato zastavlja vprašanje, kako se države odzivajo na te napetosti, katere regulativne modele uporabljajo in ali lahko z njimi resnično ublažijo protislovja, ki spremljajo zasebni najem.

6. Regulacija zasebnega najemnega sektorja

Če želimo razumeti sodobni pomen zasebnega najemnega sektorja (ZNS), ne moremo mimo vprašanja regulacije. ZNS nikoli ni bil povsem prepuščen prostemu trgu, saj so države že zgodaj spoznale, da njegovo delovanje vpliva na širšo družbo in da je brez nadzora hitro prišlo do zlorab, špekulacij in socialnih napetosti. Regulacija je vedno odražala ravnotežje med interesi lastnikov, potrebami najemnikov in političnimi cilji države.

V literaturi se pogosto razlikujejo tri generacije rent control (Arnott, 1995; Turner & Malpezzi, 2003; Abbott, 2021). Prva generacija pomeni stroge zamrznitve najemnin, največkrat uvedene v kriznih obdobjih, kot po vojnah ali v času hiperinflacije. Ti ukrepi so sicer kratkoročno zaščitili najemnike, a so dolgoročno zmanjšali motivacijo za vlaganja in vzdrževanje stanovanj, kar je vodilo v propadanje fonda. Druga generacija je prinesla bolj fleksibilne oblike, kjer so se najemnine lahko zvišale, vendar v skladu z inflacijo ali določenimi indeksi življenjskih stroškov. To je pomenilo večjo predvidljivost za najemnike in hkrati ohranilo vsaj del interesa lastnikov za vlaganja. Tretja generacija, ki se je razvila v zadnjih desetletjih, pomeni selektivne omejitve rasti najemnin ob ponovnem oddajanju stanovanja. Najbolj znan primer je nemški Mietpreisbremse, ki omejuje višino najemnine ob sklenitvi nove pogodbe. Iz empiričnih raziskav (Kholodilin, 2020; Kholodilin & Kohl, 2023) je razvidno, da so učinki teh ukrepov zelo različni: v nekaterih mestih so uspešno upočasnili rast cen, v drugih pa so bili rezultati šibki, ker so se lastniki pravilom izognili. Abbott (2021) ob tem opozarja, da rent control sam po sebi ne reši problema dostopnosti, saj ne povečuje ponudbe, temveč je učinkovit le kot del širše kombinacije ukrepov stanovanjske politike.

Ob regulaciji najemnin je pomembno tudi vprašanje varnosti najema oziroma t. i. security of tenure. Hulse, Milligan in Easthope (2011) poudarjajo, da je stabilnost pogodb za gospodinjstva ključna, saj stanovanje ni samo streha nad glavo, ampak prostor družinskega in socialnega življenja. V Nemčiji in

Avstriji so pogodbe praviloma dolgoročne ali celo za nedoločen čas, kar najemnikom daje stabilnost in občutek doma. V Veliki Britaniji so po zakonu iz leta 1988 prevladale kratkotrajne pogodbe z možnostjo odpovedi brez krivde, kar je močno oslabilo varnost najemnikov (Hulse et al., 2010; Lowe, 2011). V Sloveniji je po obsežni privatizaciji stanovanj v devetdesetih letih zasebni najemni sektor ostal brez celovitega institucionalnega okvira. To je pomenilo, da so najemna razmerja večinoma urejena le z osnovnimi določili, brez mehanizmov, ki bi zagotavljali dolgoročno stabilnost. Posledično so pogodbe pogosto kratkotrajne, zaščita najemnikov pa omejena, kar ustvarja visoko stopnjo negotovosti (Sendi, 2003). Negotovost se dodatno krepi zaradi razširitve kratkoročnih najemov, ki zmanjšujejo razpoložljivost stabilnih dolgoročnih pogodb, kar sta pokazala tudi Obrč in Kerbler (2020) v svoji analizi vpliva Airbnb na ljubljanski stanovanjski trg.

Kemeny (1995, 2006) je regulacijo umestil v širši okvir z razlikovanjem med unitarno in dualistično ureditvijo. V unitarnih sistemih, kot so Nemčija, Švedska ali Avstrija, so javni in zasebni najemi regulirani podobno, zato med seboj konkurirajo in se uravnotežajo, kar ustvarja večjo stabilnost. V dualističnih sistemih, kot v Veliki Britaniji, pa je zasebni najem dereguliran, javni pa močno subvencioniran, zaradi česar je ZNS marginaliziran in pogosto stigmatiziran.

Slovenski sistem v tem okviru ni ne klasično unitaren ne dualističen, ampak predstavlja poseben postsocialistični hibrid. Tako javni kot zasebni najem sta do določene mere marginalizirana in pomanjkljivo regulirana, kar povzroča neustrezen odziv na sodobne stanovanjske izzive. Fragmentiranost slovenske zakonodaje se tako kaže v konkretnih pomanjkljivostih, kot so na primer kratki odpovedni roki, omejene varovalke za najemnike in pomanjkanje jasnih pravil za kratkoročno oddajanje, ob (pre)dolgih sodnih postopkih in posledično manjši pravni varnosti najemodajalcev.

Ta koncept pokaže, da regulacija ni samo skupek posameznih ukrepov, ampak del celotne arhitekture stanovanjskega sistema, ki ga je treba razumeti v širšem kontekstu. V času financiranja so stanovanja vse bolj razumljena kot finančni produkti, kar ima posledice ne le za odnose med najemniki in lastniki, ampak tudi za stabilnost finančnih trgov in pretok kapitala (Fields & Uffer, 2014; Aalbers, 2016). To pomeni, da regulacija zasebnega najema danes presega svojo tradicionalno vlogo ureditve položaja najemnikov in postaja tudi mehanizem za obvladovanje učinkov finančnega kapitala na stanovanjski sektor. Ob tem Whitehead (2015) in Haffner (2018) opozarjata, da regulacija ne more zasledovati zgolj tržne učinkovitosti, temveč mora skrbeti tudi za pravičnost – kdo ima dostop do stanovanj in pod kakšnimi pogoji. Brill in Durrant (2021) sta na primeru modela Build-to-Rent pokazala, da država s spodbudami posredno oblikuje zasebni najem, kar razkriva hibridno naravo regulacije, v kateri se prepletajo javni in zasebni interesi. Podobno ugotavljata Crook in Kemp (2014), ki kažeta, da je zasebni najem vedno odvisen od spodbud in omejitev, nikoli pa ne deluje povsem samostojno.

Pomemben del sodobne regulacije so tudi ukrepi, povezani s kratkoročnimi najemi prek platform, kot je Airbnb. Barcelona, Lizbona in Dunaj so uvedli omejitve števila dni, ko je mogoče stanovanje oddajati turistom, ker je to zmanjševalo dostopnost dolgoročnih najemov in dvigovalo cene (Cócola Gant, 2016).

Davčna politika postaja še eno ključno področje oblikovanja zasebnega najemnega sektorja. V številnih državah se uporablja kot orodje za spodbujanje oddajanja stanovanj, najpogosteje prek davčnih olajšav za lastnike, ki oddajajo nepremičnine, ali z znižanimi davčnimi stopnjami na dohodek iz najemnin. Drugi pristop pa temelji na obratni logiki – obdavčitvi praznih stanovanj in nepremičnin, ki predolgo ostajajo neizkoriščene, da bi se povečala ponudba na trgu (Gurran & Phibbs, 2017). Obe politiki kažeta, da država z davčnimi ukrepi ne vpliva le na vedenje posameznih lastnikov, ampak tudi na celotno strukturo najemnega trga. Tako lahko spodbude vodijo k profesionalizaciji sektorja in večji formalizaciji najemnih razmerij, medtem ko obdavčitev praznih stanovanj cilja na zmanjševanje špekulacij in boljšo rabo obstoječega stanovanjskega fonda. Hkrati pa ostaja vprašanje, kako takšni ukrepi vplivajo na najemnike: ali dejansko povečujejo dostopnost in stabilnost najema ali pa se stroški davčne politike posredno prenesejo nanje v obliki višjih najemnin.

Slovenski primer kaže, da je regulacija ostala fragmentarna in pogosto nedosledna. Privatizacija v devetdesetih letih je ustvarila množico malih zasebnih najemodajalcev, kar je pomenilo prehod v »družbo lastnikov« in marginalizacijo javnega ter zasebnega najema (Mandić, 2001; Sendi, 2003). V zadnjem desetletju pa je dodatno težavo prinesla širitev kratkoročnih najemov prek platforme Airbnb.

Obrč in Kerbler (2020) opozarjata, da to zmanjšuje razpoložljivost dolgoročnih najemnih stanovanj in dviguje cene, zaradi česar bi morala država uvesti ukrepe za uravnoteženje razmer. Predlagata vrsto rešitev, od davčne nevtralnosti med kratkoročnim in dolgoročnim oddajanjem do javnih jamstev za plačevanje najemnin in spodbud za zakonito oddajanje. Kljub tem opozorilom pa ZNS v Sloveniji še vedno nima enotne regulativne strategije, ki bi ga jasno umestila v stanovanjsko politiko. Čeprav je zasebni najem omenjen v Resoluciji o nacionalnem stanovanjskem programu (2015), kjer je prepoznan kot eden od elementov stanovanjske preskrbe, konkretni ukrepi za njegovo regulacijo ostajajo omejeni in neambiciozni. Obstoječa ureditev tako odpira pomembna vprašanja o tem, kako različni regulativni ukrepi vplivajo na vedenje malih najemodajalcev, ki prevladujejo na slovenskem trgu, ter kakšne so posledice teh dinamik za dostopnost in stabilnost stanovanj. Doslej je bilo to področje preučeno le delno, kar kaže na potrebo po nadaljnjih raziskavah, ki bi osvetlile možnosti za razvoj učinkovitejših oblik regulacije v specifičnem slovenskem kontekstu.

Če povzamemo, regulacija ZNS ni enoten pojem, ampak preplet različnih mehanizmov, ki se razlikujejo po zgodovinskih obdobjih, nacionalnih sistemih in vplivu finančnega kapitala. Od strogih zamrznitev prve generacije, prek indeksiranih modelov druge, do selektivnih omejitev tretje generacije se je oblikovala cela paleta praks, ki jih je treba presojati v kontekstu širše stanovanjske politike. Abbott (2021) opozarja, da rent control sam po sebi ne zadošča; učinkovit je le kot del kombinacije z drugimi ukrepi, kot so javne naložbe in davčne spodbude. Kemeny (1995, 2006) nas opozarja, da je regulacija vedno odraz strukture sistema, medtem ko sodobni avtorji, kot so Aalbers, Fields in Uffer, Whitehead in Haffner, dodajajo, da danes posega tudi v logiko finančnih trkov in vprašanja socialne pravičnosti. Slovenski primer pa pokaže, da odsotnost celovite strategije pomeni tveganje, da bo ZNS ostal rezidualen in neučinkovit ravno v času, ko postaja njegova družbena vloga vse pomembnejša.

7. Sklep

Zasebni najemni sektor (ZNS) je v sodobnih stanovanjskih sistemih postal nepogrešljiv element, a hkrati eden najbolj protislovnih.

Zgodovinski pregled jasno pokaže, da njegov položaj nikoli ni bil enoznačen: v devetnajstem stoletju je bil prevladujoča oblika bivanja v večini evropskih in severnoameriških mest, v povojnem obdobju pa je bil pogosto potisnjen na rob in obravnavan kot rezidualen. V zadnjih desetletjih se je ZNS ponovno prebil v ospredje, predvsem zaradi financiranja stanovanj, demografskih sprememb in novih oblik migracij (Harloe, 1985; Kemeny, 1995; Aalbers, 2016; Lennartz et al., 2016). Ta gibanja ustvarjajo okvir, v katerem lahko razumemo, zakaj ZNS danes ni več zgolj dopolnilo lastništvu ali javnemu najemu, temveč samostojen segment, ki aktivno oblikuje širše stanovanjske in družbene razmere.

Spremembe v strukturi najemodajalcev so razkrile, da ZNS ni homogena celota, ampak mreža različnih akterjev z zelo različnimi interesi. Mali zasebni najemodajalci v sektor vnašajo obstoječe stanovanjske enote in s tem zagotavljajo osnovno širino ponudbe, a pogosto delujejo improvizirano in brez sistematične podpore (Mandić, 2010; Crook & Kemp, 2016). Profesionalni vlagatelji prispevajo k večji stabilnosti in transparentnosti, toda njihovi portfelji so usmerjeni predvsem v bolj donosne segmente (Aalbers, 2016). Institucionalni akterji pa v sektor prinašajo ekonomijo obsega in novo gradnjo, vendar pogosto ustvarjajo dodatne pritiske na cene in dostopnost (Fields & Uffer, 2014; Beswick et al., 2016; Brill & Durrant, 2021). Ta raznolikost jasno kaže, da je treba pri regulaciji upoštevati specifične razlike med tipi lastnikov, saj ukrepi, ki enako obravnavajo posameznika z enim stanovanjem in sklad z več tisoč enotami, ne morejo biti učinkoviti.

Analiza ponudbene funkcije ZNS pokaže, da se različni akterji dopolnjujejo, a hkrati tekmujejo. Mali lastniki zagotavljajo fleksibilno in razpršeno ponudbo, profesionalni vlagatelji vnašajo bolj predvidljive prakse, institucionalni investitorji pa lahko s svojimi projekti ustvarijo več sto novih enot naenkrat. Vendar pa prav ti institucionalni modeli pogosto krepijo socialno selekcijo, saj so usmerjeni v srednji in višji cenovni segment, kar zmanjšuje dostopnost za ranljivejše skupine. Empirični primeri iz Berlina, Dublina, Barcelone in drugih mest potrjujejo, da globalni kapital spreminja logiko stanovanjskih trgov, pogosto na račun lokalnega prebivalstva (Waldron, 2021; García-Lamarca, 2021).

Napetosti v oskrbovalni funkciji ZNS so zato ključne za razumevanje njegove vloge danes. Rast najemnin, ki prehitava rast dohodkov, zmanjšuje dostopnost; razlike v kakovosti med različnimi tipi najemodajalcev povečujejo socialne razlike; kratki odpovedni roki in negotove pogodbe slabijo varnost gospodinjstev (Hulse et al., 2010; Sendi, 2003; Lux & Sunega, 2012). Poseben izziv predstavljajo kratkoročni najemi prek platform, kot je Airbnb, ki zmanjšujejo dolgoročno ponudbo in povečujejo pritisk na cene (Cócola Gant, 2016; Obrč & Kerbler, 2020). Vse te napetosti kažejo, da ZNS ni nevtralen prostor tržnih interakcij, ampak arena, kjer se srečujejo interesi lastnikov, potrebe najemnikov in širši družbeni cilji.

Vprašanje regulacije se v tem okviru kaže kot osrednje. Tipologija treh generacij rent controla (Arnott, 1995; Turner & Malpezzi, 2003; Abbott, 2021) pokaže, da regulacija nikoli ni bila linearna in da so učinki močno odvisni od nacionalnih okoliščin. Kemeny (1995, 2006) je opozoril, da je treba regulacijo razumeti kot del širše arhitekture stanovanjskega sistema – v unitarnih modelih zasebni in javni najem sodelujeta, v dualističnih pa se ZNS marginalizira. Danes pa regulacija posega tudi v upravljanje finančnih tokov: Fields & Uffer (2014) in Aalbers (2016) so pokazali, da stanovanje postaja finančni produkt, zato regulacija ne vpliva le na najemnike in lastnike, ampak tudi na stabilnost celotnega finančnega sistema. Primeri, kot so spodbude za Build-to-Rent projekte, dokazujejo, da se meje med javnim in zasebnim brišejo in da govorimo o hibridnih oblikah regulacije (Brill & Durrant, 2021).

Slovenski primer razkriva še dodatne specifične. Po obsežni privatizaciji v devetdesetih letih je ZNS ostal fragmentiran in šibko reguliran, kar je povzročilo, da pogodbe ostajajo kratkotrajne, varovalke za najemnike pa omejene (Mandić, 2001; Sendi, 2003). Najnovejši izziv predstavljajo kratkoročni najemi, ki zmanjšujejo razpoložljivost stabilnih stanovanj, kar sta pokazala Obrč in Kerbler (2020). Čeprav Resolucija o nacionalnem stanovanjskem programu (2015) ZNS prepozna kot del stanovanjske preskrbe, ostajajo ukrepi fragmentarni in neambiciozni, kar ustvarja tveganje, da bo sektor ostal rezidualen ravno v času, ko bi lahko postal ključni mehanizem za zagotavljanje dostopnosti.

Če povzamemo, ZNS danes nosi dvojno vlogo: po eni strani je nujen element stanovanjske preskrbe, ki omogoča fleksibilnost in mobilnost, po drugi strani pa reproducira neenakosti in negotovosti. Njegova prihodnost bo odvisna od tega, kako bodo države znale povezati regulacijo z javnimi naložbami, davčnimi politikami in socialnimi cilji. Abbott (2021) opozarja, da rent control sam po sebi ne zadošča; učinkovit je le kot del širše kombinacije ukrepov. Whitehead (2015) in Haffner (2018) dodajata, da morajo biti regulativni pristopi presojeni ne le glede na tržno učinkovitost, temveč tudi glede na pravičnost in dostopnost.

V slovenskem primeru pa se ob tem odpira vprašanje, kako povezati prevladujočo razdrobljeno strukturo malih lastnikov z odsotnostjo institucionalnih akterjev in vplivom globalnih trendov v enotno strategijo, ki bo zagotavljala dolgoročno stabilnost. Slovenski sistem je v tem pogledu postsocialistični hibrid, ki se spopada z edinstvenimi izzivi. Nedorečenosti in protislovja v obstoječih pristopih kažejo, da bo potrebno nadaljnje poglobljeno raziskovanje, ki ne bo zajemalo le nacionalnega okvira, temveč tudi primerjalne in zgodovinske perspektive. Prav skozi takšne analize bo mogoče razviti bolj celovite in učinkovite oblike regulacije, ki bodo odgovorile na temeljno vprašanje: kako lahko ZNS resnično prispeva k zagotavljanju dostopnih in hkrati kakovostnih stanovanj v sodobni družbi.

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Cognitive mechanisms of pro-environmental behaviour: An integrated psychological framework

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Abstract

This article examines the psychological mechanisms that shape pro-environmental behaviour, with a focus on waste separation as a socially embedded and health-relevant environmental practice. Drawing on two foundational models—the Theory of Planned Behaviour (TPB) and the Norm Activation Model (NAM)—the paper highlights how attitudes, subjective norms, perceived behavioural control and moral obligation jointly inform individuals' intentions to behave sustainably. These theoretical insights are complemented by contemporary cognitive and emotional mechanisms such as cognitive dissonance, empathy, social comparison, environmental self-efficacy and habit formation, which further refine our understanding of environmental decision-making. Empirical evidence from a Slovenian quantitative study (N = 464) demonstrates that perceived cleanliness of the residential environment strongly predicts multiple dimensions of well-being, including feelings of safety, emotional stability, social connectedness and psychological flourishing. Clean environments appear to function as psychological cues that support collective responsibility and motivate individuals to engage in waste separation. Building on the theoretical and empirical results, the article outlines practical strategies for promoting sustainable behaviour through context-specific communication, moral and rational framing, supportive infrastructure, positive reinforcement and community-based engagement. The integrated framework underscores that sustainable behaviour is most effectively fostered when cognitive, emotional and social factors are addressed simultaneously.

Keywords

pro-environmental behaviour; waste separation; Theory of Planned Behaviour; Norm Activation Model; cognitive mechanisms; environmental psychology; cleanliness perception; well-being; sustainability interventions; community engagement

Theoretical foundations of pro-environmental behaviour

Understanding why individuals adopt environmentally responsible behaviour has long been a central concern in environmental psychology. Classical models such as the Theory of Planned Behaviour (TPB; Ajzen, 1991, 2020) and the Norm Activation Model (NAM; Schwartz, 1977) remain foundational because they capture the interplay of attitudes, social expectations, perceived control and moral obligation in shaping environmental decision-making. According to TPB, behaviour is predicted by intention, which arises from attitudes, subjective norms and perceived behavioural control. This framework has been widely applied to recycling, green consumption and other environmental behaviours (Arya & Chaturvedi, 2020; Pouya & Niyaz, 2022), demonstrating that individuals engage more readily in waste separation when they believe the behaviour is beneficial, socially supported and manageable. NAM complements this view by emphasising internalised moral norms activated through awareness of consequences and personal responsibility (Schwartz, 1977). Empirical studies show that when individuals understand the environmental and health consequences of improper waste management, their moral engagement increases (Tan et al., 2023; Wang et al., 2019).

Recent research integrates TPB and NAM, arguing that sustainable behaviour emerges from the combined influence of rational evaluation and moral motivation (Klöckner, 2013; Steg & Vlek, 2009). Additional cognitive mechanisms further refine this understanding. Cognitive dissonance (Festinger, 1957; Levy, 2018) explains why individuals adjust behaviour to align with self-concept. Empathy enhances moral norms and prosocial action (Berenguer, 2007; Cuff et al., 2014). Social comparison shapes perceptions of normative behaviour (Festinger, 1954). Environmental self-efficacy (Bandura, 1997) strengthens perceived behavioural control, while habit formation reduces cognitive demand (Keller et al., 2011). Together, these theories provide a multidimensional framework for understanding environmental action (Gkargkavouzi et al., 2019).

Problem statement, aims, and hypotheses

Despite the broad policy consensus that waste separation is essential for circular-economy goals and public health, participation in everyday pro-environmental practices remains psychologically uneven and context-dependent. From the perspective of environmental psychology, this gap is not adequately explained by information provision alone; rather, it reflects the interplay of cognitive evaluations, social expectations, perceived behavioural control, and moral obligation (Ajzen, 1991, 2020; Schwartz, 1977; Steg & Vlek, 2009). Building on integrative approaches that combine rational–normative pathways (e.g., TPB and NAM) and extend them with self-efficacy, habit and self-consistency mechanisms (Bandura, 1997; Festinger, 1957; Klöckner, 2013), the present study addresses a practical and theoretical problem: how perceptions of local environmental quality—operationalised here as perceived cleanliness and maintenance of the residential environment—relate to psychosocial functioning and, by implication, the psychological conditions that support sustained pro-environmental engagement such as waste separation.

The central rationale is that perceived cleanliness may function as a psychologically meaningful cue that (a) reinforces attitudes and perceived behavioural control (TPB) by signalling that pro-environmental action is feasible and socially embedded, and (b) supports norm activation (NAM) by increasing the salience of collective consequences and personal responsibility within a well-functioning community (Ajzen, 1991; Schwartz, 1977; Wang et al., 2019). In addition, cleaner environments may reduce cognitive burden and strengthen routine formation, thereby supporting the stability of everyday sustainable behaviour (Bandura, 1997; Keller et al., 2011).

Accordingly, the study had three aims. First, it aimed to quantify the association between perceived environmental cleanliness and basic need satisfaction, especially physiological and safety needs, as these represent foundational psychological conditions for higher-order well-being and constructive civic engagement (Taormina & Gao, 2013). Second, it aimed to examine whether perceived cleanliness is related to multidimensional well-being, including emotional, social and psychological well-being, as well as neighbourhood attachment and sense of community, which are theoretically relevant to social norms and moral engagement (Diener et al., 1985; Peterson et al., 2008; Schwartz, 1977). Third, it aimed to explore whether perceived cleanliness varies across basic demographic characteristics (e.g., age, gender, education), since socio-demographic differences may shape exposure, interpretation and behavioural opportunities in the local environment (Ajzen, 2020; Pouya & Niyaz, 2022).

Based on this rationale, the following hypotheses were formulated.

H1: Higher perceived environmental cleanliness will be associated with higher satisfaction of physiological needs.

H2: Higher perceived cleanliness will be associated with higher satisfaction of safety needs.

H3: Higher perceived cleanliness will be associated with higher emotional well-being.

H4: Higher perceived cleanliness will be associated with higher social well-being.

H5: Higher perceived cleanliness will be associated with higher psychological well-being.

These hypotheses follow directly from the assumption that environmental order and cleanliness serve as cues of predictability, reduced risk and collective care, which are linked to both basic security appraisals and broader well-being (Steg & Vlek, 2009; Giorgi, 2017).

In addition, two theoretically informed extensions were specified.

H6: Higher perceived cleanliness will be associated with a stronger sense of community/neighbourhood connectedness.

H7: Higher perceived cleanliness will be associated with higher global life satisfaction.

Finally, the study included an exploratory component to contextualise the main associations. Specifically, it examined whether perceived cleanliness differs by age and gender (given potentially different exposure and sensitivity to environmental disorder) and whether there is a tendency for cleanliness perceptions to increase with education, reflecting potential differences in environmental expectations and behavioural literacy (Ajzen, 2020; Chwialkowska et al., 2020).

These aims and hypotheses directly motivate the methodological choices reported in the next section: the operationalisation of perceived cleanliness, the selection of validated well-being and community measures, and the use of correlational and group-comparison analyses (e.g., ANOVA) to test whether well-being systematically varies across levels of perceived environmental cleanliness.

Methodology

The study employed a cross-sectional quantitative design aimed at examining how perceived environmental cleanliness relates to several dimensions of subjective well-being and neighbourhood attachment. This design is consistent with established approaches in environmental psychology, which investigate psychosocial processes through validated self-report measures administered in naturalistic community contexts. Data were collected through an online survey consisting of demographic questions and multiple psychometric scales. The structure of the study aligns with the methodological standards used in research on environmental perception and well-being (e.g., Gkargkavouzi et al., 2019; Steg & Vlek, 2009).

A total of 464 adults residing across Slovenia participated in the study. The sample included individuals aged between 18 and 78 years ($M = 41.6$, $SD = 13.2$), with approximately 62% identifying as women and 38% as men. Participants represented a range of educational backgrounds, and lived in urban, suburban and rural areas, which ensured diversity of environmental conditions and socio-demographic characteristics. Participation was voluntary, anonymity was guaranteed and informed consent was obtained prior to survey administration. Completion of the questionnaire took approximately 12–15 minutes, and no incentives were offered.

Several validated instruments were used to measure the constructs of interest. Perceived environmental cleanliness was assessed using a short three-item scale developed for this study, capturing participants' evaluations of the cleanliness, orderliness and maintenance of their neighbourhood.

Psychological needs satisfaction was measured with the *Satisfaction of Needs Scale* (Taormina & Gao, 2013), which assesses physiological, safety, belonging and self-actualisation needs. Sense of community was assessed with the *Brief Sense of Community Scale* (Peterson et al., 2008), while global cognitive-evaluative well-being was measured with the *Satisfaction With Life Scale* (Diener et al., 1985). Psychological well-being was derived from items representing meaning, personal growth and environmental mastery. All items were rated on Likert scales and demonstrated satisfactory internal consistency reliability.

Results and discussion

Data analysis was conducted using SPSS 28. Descriptive statistics were computed for all variables, followed by reliability analyses to assess internal consistency. Zero-order correlations were used to examine the associations between perceived cleanliness and well-being indicators. In addition, one-way ANOVA was applied to compare well-being across different levels of perceived cleanliness, while multiple regression models were used to assess the predictive power of cleanliness on well-being, controlling for demographic variables such as age, gender and residential environment.

Descriptive statistics for all measured constructs are presented in Table 1, showing means, standard deviations and internal consistency coefficients. Results indicate generally high reliability across all scales and suggest that participants tended to report moderate to high levels of well-being, sense of community and life satisfaction, with some variability across domains.

Table 1

Descriptive statistics for all variables

Variable	M	SD	Cronbach α
Perceived cleanliness	3.42	0.89	.86
Physiological needs satisfaction	4.01	0.68	.84
Safety satisfaction	3.89	0.73	.81
Emotional well-being	3.76	0.79	.86
Social well-being	3.71	0.82	.88
Psychological well-being	3.84	0.75	.82
Sense of community	3.49	0.91	.90
Life satisfaction	3.89	0.84	.87

The correlation matrix shown in Table 2 demonstrates that perceived cleanliness was consistently and moderately positively associated with all indicators of well-being. These correlations were statistically significant, suggesting that cleaner perceived environments tend to be associated with greater satisfaction of basic psychological needs, increased emotional stability, enhanced social connectedness and higher overall life satisfaction. This pattern is consistent with environmental psychology literature indicating that physical order, cleanliness and perceived environmental quality function as cues that promote psychological safety, belonging and prosocial motivation (e.g., Giorgi, 2017; Wang et al., 2019; 2024).

Table 2:

Zero-order correlations between perceived cleanliness and well-being variables

(all correlations $p < .001$)

	Physiol.	Safety	Emotional	Social	Psychol.	Life sat.
Cleanliness	.42	.38	.35	.31	.33	.29

Collectively, the methodological approach and analyses used in this study provide a robust basis for examining the psychological relevance of environmental cleanliness. The integration of validated measures, a sufficiently large and diverse sample and multiple statistical techniques ensures that the findings reliably reflect the associations between environmental perception and subjective well-being in the Slovenian population.

The present findings provide consistent support for the core assumption that perceived environmental cleanliness is psychologically meaningful and systematically related to psychosocial functioning in everyday residential contexts. Across all assessed domains included in the correlation matrix, perceived cleanliness showed small-to-moderate to moderate positive associations with well-being and life satisfaction, with coefficients ranging from .29 to .42. In practical terms, this pattern indicates that perceived cleanliness is not a peripheral or merely aesthetic feature of the environment, but rather a cue that co-varies with basic need satisfaction, perceived safety, affective stability and social connectedness. These associations are theoretically coherent with integrative models of pro-environmental behaviour that emphasise the interaction between cognitive appraisals, social context and normative engagement (Ajzen, 1991, 2020; Schwartz, 1977; Steg & Vlek, 2009).

From the perspective of the Theory of Planned Behaviour (TPB), perceived cleanliness may be interpreted as a contextual signal that influences both attitudes and perceived behavioural control. Environments experienced as clean and well maintained likely encourage more favourable evaluations

of collective environmental practices, such as waste separation, because these practices appear socially validated and embedded in a functioning community (Ajzen, 1991). At the same time, cleaner environments plausibly enhance perceived control: when people experience their surroundings as organised and predictable, they may also perceive environmental behaviours (e.g., correct waste sorting) as more manageable and effective. In TPB terms, this strengthens the belief that “I can do this” and “it makes sense here,” both of which are known antecedents of intention and behavioural consistency (Ajzen, 1991, 2020; Pouya & Niyaz, 2022).

The Norm Activation Model (NAM) offers a complementary interpretation by emphasising moral and responsibility-based processes. Clean, orderly neighbourhoods can be experienced as evidence of shared norms and mutual care; such contexts may increase awareness of collective consequences and strengthen personal responsibility for maintaining communal quality (Schwartz, 1977). The positive association between cleanliness and social well-being is particularly relevant here, as it suggests that clean environments co-occur with stronger social connectedness and, potentially, higher receptivity to injunctive norms (what people ought to do) and descriptive norms (what people typically do). Prior work supports the notion that moral norms and responsibility attribution are stronger when the social and environmental context signals order, predictability and reciprocity (Tan et al., 2023; Wang et al., 2019; 2022). Thus, the present results are consistent with a norm-based pathway in which environmental quality reinforces the psychological and social foundations of collective responsibility.

Importantly, cleanliness was most strongly related to physiological needs satisfaction and safety. This pattern is theoretically meaningful because basic security appraisals serve as a foundation for higher-order functioning and constructive engagement. When basic needs are satisfied and safety is salient, individuals typically have more cognitive and emotional resources to sustain prosocial routines and community-oriented behaviours. Conversely, environments perceived as unclean may signal disorder or neglect, which can undermine perceived safety and reduce willingness to invest effort in collective goods. In environmental psychology terms, perceived disorder may shift attention away from long-term communal goals toward immediate coping. This perspective resonates with integrative accounts emphasising that behavioural change is more likely when the environment supports a stable sense of control, coherence and feasibility (Steg & Vlek, 2009).

The correlations between cleanliness and emotional well-being also invite interpretation through contemporary cognitive mechanisms. One plausible pathway involves reduced cognitive load and better affect regulation in orderly environments. When everyday surroundings are experienced as predictable and well maintained, individuals may be less exposed to irritants and ambiguity, which supports emotional balance and reduces the likelihood of disengagement. This is compatible with evidence that emotional processes are integral to environmental decision-making and meaning-making (Giorgi, 2017) and that affective states can shape receptivity to prosocial cues (Du et al., 2023). A second pathway concerns self-consistency processes: when individuals view themselves as responsible community members, living in a visibly clean environment may reinforce identity-congruent behaviour, whereas environmental neglect could create cognitive dissonance or learned disengagement (Festinger, 1957; Levy, 2018). While the present data are correlational and cannot adjudicate between mechanisms, the observed pattern is consistent with the idea that environmental cues contribute to psychological readiness for sustainable routines.

The association between cleanliness and psychological well-being further suggests that perceived environmental quality may be related to broader experiences of meaning, coherence and personal growth. Clean environments may support a stronger sense of environmental mastery and agency, which is conceptually aligned with self-efficacy theory (Bandura, 1997). In the context of waste separation, perceived competence matters: people engage more consistently when they feel capable and when environmental systems are easy to navigate. Habit formation is likewise relevant, as stable behavioural routines become more likely when the environment provides consistent cues and reduces complexity (Keller et al., 2011). The present pattern therefore supports a multi-mechanism account in which environmental cleanliness is intertwined with both affective functioning and perceived competence—two conditions that are repeatedly implicated in the maintenance of everyday sustainable behaviour (Bandura, 1997; Gkargkavouzi et al., 2019).

With regard to the predefined hypotheses, the correlational results provide support for H1–H5 and H7. Specifically, perceived cleanliness was positively associated with physiological needs satisfaction (H1), safety (H2), emotional well-being (H3), social well-being (H4), psychological well-being (H5) and

global life satisfaction (H7), with statistically significant correlations reported in Table 2. The status of H6 (association between perceived cleanliness and sense of community/neighbourhood connectedness) cannot be conclusively stated based on the currently reported correlation table, because the relevant coefficient is not shown there. If the correlation (or group comparison/ANOVA) with sense of community is included in the results section, H6 can be evaluated in the same manner (Peterson et al., 2008).

Several limitations should be acknowledged. First, the design is cross-sectional and relies on self-report, which prevents causal inference and may be influenced by common-method variance. It remains possible that higher well-being leads individuals to perceive their environment as cleaner, or that unmeasured third variables (e.g., neighbourhood socioeconomic conditions, municipal services) influence both cleanliness perceptions and well-being. Second, perceived cleanliness was measured with a short scale; future work should combine subjective appraisal with more objective indicators (systematic observation, municipal cleanliness indices, or geospatial environmental quality measures). Third, while the study is theoretically situated in the context of pro-environmental behaviour and waste separation, behavioural measures were not directly analysed in the present results section. This is an important next step, as the proposed TPB–NAM pathways would be most compelling if cleanliness perceptions were tested as predictors of recycling intentions and behaviour, ideally in longitudinal or multilevel designs (Ajzen, 1991, 2020; Klöckner, 2013).

Despite these limitations, the findings add value by demonstrating that perceived cleanliness is consistently linked to a broad set of psychosocial outcomes that are theoretically relevant to pro-environmental engagement. The pattern strengthens the argument that sustainable behaviour should not be framed solely as an informational deficit or an individual moral choice. Instead, it appears embedded in the lived experience of place: environments that are perceived as clean, safe and socially cohesive may create the psychological preconditions—agency, well-being, connectedness and norm salience—under which pro-environmental routines can be adopted and maintained. This integrative interpretation directly motivates the practical implications outlined in the next section, where intervention strategies are framed to address cognitive, moral and contextual determinants simultaneously (Ajzen, 1991, 2020; Schwartz, 1977; Steg & Vlek, 2009).

Practical implications: designing effective interventions

Drawing on the theoretical frameworks and empirical evidence presented above, several practical strategies emerge for promoting waste separation and other pro-environmental behaviours. First, communication should combine rational and moral elements. Rather than relying solely on procedural instructions, messaging should connect waste separation to consequences for community health and environmental quality. When individuals understand that proper sorting reduces contamination, prevents the spread of pests and ensures cleaner air and water, their sense of responsibility increases. When such messages simultaneously affirm that individuals are capable of making meaningful contributions, perceived behavioural control is strengthened.

Second, interventions should be context-specific. Messages grounded in local environmental conditions—such as risks associated with improperly handled organic waste in urban areas or the impact of plastic waste on local water sources—are more personally relevant and more likely to activate moral norms.

Third, infrastructure must support ease of action. Waste separation increases when bins are clearly labelled, colour coded and intuitively placed. Such cues reduce cognitive load and facilitate habit formation. When behaviour becomes automatic, long-term sustainability is more likely.

Fourth, positive reinforcement enhances intrinsic motivation. Acknowledging correct waste sorting through community feedback, signage or digital notifications fosters a sense of contribution and strengthens long-term behavioural commitment.

Finally, community-based strategies amplify the power of social norms. When environmentally responsible behaviour is visible and socially recognised, individuals feel part of a collective effort. Public recognition schemes, neighbourhood challenges and partnerships with local institutions create social environments in which pro-environmental behaviours become normative, valued and expected.

These combined strategies reflect the integrated nature of the psychological mechanisms that support sustainable behaviour. Effective interventions must therefore be multifaceted, addressing cognitive, emotional, moral and environmental determinants simultaneously.

Conclusion

Pro-environmental behaviour is shaped by a complex interplay of rational evaluation, moral obligation, emotional experience and environmental cues. The Slovenian study demonstrates that perceived cleanliness strongly influences multiple forms of well-being and social cohesion, which in turn enhance readiness for sustainable behaviour. The integration of the Theory of Planned Behaviour, the Norm Activation Model and contemporary cognitive mechanisms offers a comprehensive framework for understanding and promoting such behaviour.

Sustainable transformation requires more than information: it requires environments that make responsible behaviour easy, meaningful and socially reinforced. When individuals feel that their actions matter, when moral norms are activated and when communities support collective engagement, pro-environmental behaviour becomes not merely a choice but a shared cultural practice.

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Activating building renovation by understanding end-users' priorities in Slovenia

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Abstract

This paper presents the study of identification of worst-performing residential buildings in Slovenia based on over 83,000 energy performance certificates (EPCs) issued in Slovenia between 2013 and 2022 in order to assess the technical renovation potential. Socially acceptable renovation potential was investigated by a poll among households (2018, 2019, 2022) on the importance of building and dwelling features relevant in transformation of the existing building to nZEB/ZEB level. The ranking of buildings from worst-performing groups (per primary energy) in more detailed nine energy classes reflecting building envelope energy efficiency and heat demand showed that (inefficient) energy classes D to G appear not only in old inefficient buildings with high primary energy but also in groups of buildings with better primary energy performance, i.e. using renewable energy sources may blur the actual building condition. In the interval between 50th and 75th percentile per primary energy 61% of buildings are suitable for implementation of cost-effective measures reducing heat demand. The study demonstrated that there are significant renovation opportunities for nZEB/ZEB renovation also in buildings other than worst-performing ones per EPBD definition. Moreover, renovation measures reducing heat demand (“energy efficiency first” principle) lead to multiple co-benefits for end-users. Renovation measures not only reduce energy demand and energy costs, but they also improve thermal comfort, indoor air quality, daylight comfort, enable smart house performance as well as they may introduce eco-friendly and low carbon materials. The poll results showed the importance of these dwelling features was rated 4 and above on a 1 to 5 grade scale of personal importance. The high relevance of the co-benefits of energy renovation measures offers numerous possibilities for targeted promotion of nZEB/ZEB renovation. Targeted incentives, matching technical energy saving potential and homeowners priorities, may enhance the national progress in green transition of the residential building stock by 2050.

Keywords: building renovation, energy performance certificate, residential buildings, worst-performing buildings, energy efficiency first, renovation co-benefits, end-user preferences, renovation triggers

Introduction

With the revised Energy Performance of Buildings Directive (EPBD) (Directive (EU) 2024/1275) EU traced the way towards a highly energy efficient and decarbonized building stock by 2050. From 2030 all new buildings will have to comply with zero-emission building (ZEB) threshold. Existing buildings shall be transformed into ZEBs by 2050, according to the national building renovation plans and trajectories for progressive renovation of the residential building stock. Hence, deep renovation shall lead to ZEB. ZEB means a building with a very high energy performance, requiring zero or a very low amount of energy, producing zero on-site carbon emissions from fossil fuels and producing a very low amount of operational greenhouse gas (GHG) emissions. The EU building renovation rate shall be increased from 0.5 % to 3 % per year. The national trajectories (aiming at 16 % primary energy reduction by 2030, 20 % to 22 % by 2035, and decarbonized building stock by 2050), shall also prioritize the renovation of the 43 % worst-performing residential buildings, that should contribute at least 55 % of the decrease in the average primary energy use. Thus, the national EPBD implementation challenge is to define the worst performing residential buildings, to enforce the implementation of energy efficiency first principle in renovation and to understand the attitude of the end-users and residential building owners to building and dwelling quality, so that the opportunities for renovation potential can be properly recognized and supported to meet 2050 target.

By 2030 the Slovenian Long-Term Renovation Strategy (LTRS 2020) (European Commission, 2025a) (a new National building renovation plan is expected in 2026) has already planned 70 % reduction of GHG emissions in buildings compared to the year 2005, 66 % of energy supply from renewable energy sources (RES) and the transformation of 36 % of residential buildings into nearly-zero energy buildings (nZEB). In the following years, neither the renovation rate nor the energy savings achieved met the targets. More recently, the National Energy and Climate Plan (NECP) for Slovenia (2024) (European Commission, 2025b) demonstrated that only 42 % of residential buildings was subject to deep renovation by 2024 (i.e. renovation measures reducing energy demand and replacement of fossil fuels with RES) and set a new 2030 target, where deep renovation shall cover 66 % of the residential building stock, in addition the renovated buildings shall meet nZEB standard (ZEB after 2030).

To support the renovation process and thus follow the revised EPBD and national targets a more accurate assessment of the technical energy saving potential in the national building stock is needed (Stegnar, 2025). Therefore, this research evaluates the building stock with a bottom-up approach originating from the national database of energy performance certificates (EPCs) and aims at providing better insight into defining worst performance buildings based on available energy performance indicators in EPCs. Worst performing buildings are not only the ones exhibiting high primary energy use, also buildings with medium and low primary energy use (i.e. buildings heated by wood biomass or buildings with PV system) may have high energy demand and low thermal comfort.

Renovation measures reducing energy demand for heating (i.e. “energy efficiency first” principle) lead to multiple benefits for end-users - not only do they reduce energy demand and energy costs, but they improve thermal comfort, indoor air quality, daylight comfort, enable smart house performance and trigger the application of eco-friendly and low carbon materials.

Although the cost effectiveness of renovation measures has been proven (Filipidou and Jimenez Navarro, 2019), their social acceptability is largely related to co-benefits of renovation (Ferreira et al., 2017) in particular to accompanying impacts on the building performance. Straub and Mlecnik (2014) found that nZEB renovation adopters in the Netherlands are typically older, highly educated, higher-income homeowners who prioritize dwelling quality, comfort, energy performance, and trust in professional advice. The EU study on building energy renovation (Hermelink et al., 2019) investigated the main triggers for consumer-led energy renovation. The most important drivers were financial factors (e.g., newly available budgets from savings or inheritance), personal co-benefits (such as addressing shortcomings that may negatively affect health), and maintenance or repair needs.

Understanding the importance of renovation co-benefits for homeowners is a prerequisite for developing targeted incentives that align technical energy-saving potential with end users’ renovation priorities, thereby supporting national progress toward the green transition of the residential building stock by 2050. Accordingly, the second part of this study examines homeowners’ attitudes toward the co-benefits of building renovation arising from measures aimed at reducing energy demand.

Materials and methods

Technical energy renovation potential

From 2013-2022 over 83,000 EPCs were issued in Slovenia, 93% are calculated EPCs (based on methodology in PURES 2010 building code (Pravilnik, 2010), where current rating is based on energy need for heating per conditioned floor area ($Q_{h,nd}/A_k$) as follows: energy class A1 up to 10 kWh/(m².a), A2 from 10 to 15 kWh/(m².a), B1 from 15 to 25 kWh/(m².a), B2 from 25 to 35 kWh/(m².a), C from 35 to 60 kWh/(m².a), D from 60 to 105 kWh/(m².a), E from 105 to 150 kWh/(m².a), F from 150 to 210 kWh/(m².a) and G above 210 kWh/(m².a), while the specific final energy (Q_f/A_k), primary energy (PE/A_k) and operational carbon emission (CO_2/A_k) are given as non-rated numerical indicators.

To identify the worst-performing residential buildings in Slovenia, highlighted as the first for renovation, the study focused the EPCs issued for a residential building as a whole, whereas EPCs issued for building parts (e.g. for individual apartments and other building units) are less representative and were withdrawn from this analysis. The aim of the analysis was to obtain relevant threshold of building energy performance identifying the technical potential for deep renovation. Before progressing to statistical analysis of energy performance indicators the database of EPCs was subject to data cleaning and plausibility check (Manso-Burgos et al., 2023).

In the data base with 19,100 EPCs (EPCs in the residential sector, issued for a building as a whole, following to the plausibility check the entries with PE/A_k above 1,000 kWh/(m².a) were excluded) the median, upper and lower quartiles, as well as the 85th percentile were determined for the four above-mentioned indicators in EPCs (Fig. 1).

The thresholds expressed in primary energy (PE/A_k) and energy need for heating ($Q_{h,nd}/A_k$) define building energy performance categories as well as the associated technical energy-saving potential, thereby enabling a more detailed identification of renovation opportunities.

In the study all residential buildings were firstly ranked per primary energy use (PE/A_k). The approach is in line with the revised EPBD (2024) requirements set with a (new) EU wide EPC template, that shall specify the energy performance class of the building on a closed scale from A to G, where the new class G shall correspond to the very worst-performing buildings in the national building stock at the time of the introduction of the scale and new class A corresponds to ZEB. Assuming the application of two reference points approach (EN ISO 52003-1) for positioning of (future) primary energy classes of residential building stock, the border between D and E will reflect median of PE of the residential building stock with EPCs.

Although primary energy is considered as the most comprehensive indicator reflecting the potential for decarbonization of the building stock, the renovation of a building for technical, functional, and economic reasons begins with energy efficiency measures reducing energy needs. In this study, the potential of the latter is reflected by energy need for heating and by current national ranking of buildings in EPCs from 2013-2022 period (current energy class A-G), respectively.

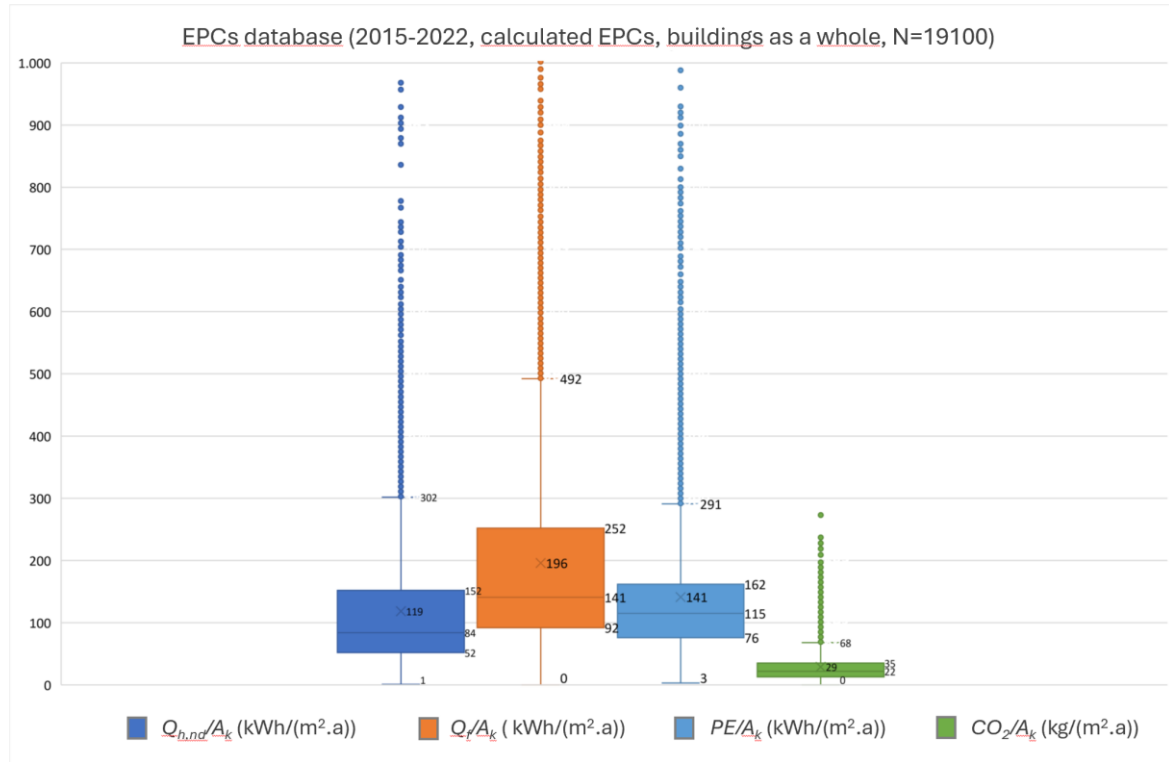


Figure 1. Statistical analysis of EPCs database (calculated EPCs, 2015-2022, N=19,100) for energy need for heating ($Q_{h,nd}/A_k$), final energy (delivered energy of technical building systems) (Q_f/A_k), primary energy (PE/A_k) (all in kWh/m².a) and operational carbon emissions (CO_2/A_k) (in kg/m².a) per conditioned floor area (A_k).

Socially acceptable renovation potential

To assess apartment users' attitudes toward the importance of dwelling features, a questionnaire was developed targeting current and potential future users of nearly zero-energy buildings (nZEBs), including both new constructions and renovated buildings compliant with the nZEB standard. The objective of the survey was to capture end users' perceptions of the importance of various dwelling features, based on the assumption that renovation measures are more likely to be implemented when they contribute not only to energy savings but also to improved indoor environmental quality (thermal, visual, and acoustic comfort, and indoor air quality), quality of life, and real estate value. E.g. the installation of energy-efficient windows and mechanical ventilation with heat recovery are examples of such relatively expensive measures, for which multiple co-benefits beyond energy savings act as triggers for investment.

The survey on the importance of building (energy) renovation co-benefits was performed in the frame of EU project CoNZEBs in four participating countries (Germany, Italy, Denmark and Slovenia) (Šijanec Zavrl et al., 2019). This study is focused on the poll done in Slovenia. The questionnaire included a set of standardized questions addressing nZEB technologies, co-benefits of renovation and preferred dwelling features:

- What is important for you as an apartment user?
- Which technologies characterize most nZEBs?
- What are the decision triggers for living in an nZEB?
- Age group of the interviewed end-user
- What type of building do you currently live in?
- Was your building recently energy renovated?

English questionnaire was available via the project web site (Fraunhofer IBP, 2025), while the partners used the adapted versions translated into the national languages. The questionnaire was developed and pilot-tested at the EU level by the project team and subsequently applied in the participating countries. As this research aims to improve understanding of end users' priorities regarding dwelling features and renovation co-benefits, particular emphasis was placed on two questions: “*What is important for you as an apartment user?*” and “*What are the decision triggers for living in an nZEB?*” The respondents selected their answers from a predefined closed list and rated the importance of each dwelling feature or a trigger for nZEB on a five-point scale (1 = least important, 5 = most important). The underlying assumption is that the more important a feature is perceived to be, the more likely it is that related renovation measures will be implemented, and the more effective it is to initiate building energy renovation around such a trigger.

In Slovenia, the survey was conducted in 2018 (February – May) and combined direct mailing (to 498 recipients of regular mail and e-mail) with printed questionnaires provided to the interested end users during the meetings of building owners, end-users, housing organizations and building managers, as well as during energy advisory sessions for home renovation. Participation in the survey was voluntary, and all responses were anonymized.

In 2019 and 2022, the core questions from the survey were incorporated in the periodic national research on household energy efficiency REUS, conducted as an online survey by Informa Echo (Poročila REUS, 2025).

Results and discussion

Technical energy renovation potential

For residential buildings, the revised EPBD provisions require setting of national trajectories for building renovation with intermediate binding targets in 2030, 2035 and 2050 and with a requirement to prioritize the renovation of the 43 % worst-performing residential buildings, that should contribute at least 55 % of the decrease in the average primary energy use. The definitions of worst-performing buildings are country specific. In the existing LTRs either building age, energy class or energy consumption is used for characterization and as reported in JRC study (Castellazzi et al., 2023), the national thresholds differ significantly. Slovenian building renovation plan transposing EPBD requirement is due in 2026.

Based on 19,100 calculated EPCs for residential buildings as a whole, issued from 2013 to 2022, the median, upper and lower quartiles and the 85th percentile are given in Tab. 1. In line with 2025 revision of EPBD the buildings in (future) class G with primary energy (PE/A_k) above 226 kWh/(m².a) (85th percentile) should be renovated primarily, as they are considered as worst performing buildings.

But since the renovation should be comprehensive (to meet nZEB/ZEB standard and decarbonisation by 2050), the worst performing renovation candidates are also the residential buildings with PE/A_k above 162 kWh/(m².a) (upper quartile) and even the buildings with PE/A_k is above median (115 kWh/(m².a)) of the stock, if they at the same time exhibit high annual specific energy need for heating ($Q_{h,nd}/A_k$). The latter is ranked in energy classes on current Slovenian EPCs, where (current) classes A1, A2 and B1, B2 comply with the buildings code (PURES 2022) (Pravilnik, 2022) and (current) class C corresponds roughly to previous building code (PURES 2010). The buildings ranked in (current) classes D to G are old existing buildings, with poorly insulated thermal envelope, excessive ventilation heat losses and bad thermal comfort. They exhibit large energy saving potential and at the same time once renovated the end-users may expect various co-benefits of the interventions, like better thermal comfort, better indoor air quality and less air draft, better daylighting conditions, lower operational and energy costs.

Table 1: Statistical analysis of energy related indicators in EPCs for a building as a whole, issued in Slovenia in 2013-2022 (N=19,100); annual specific energy need for heating ($Q_{h,nd}/A_k$), final energy (Q_f/A_k), primary energy (PE/A_k) (kWh/(m².a)) and operational carbon emissions (CO_2/A_k) (kg CO₂/(m².a)).

Statistical parameter	$Q_{h,nd}/A_k$ (kWh/(m ² .a))	Q_f/A_k (kWh/(m ² .a))	PE/A_k (kWh/(m ² .a))	CO_2/A_k (kg CO ₂ /(m ² .a))
Median	81	141	115	22
Lower quartile	50	92	76	13
Upper quartile	137	252	162	35
85 th percentile	180	334	226	50

The above PE/A_k values demarcate the borders between pools of buildings with successive renovation priority. It must be pointed out that in existing EPCs (2013-2022) PE/A_k is calculated from final energy (Q_f/A_k) per energy carriers and corresponding to (PURES 2010) non-renewable primary energy factors (except for electricity where the national factor of 2.5 correspond to both, renewable and non-renewable part). In case of buildings with renewable energy sources (RES), primary energy (PE) in EPCs is significantly lower comparing to PE in buildings with prevailing fossil fuel, the latter on the other hand exhibit high PE and are often aligned in worst-performing buildings. However, the energy efficiency of the building and its components is far better reflected by energy need for heating ($Q_{h,nd}/A_k$) (or by the energy class in Slovenian EPCs) than by PE/A_k .

The analysis of the energy need for heating ($Q_{h,nd}/A_k$), ranked currently in nine energy classes of Slovenian EPCs, indicates the potential to reduce energy need for heating according to energy efficiency first principle. In Fig. 2 three groups of worst-performing buildings, separated by 50th, 75th and 85th percentile of PE/A_k indicated in EPCs, are presented, where the corresponding medians of $Q_{h,nd}/A_k$ (68, 94 and 147 kWh/(m².a), respectively) show also the growing potential for envelope thermal insulation, windows replacement and ventilation heat recovery measures in buildings with higher PE/A_k . Buildings with PE/A_k below median are added for comparison.

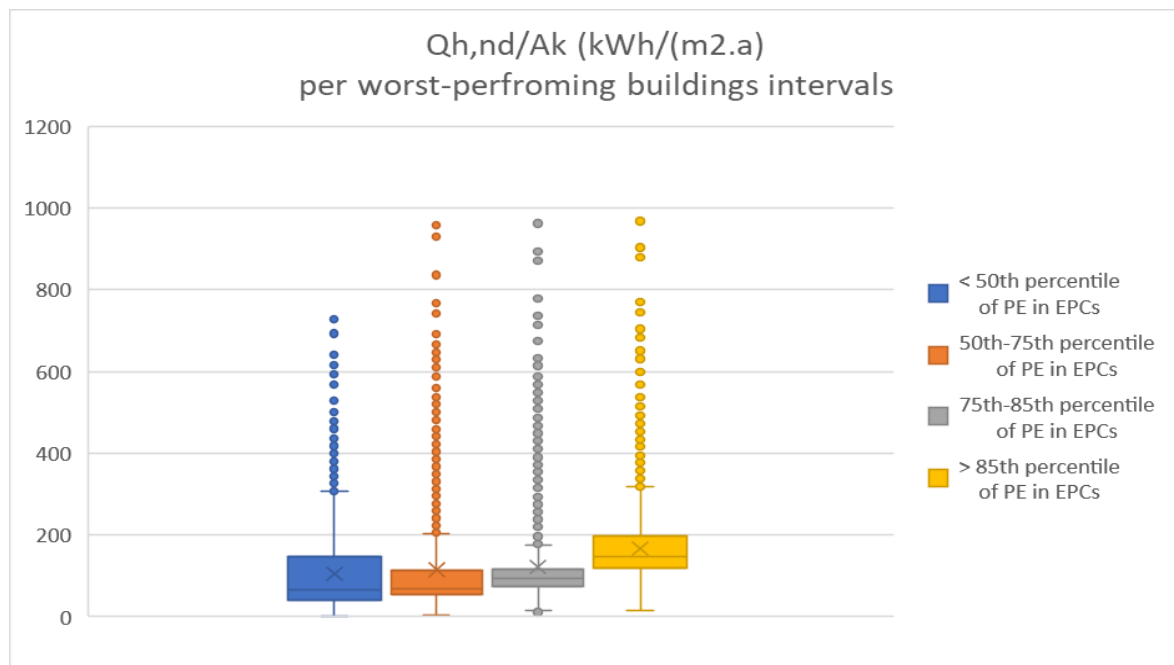


Figure 2: Energy need for heating ($Q_{h,nd}/A_k$), data from EPCs (2013-2022), statistically elaborated in each of three groups of worst-performing buildings, formed based on PE data indicated in EPCs.

Figure 3 presents the ranking of buildings across the nine current EPC energy classes. Ranking is presented individually for three worst-performing groups and the remaining buildings, delimited with the 50th, 75th and 85th percentile of PE/A_k . In the worst 15% of the buildings stock (above the 85th percentile of PE/A_k) 96% of buildings are ranked in D-G energy class, i.e. the buildings are inefficient,

with non-insulated thermal envelope and this the candidates for energy renovation. However, also the buildings in classes D to G within the 75th–85th percentile range of primary energy (PE/A_k) indicate that 87% of the stock is suitable for the implementation of cost-effective measures to reduce heat demand (61% of buildings are ranked D to G in the range between 50th–75th percentile of PE/A_k).

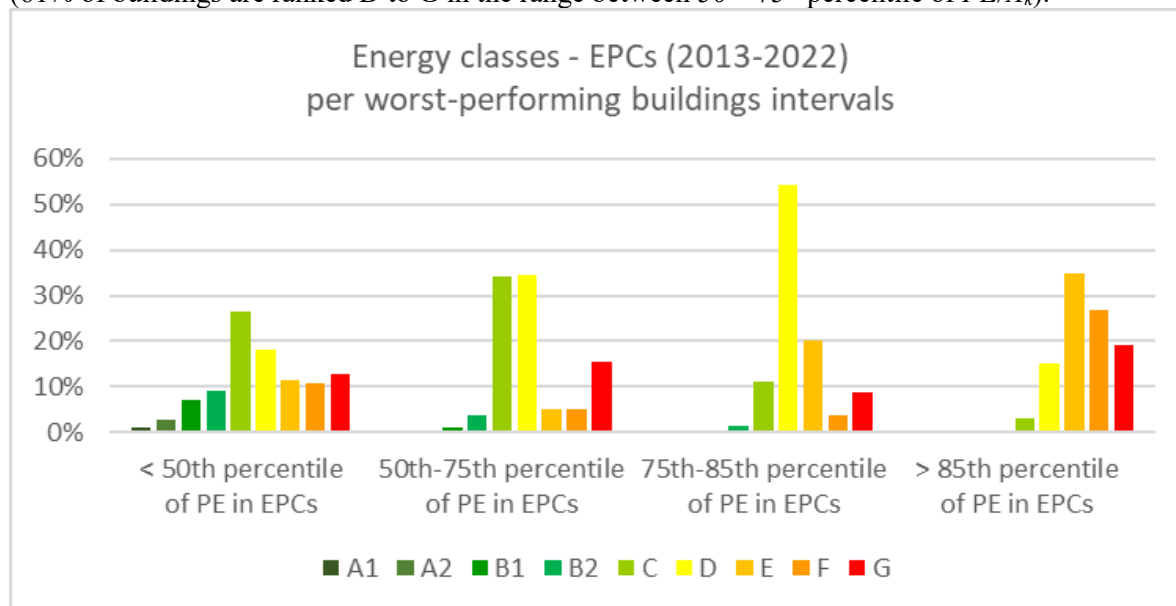


Figure 3: Distribution of energy classes in three worst-performing groups of buildings from EPCs (2013-2022).

Socially acceptable renovation potential

Altogether 97 Slovenian respondents completed the questionnaire in 2018 (8% of responses originated from direct mailing, while 92% of responses came from interviews at meetings with renovation stakeholders).

Questionnaires were delivered via email to the end-users of nZEB situated in Ljubljana (in ownership of Housing fund of the Republic of Slovenia – SSRS) and to end-users of ECO Silver House (an nZEB high-rise). From both sources only 8 responses out of 498 requests were received. Therefore, questionnaires were applied also in structured interviews with participants at meetings with building owners, tenants, end-users, housing organizations and building managers, and as well as during energy advisory sessions for home renovation. Personal approach to the survey turned out to be far more successful than direct mailing.

Demographic structure of 2018 survey revealed that 12% out of 97 respondents were young adults, 23% young families, 44% middle-aged people and 19% seniors (1% other). Moreover, only 7,2% of respondent live in nZEB buildings, while 92,8% of respondents live in various existing buildings. From respondents living in existing buildings 21% live in contemporary buildings build after 2002, 30% in buildings built between 1981 – 2001, and 45% live in old buildings built before 1980. 48% of existing buildings have not been energy renovated yet, 34% have been partly renovated and 18% fully renovated. In the Fig. 4 the representation of respondents' age groups is given for 89 potential users of nZEBs and for 8 current nZEB users. Most of respondents (92,8%) are potential NZEB users, currently living in existing buildings, the belong to middle-aged group (48%), followed by young families (24%), seniors (16%) and young adults (11%).

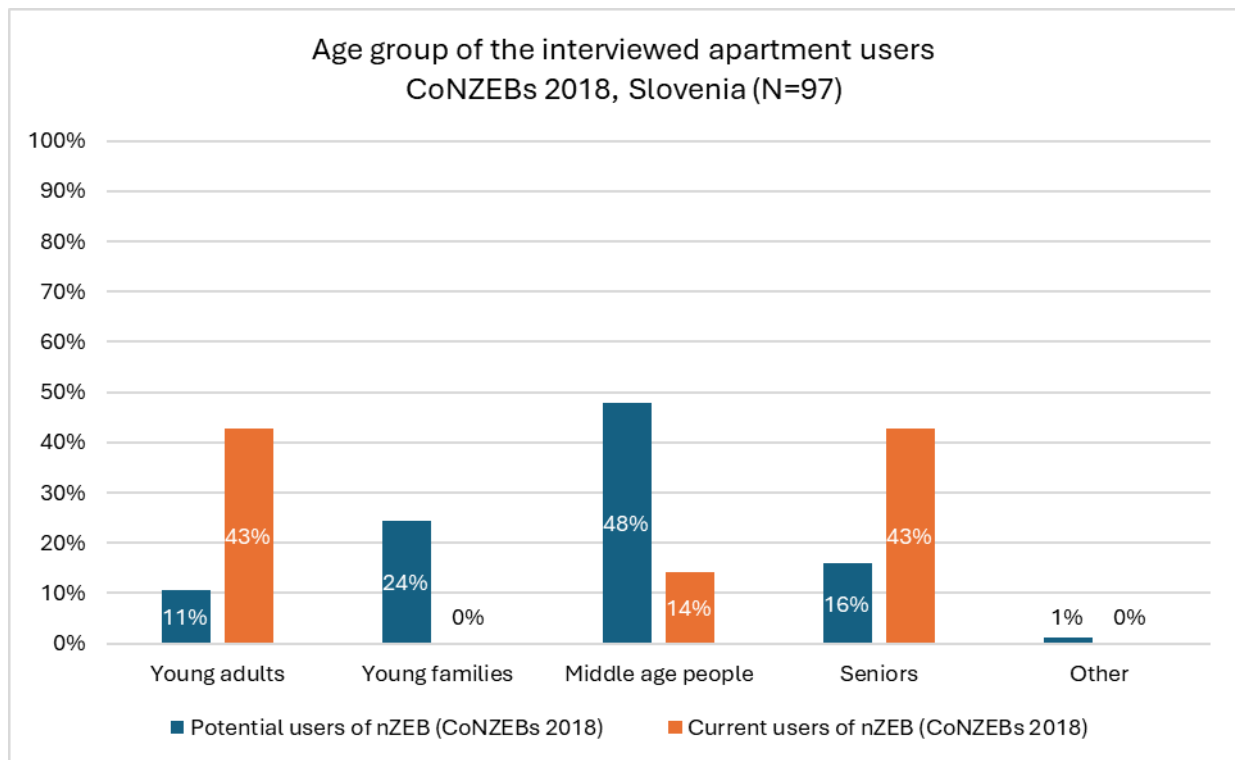


Figure 4: Distribution of respondents (N = 97) per age groups in 2018 survey (CoNZEBs 2018), presented per respondents are current users of nZEB (N = 8) and respondents (from existing buildings) potential future users of nZEBs (N = 89).

Due to the limited sample size of the 2018 CoNZEBs survey, the results should be interpreted with caution and validated through subsequent surveys in the coming years. In 2019 and 2022, the core questions from the 2018 survey were incorporated into the national research on household energy efficiency conducted by Informa Echo (Poročila REUS, 2025). These surveys employed a standardized online survey methodology and probability-proportional stratified sampling (REUS 2019, N = 1,002; REUS 2022, N = 1,013). The results of the 2018 CoNZEBs survey for the group of potential NZEB users are comparable with the findings of the REUS 2019 and 2022 polls (Table 2).

Figure 5 presents the perceived importance of dwelling features based on the 2018 CoNZEBs survey, comparing the prevailing group of potential NZEB users (currently living in existing buildings) with the smaller group of current NZEB users. The most important dwelling features identified by respondents are those related to energy and maintenance costs, as well as comfort aspects associated with improved indoor environmental quality (indoor air quality, thermal comfort, visual comfort through daylighting, and use of healthy finishing materials) in NZEBs and energy-renovated buildings. These findings provide a basis for targeted promotion of building renovation by emphasizing the co-benefits associated with improved living conditions alongside energy savings.

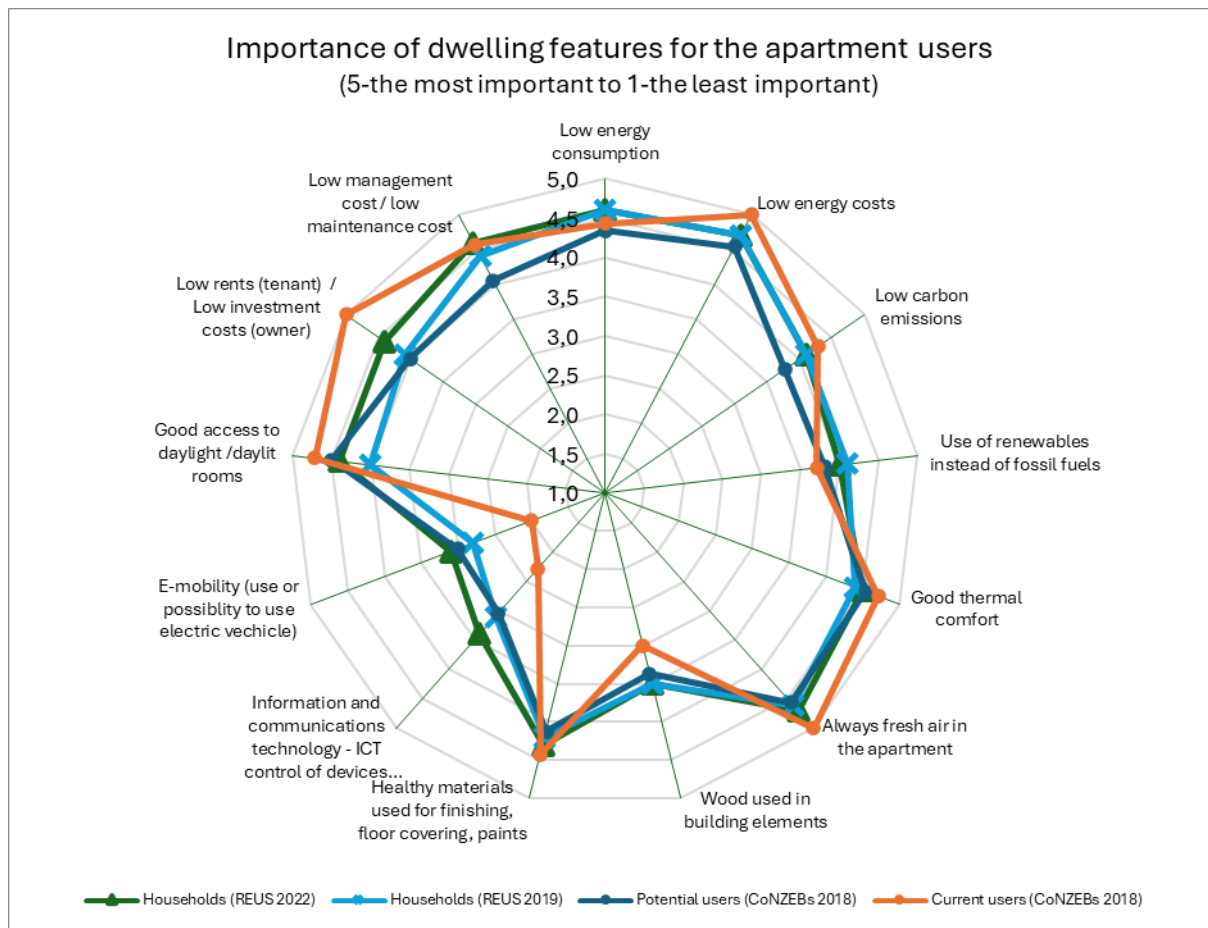


Figure 5: Importance of dwelling features for the apartment users (survey 2018, 2019, 2022).

Figure 6 presents the opinion of participants in the 2018 CoNZEBs survey on the importance of the decision triggers for living in nZEBs, i.e. either in new nZEBs or in energy renovated buildings). The most important triggers are the ones related to costs (rent or purchase costs and energy costs) and value of the energy efficient real estate, indoor environmental quality (thermal comfort and indoor air quality) and the location of (new) nZEB, where relevant. Again, the exposed triggers for living in nZEB can be used to promote nZEB renovation and present the multiple benefits of energy efficient buildings beyond the energy use, CO₂ and costs reduction.

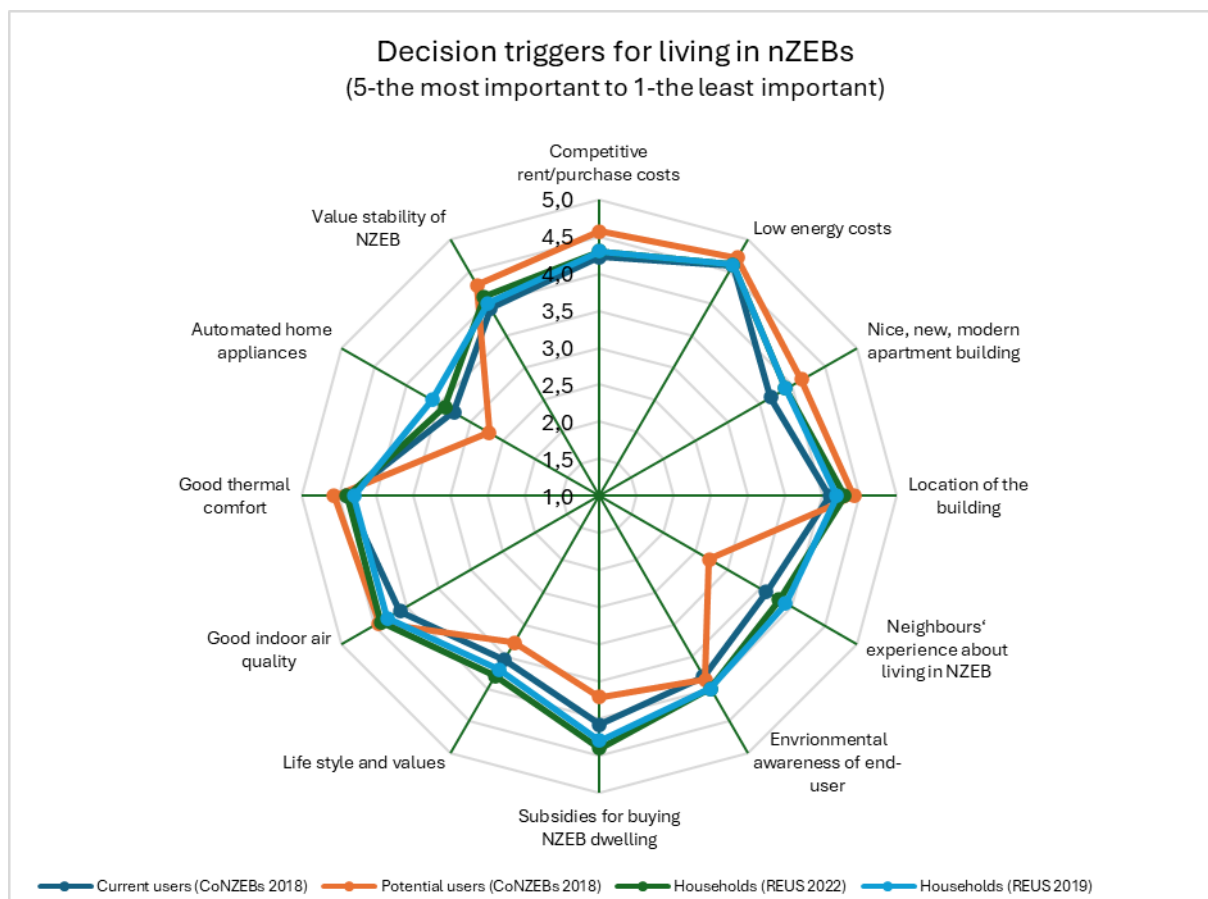


Figure 6: Decision triggers for living in nZEBs (moving from existing dwelling into nZEB due to various expected benefits of living in an nZEB), (survey 2018, 2019, 2022).

Policy recommendations

According to the Slovenian Long-Term Renovation Strategy (LTRS, 2020) and the National Energy and Climate Plan (NECP, 2024), existing buildings should be renovated at a minimum annual rate of 3%, with priority given to the worst-performing buildings. However, the definition of such buildings is left to the Member States, which are responsible for establishing national trajectories for the progressive reduction of primary energy use in the existing residential building stock in order to achieve the 2050 decarbonisation target.

This study demonstrates that the correlation between heating energy demand and primary energy use in existing buildings is weak. Consequently, renovation strategies should not focus solely on buildings with high primary energy consumption, but also on those with high heating energy demand. Deep renovation targeting nZEB standard should follow the “energy efficiency first” principle. To effectively reduce heating energy demand, renovation measures on the building envelope—such as thermal insulation, installation of energy-efficient windows, and controlled ventilation with heat recovery—should be implemented prior to upgrading technical building systems and installing renewable energy systems in or near the building.

In practice, end users and homeowners often neglect this principle and opt for less expensive measures with short payback periods; however, the resulting energy savings are insufficient to meet nZEB-level targets. An even greater concern is that such partial interventions may create a lock-in effect, hindering future investments in more comprehensive and effective building envelope renovations.

More important dwelling features – renovation co-benefits and the triggers (Tab. 2) that stimulate end-users to take (investment) decisions towards living in nZEB instead in old inefficient building (i.e. worst performing buildings per EPBD) may play an important role in future promotion of building renovation.

Table 2: Ranking of importance of dwelling features - co-benefits of living in energy efficient home and ranking of importance of decision triggers for living in nZEB, both on a 1-5 scale. Co-benefits and decision triggers with the average importance above 4 are listed, the data originate from the survey CoNZEBs 2018 (N = 89) and are compared with the results from REUS 2019 (N = 1,002), and REUS 2022 (N = 1,002)).

Important dwelling features - co-benefits of renovation (5-the most important to 1-the least important)	CoNZEBs 2018 Current users of nZEB (N = 89)	CoNZEBs 2018 Potential users of nZEB (N = 89)	REUS 2019 (N = 1,002)	REUS 2022 (N = 1,002)
Low energy consumption	4,4	4,3	4,6	4,6
Low energy costs	5,0	4,5	4,7	4,7
Good thermal comfort	4,7	4,5	4,4	4,5
Always fresh air in the apartment	5,0	4,6	4,6	4,7
Healthy materials used for finishing, floor covering, paints	4,4	4,1	4,2	4,3
Visual comfort - daylighting	4,7	4,5	4,0	4,4
Low rents (tenant) / low investment costs (owner)	5,0	4,0	4,1	4,4
Low management cost / low maintenance cost	4,6	4,1	4,4	4,6
Important triggers for living in nZEBs (5-the most important to 1-the least important)	CoNZEBs 2018 Current users of nZEB (N = 89)	CoNZEBs 2018 Potential users of nZEB (N = 89)	REUS 2019 (N = 1,002)	REUS 2022 (N = 1,002)
Competitive rent/purchase costs	4,6	4,2	4,3	4,3
Low energy costs	4,7	4,6	4,6	4,6
Location of the building	4,4	4,1	4,2	4,3
Environmental awareness of end-user	3,9	3,8	4,0	4
Subsidies for NZEB	3,7	4,1	4,3	4,4
Good indoor air quality	4,4	4,1	4,3	4,4
Good thermal comfort	4,6	4,4	4,3	4,4
Value stability of NZEB	4,3	3,9	4,0	4,1

The revised EPBD introduced the One-Stop Shop as a policy instrument to accelerate the renovation of existing buildings by engaging stakeholders across the renovation value chain and providing integrated services to homeowners throughout the renovation process. These services cover the entire renovation journey, from initial information and awareness-raising, through conceptual design, detailed renovation planning and financing, to the execution of renovation works and the post-completion phase.

At all stages of this process, key dwelling features and renovation co-benefits should be actively promoted and communicated. Moreover, both the initial and detailed planning phases should include an assessment of indicators identified as important triggers for choosing to live in an NZEB (new or renovated). This approach enables building owners to better understand the multiple benefits associated with renovation and supports informed investment decision-making based on aspects that are most relevant to them.

The Slovenian national environmental fund, Eco Fund, offers an extensive programme of financial incentives for building renovation, including subsidies for individual energy renovation measures related to the building envelope, technical building systems, and renewable energy technologies, as well as enhanced incentives for comprehensive renovations and soft loans. However, apart from the energy advisory service, where the energy advisors offer free of charge advice on conceptual design of renovation and incentives, the Fund has limited communication and promotion activities in place.

To foster the implementation of “energy efficiency first” principle in subsidised projects the Fund could provide targeted promotion campaign about the co-benefits associated with measures that reduce heating energy demand, such as building envelope retrofits. This research demonstrates that homeowners place the highest value on dwelling features closely related to building envelope renovation and controlled ventilation with heat recovery. Moreover, homeowners identify several key triggers that may significantly influence their decision to live in an NZEB, whether in a newly constructed or renovated building.

Conclusion

This study demonstrates that prioritising building renovation based solely on primary energy use is insufficient, as buildings with moderate primary energy consumption may still exhibit high heating demand and poor thermal performance. By combining EPC-based energy indicators with a more detailed analysis of heating demand and envelope efficiency, a substantially broader pool of technically suitable renovation candidates can be identified. In parallel, survey results confirm that Slovenian homeowners strongly value co-benefits such as thermal comfort, indoor environmental quality, and lower energy costs, indicating that socially acceptable renovation potential is closely linked to perceived improvements in living conditions. Aligning technical renovation strategies with end-user priorities through targeted policy instruments, incentives and communication therefore represents a key lever for achieving EPBD objectives and accelerating the decarbonisation of the national building stock by 2050.

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Assessing the effectiveness of mediation in the slovenian judiciary: comperative perspectives and justification for a mandatory framework

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Abstract

This article assesses the effectiveness of mediation within the Slovenian judicial system through legal, empirical, and comparative lenses. Despite the formal implementation of Directive 2008/52/EC and significant financial support, including from EU funds, mediation remains marginal: only 0.35% of court cases from 2009 to 2024 involved mediation, with a success rate of just 0.14%. The study addresses several research questions, including whether mediation has contributed to the reduction of court backlogs and whether Slovenia should consider adopting a mandatory model similar to Italy's. Empirical analysis is based on court reports, budgetary data, and official statistics, highlighting that despite millions of euros allocated to mediation mainly through EU funding the systemic impact remains marginal. A comparative analysis of the Italian opt-out model, which mandates participation in an initial mediation session, shows that such a system generates over 200,000 mediations annually and achieves considerable reductions in time and cost. Judicial decisions, including the CJEU's ruling in Case C-658/23 (2024), confirm that this approach does not infringe upon access to justice. A simulation of the Italian model's effects in Slovenia suggests the potential for over 1.29 million successful mediations and a cumulative savings of nearly 4 billion €. Based on these findings, the article advocates for a policy shift towards mandatory initial mediation in selected case types and for the re-establishment of institutional support. Mediation should evolve from a symbolic gesture to a structurally embedded element of dispute resolution in Slovenia.

Keywords: mediation; opt-out model; Italian mediation system; legal reform; judicial efficiency

Introduction

Alternative dispute resolution (ADR) has become a central issue within modern judicial systems, particularly in the Member States of the European Union, where for over a decade it has been promoted as a strategic response to the challenges of court backlogs, high litigation costs, and limited access to justice. Within this framework, mediation stands out as the most widespread and extensively studied form of ADR, enabling parties assisted by a neutral third party to reach a peaceful resolution of their dispute without initiating formal court proceedings. The European regulatory framework was established through Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the Directive), whose main objective was to encourage the use of mediation and ensure a balanced relationship between mediation and judicial proceedings. However, implementation analyses of this Directive reveal that most Member States, including Slovenia, have not achieved the intended goals. The average use of mediation in EU courts remains below 1%, indicating that the voluntary model envisioned by the Directive has proven largely ineffective (European Parliament resolution of 12 September 2017 on the implementation of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the 'Mediation Directive'), 2017). Slovenia adopted the Act on Alternative Dispute Resolution in Judicial Matters (ZARSS) in 2009, establishing court-annexed mediation as a systemic solution. Despite the institutional framework, support from the Supreme Court, and occasional financial backing from European sources, empirical data show stagnation and even a decline in the use of mediation. Between 2009 and 2024, Slovenian courts handled over 17 million cases, but only 61,103 mediations were conducted, of which just 24,380 were successfully concluded a marginal figure in the overall judicial context (Findings presented in this article are based on ongoing research conducted within the framework of a doctoral dissertation entitled *Alternative Dispute Resolution in the Slovenian Context through the Lens of the Judiciary*, 2025). The Italian legal system presents a compelling contrast. The introduction of mandatory, so-called opt-out mediation requiring parties to attend an initial mediation session in certain case types has resulted in a high annual number of mediations and significant reductions in both the cost and duration of proceedings ('Rebooting' the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU, 2014).

This Italian practice raises a crucial question for the Slovenian justice system: To what extent could a mandatory mediation model, as adopted by comparable European countries, be integrated into the Slovenian legal framework without undermining the right to judicial protection but rather enhancing it in terms of efficiency and accessibility?

This article first presents the normative framework for mediation in Slovenia and the EU, followed by an empirical analysis of mediation practices in the Slovenian judiciary. A comparative review of the Italian model is then provided, with an assessment of its transferability to the Slovenian legal context. The central research objective of this paper is to offer a critical analysis of the effectiveness of the current mediation system in Slovenia and to advocate for the introduction of a mandatory model that would facilitate broader use of mediation as an effective legal remedy.

For a comprehensive assessment of the effectiveness of mediation within the Slovenian judicial system, it is essential to consider both the legal and empirical dimensions of its implementation. The findings indicate that the voluntary model established through the implementation of Directive 2008/52/EC has not achieved the anticipated level of uptake in Slovenia, raising concerns about the adequacy of the current regulatory framework. Within this context, the paper addresses three key research questions: (1) whether the introduction of a mandatory mediation model could be transposed into the Slovenian legal system without undermining the right to judicial protection perhaps even strengthening it; (2) whether mediation has in practice contributed to the reduction of court backlogs; and (3) what the relationship is between mediation success rates and the costs of its implementation. By engaging with these questions, the paper provides a reasoned basis for considering reform of the current system and substantiates the potential introduction of a mandatory model, inspired by comparable foreign practices.

Theoretical framework and legal basis of mediation

In the European context, the fundamental legal act in this field is the Mediation Directive, whose primary aim is to facilitate access to mediation and to promote its use in civil and commercial matters. The Directive stipulates that Member States should encourage the use of mediation in order to achieve a balanced relationship between mediation and judicial proceedings (Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008, on certain aspects of mediation in civil and commercial matters (the Mediation Directive)). However, subsequent studies have shown that the Directive has failed to meet its objectives. In particular, the goal stated in Article 1 to achieve broader use of mediation has not been fulfilled, as mediation is used on average in less than 1% of court cases (European Parliament resolution of 12 September 2017 on the implementation of Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters (the 'Mediation Directive'), 2017). According to the study *Rebooting the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU*, Italy is the only EU Member State with more than 200,000 mediations per year, which only occurred after the introduction of mandatory mediation in certain cases. The Italian experience shows that mandatory mediation, once considered inadmissible, is now supported by a majority of the population ('Rebooting' the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU, 2014).

The first mediation programme in Slovenia was introduced in 2001 at the District Court in Ljubljana, initially as a pilot project in the field of civil disputes (Alternative Dispute Resolution Bill, 2009). Primary aim of the programme was to test an alternative method of dispute resolution with the goal of reducing court backlogs. Due to the programme's positive results and favourable assessment of its effectiveness, it was later extended to include family and commercial disputes, eventually becoming a regular part of the court's services. The success of the pilot programme encouraged the expansion of mediation to other district courts across Slovenia, so that by the end of 2009, mediation procedures could already be conducted at ten courts (Orešnik, 2011). Mediation, as a form of ADR, represents a response by legal systems to the lengthiness, rigidity, and high cost of traditional court procedures. Slovenia implemented the Directive through two key legal acts: The Mediation in Civil and Commercial Matters Act (ZMCGZ, 2008) and the Judicial Dispute Resolution Act (ZARSS, 2009). ZARSS stipulates that local, district, labour, higher, and higher labour and social courts must enable parties to access ADR, particularly mediation, by establishing and implementing a dedicated ADR programme. Mediation must be mandatorily available to parties, and courts may also implement other forms of ADR. The Act defines two institutional modalities of ADR programme implementation: when the court conducts the programme itself, it is termed a "court-attached programme"; when an external provider carries out the programme under contract with the court, it is referred to as a "court-connected programme" (ZARSS, 2009).

According to international and European human rights law, the right to access to justice is one of the fundamental procedural rights, obligating states to ensure that individuals can assert their rights before a competent authority. In certain circumstances, this authority may include ADR bodies if they provide an effective legal remedy. Thus, access to justice is not merely about formal procedural availability but must allow individuals to effectively assert their substantive human rights. Core elements of this right include effective and unobstructed access to a dispute resolution body, a fair and impartial process, timely decision-making, and access to an appropriate legal remedy. In addition to courts, non-judicial mechanisms such as national human rights institutions, equality bodies, ombuds institutions, or data protection regulators may in some cases fulfil this function. ADR mechanisms such as mediation and arbitration are increasingly recognised as complementary to formal judicial protection and, when appropriately regulated and supervised, may represent an effective alternative means of safeguarding individual rights. In this context, the European Union actively promotes the use of ADR mechanisms, particularly based on the Directive (Handbook access justice, 2016). As Zalar notes, the obligation of courts to provide parties with access to alternative dispute resolution methods significantly contributes to expanding access to adequate legal remedies. At the same time, such statutory provisions aim to reduce court backlogs by diverting fewer complex cases into alternative procedures (Zalar, et al. 2010). Betetto warns that the success rate of mediation must be proportionate to the actual willingness of the

parties to participate. In cases of unsuccessful mediation, not only is its core advantage faster and cheaper resolution lost, but the process may even result in adverse effects such as prolonged dispute resolution and increased costs. Such outcomes run counter to the central principle of mediation: it should not harm the parties, even if it fails to provide benefits (Betetto et al., 2011). While the principle of voluntariness remains a foundational postulate of the mediation institute (ZMCGZ), Slovenian law already provides exceptions where mediation is no longer entirely voluntary. For example, Article 28 of the Free Legal Aid Act stipulates that the applicant must consent to mediation if the opposing party agrees (ZBPP). Article 48.a of the Financial Operations, Insolvency Proceedings and Compulsory Dissolution Act allows the court to refer parties to mediation in insolvency proceedings (ZFPPIPP). The Labour and Social Courts Act requires that a mandatory conciliation procedure be conducted before filing a lawsuit (ZDSS-1). These provisions confirm that absolute voluntariness of mediation is no longer viable in practice. Case law further shows that the principle of voluntariness can no longer be fully implemented, as the will of just one party may suffice to initiate mediation (UPRS Judgment III U 106/2011, 3 June 2011). Despite formal alignment with the Directive, empirical data for Slovenia reveal an exceptionally low rate of mediation use. In contrast, Italy has, through the introduction of the opt-out model which requires mandatory attendance at an initial information meeting, significantly increased the rate of mediation, now encompassing approximately 15% of all civil and commercial disputes (A Ten-Year-Long “EU Mediation Paradox” When an EU Directive Needs To Be More... Directive, 2018). Within the mandatory model, the initiation of judicial proceedings is conditional upon the party’s mandatory attendance at the initial mediation meeting. Upon completing this procedural step, the parties may freely decide not to continue with mediation without legal sanctions. Proposals to revise the Directive to include mandatory mediation following the Italian model were presented in the European Parliament in 2014 and 2016, but no amendment was adopted (A Ten-Year-Long “EU Mediation Paradox” When an EU Directive Needs To Be More... Directive, 2018).

Empirical analysis of mediation in Slovenia (2009–2024)

This section analyses the actual state of mediation within the Slovenian judicial system, based on empirical data gathered from the annual reports of the Supreme Court of the Republic of Slovenia, the Judicial Statistics of the Ministry of Justice, and reports by the Judicial Council. Particular attention is paid to trends in the number of mediations conducted, their success rates, and the cost structure of mediation procedures during the period 2009–2024. Following the adoption of the Judicial Dispute Resolution Act (ZARSS), courts implemented mediation programmes by securing additional premises and staffing. In the early years (2009–2011), the results were promising in 2011, for example, 2,510 mediation procedures were successfully concluded, and both parties agreed to mediation in 5,630 cases (Judicial Statistics 2011). However, in subsequent years, the number of mediations began to stagnate or even decline. In 2024, courts offered mediation in 12,795 cases, yet only in 2,891 cases (22.6%) did both parties consent to mediation. Of these, 1,289 mediations were successfully concluded (Judicial Statistics 2024). Overall, between 2009 and 2024, 61,103 mediations were carried out out of a total of 17,265,662 court cases, with only 24,380 concluded successfully. These figures raise questions about the actual systemic impact of mediation on judicial relief (Findings presented in this article are based on ongoing research conducted within the framework of a doctoral dissertation entitled *Alternative Dispute Resolution in the Slovenian Context through the Lens of the Judiciary*, 2025).

Analysis of Annual Court Reports

Based on publicly available data, an analysis was conducted using empirical data from the annual reports of the Supreme Court of the Republic of Slovenia from 2009 to 2024, the Judicial Statistics by the Ministry of Justice, and reports from the Judicial Council. In 2009, following the adoption of ZARSS, courts implemented the act by securing additional premises for mediation. 212 employees participated in ADR training (Annual Report of the Supreme Court, 2009). In 2010, there were 7,980 agreements to mediate, resulting in 2,148 successful mediations; however, data on financial expenditures related to mediation are not provided in the annual reports (Judicial Statistics 2010). In 2011, the Supreme Court's internal audit found inconsistent implementation of ADR across courts due to its short operational period

and inefficient use of financial resources (Annual Report of the Supreme Court, 2011). Notably, the Supreme Court's annual reports from 2011, 2012, and 2013 contain no data on court mediation. However, financial data can be found in the Judicial Statistics issued by the Ministry of Justice for these years. According to the 2011 statistics, both parties agreed to mediation in 5,630 cases, with 2,510 mediations concluded successfully. A total of 540,838 € was spent on mediation (Judicial Statistics 2011). In 2012, there were 4,711 agreements with 2,058 successful mediations and 569,608 € spent (Judicial Statistics 2012). In 2013, both parties gave consent in 4,503 cases, and 2,066 mediations were successfully completed, with 359,434 € in expenditures (Judicial Statistics 2013). In 2014 mediation was offered in 15,484 cases. In 3,988 cases (25.8%), both parties agreed to mediation, resulting in 1,888 successful mediations, which corresponds to 47.3% of cases where both parties had consented.⁶⁶ A total of 39,484.55 € was spent on mediation from court funds, 495,187.50 € came from European funds, while 122,119.20 € in mediation costs were covered by the parties themselves (Annual Report of the Supreme Court, 2014). The Supreme Court notes: The number of cases resolved through mediation, which is not negligible, promotes the awareness that amicable dispute resolution is a legal value. Therefore, it is important that, despite budget reductions, a permanent source of funding for this purpose is ensured within the judiciary's budget. In order for ADR to continue to have a positive impact on reducing the average time required to resolve cases, mediation proceedings must be conducted promptly and without unnecessary delays (Annual Report of the Supreme Court, 2014). The repeated reproduction of the same summary in subsequent annual reports suggests a pattern of copying rather than a targeted engagement with changes, innovations, challenges in implementation, or proposed measures to improve the functioning of mediation. In 2015, mediation was offered in 13,145 cases. In 3,417 cases, or 26%, both parties gave their consent to mediation. A total of 1,661 mediation proceedings were successfully concluded, representing 49% of all cases in which both parties consented to mediation. A total of 36,288.38 € from court funds, 374,510.27 € from European funds, and 109,354.68 € in party-borne costs were spent on mediation (Annual Report of the Supreme Court, 2015). In 2016, mediation was offered in 11,207 cases. In 2,851 cases, or 25.4%, both parties gave their consent to mediation. A total of 1,219 mediation proceedings were successfully concluded, accounting for 42.8% of all cases where parties consented to mediation. A total of 251,745.23 € from court funds and 67,617.01 € in party-borne costs were spent on mediation (Annual Report of the Supreme Court). In 2017, mediation was offered in 11,477 cases. In 2,960 cases, or 25%, both parties consented to mediation. A total of 1,385 mediation proceedings were successfully concluded, or 46.8% of all cases where both parties agreed to mediation. A total of 57,373 € was spent from court funds and 229,414 € from European funds, with no available data on party-borne costs (Annual Report of the Supreme Court, 2017). In 2018, mediation was offered in 11,904 cases. In 2,818 cases, or 23.7%, both parties gave their consent to mediation. A total of 1,293 mediation proceedings were successfully concluded, or 46% of cases with mutual consent. 62,461.42 € was spent from court funds and 249,759.99 € from European funds, while data on party-borne costs is not available (Annual Report of the Supreme Court, 2018). In 2019, mediation was offered in 11,411 cases. In 2,787 cases, or 24.4%, both parties agreed to mediation. A total of 1,252 mediation proceedings were successfully concluded, or 45% of all cases with mutual consent. 65,182.91 € was spent from court funds and 260,735.32 € from European funds, with no data available on party-borne costs (Annual Report of the Supreme Court, 2019). In 2020, mediation was offered in 10,300 cases. In 2,437 cases, or 24%, both parties gave their consent to mediation. A total of 922 mediation proceedings were successfully concluded, accounting for 38% of the cases in which both parties agreed to participate. A total of 52,207.59 was spent from court funds and 208,840.16 € from European funds, while no data is available on the costs borne by the parties themselves (Annual Report of the Supreme Court, 2020). In 2021, mediation was offered in 9,819 cases. In 2,418 cases, or 25%, both parties gave their consent to mediation. A total of 1,223 mediation proceedings were successfully concluded, representing 51% of all cases where both parties consented. Expenditures included 55,139.14 € from court funds and 220,566.97 € from European funds; again, data on party-borne costs was not provided (Annual Report of the Supreme Court, 2021). In 2022, mediation was offered in 10,316 cases. In 2,600 cases, or 25%, both parties agreed to participate. A total of 1,138 mediation proceedings were successfully concluded, representing 44% of agreed cases. 56,868 € was spent from court funds and 227,484 € from European funds, with no available information on party-borne mediation costs (Annual Report of the Supreme

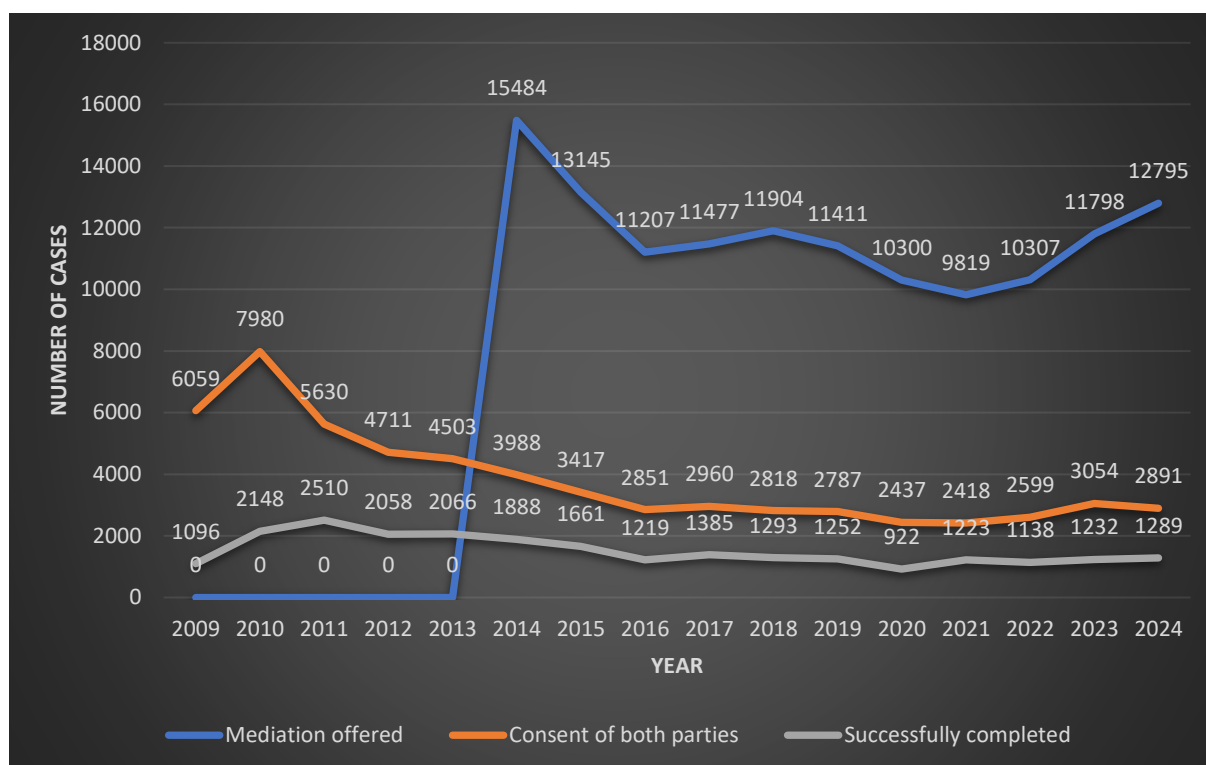
⁶⁶ In order for the mediation process to begin, the consent of both parties involved in the dispute is required.

Court, 2022). In 2023, mediation was offered in 11,798 cases. In 3,054 cases, or 26%, both parties gave their consent to mediation. A total of 1,232 mediation proceedings were successfully concluded, or 40% of the cases where both parties agreed to participate. 34,292 € was spent from court funds and 328,993 € from European funds, with no data on costs paid directly by the parties (Annual Report of the Supreme Court, 2023). In 2024, mediation was offered in 12,795 cases. In 2,891 cases, or 23%, both parties gave their consent to mediation. A total of 1,289 mediation proceedings were successfully concluded, representing 45% of those in which both parties agreed (Judicial Statistics 2024). No funds were allocated for mediation activities in 2024 due to the expiration of the “Efficient Judiciary Operation” project on 31 December 2023. This is also reflected in the report, where no expenditure is recorded under mediation (Annual Report of the Supreme Court, 2024). Based on the analysis of all available annual reports, it is established that the number of mediations offered and discussed and their success over the years varies only in minor fluctuations, without a significant increase or decrease. At the same time, the total number of mediations is decreasing globally. Given the documented increase in social conflicts, it would be justified to expect an increase in the use of mediation, but the number of mediation procedures is mostly maintained at initial levels, which indicates the stagnation of the institute in practice.

Findings, graphical representations and data interpretation

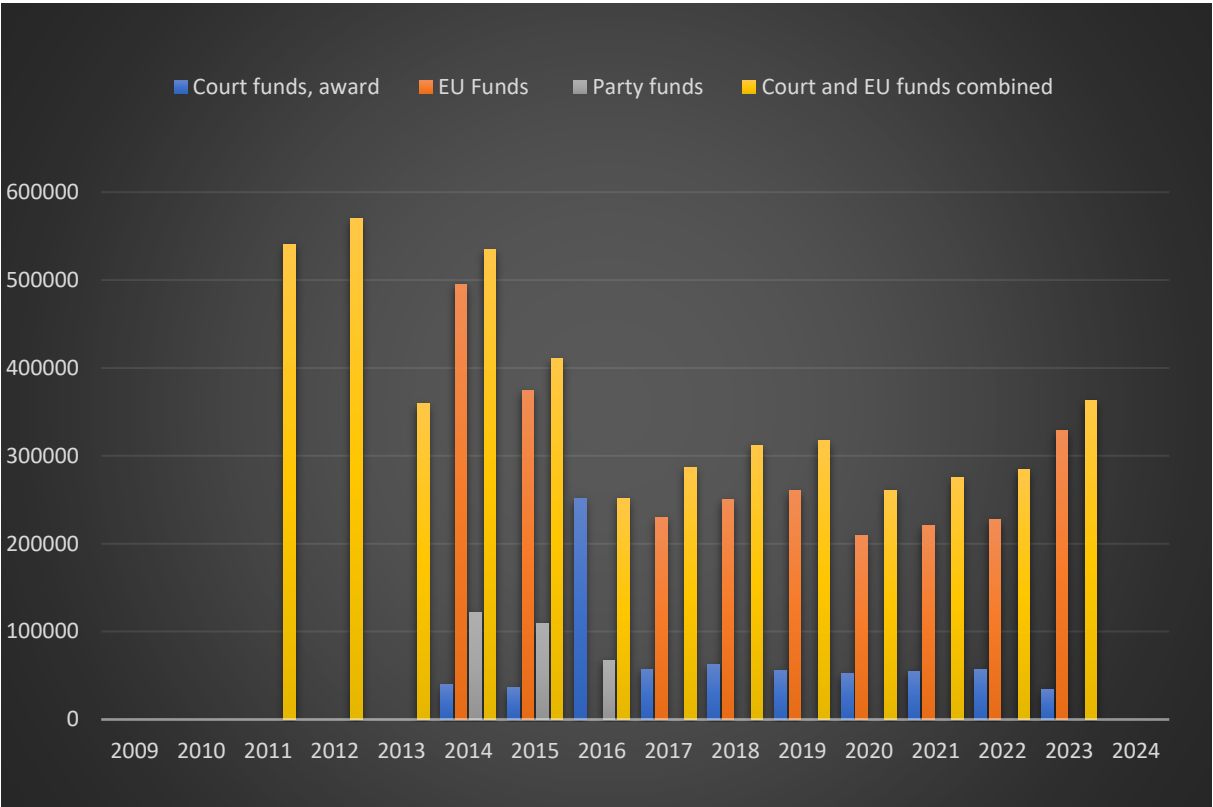
From the graph below, we can see that in the initial period after the implementation of ADR in Slovenia, the number of mediations was high, or three times higher than the average mediations in recent years. We also find that the success rate of completed mediations gradually increased in the initial years, stabilized after 2013 and began to decline by 2024. The highest number of successfully completed mediations was in 2011. However, the reports do not provide data on the mediations offered from 2009 to 2014.

Figures 1: Number of completed and successful mediations in the judiciary, source: author (2025).



We must also emphasize that the annual reports of the judiciary do not contain detailed data on the financial resources spent from 2009 to 2014. The latter began to be recorded from 2014 onwards. It has been established that European Union funds, as a form of co-financing - promoting mediation in the judiciary, were provided every year, except in 2016. The total financial resources spent in 2011, 2012 and 2014 represent over half a million euros of funds, and in 2022 the amount of the highest financial resources from 2011, 2012 and 2014 is almost halved. It can also be concluded from the reports that the financial resources paid by the parties are shown or recorded only in 2014, 2015 and 2016. This data is not available from other available reports.

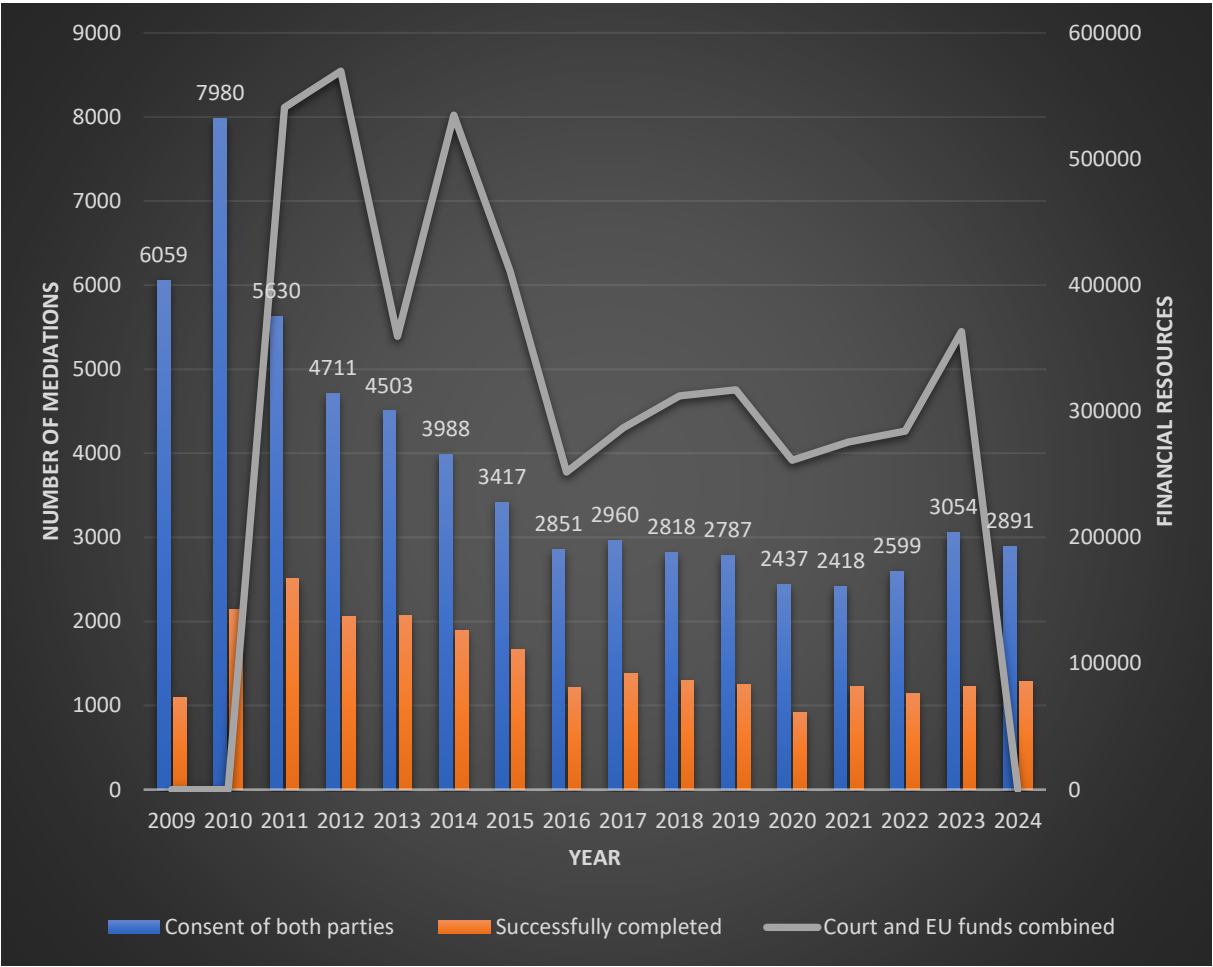
Figures 2: Financial resources spent on mediation in the judiciary, source: author (2025).



In the period 2017–2023, the Supreme Court of the Republic of Slovenia co-financed several projects related to the development of court administration and ADR from the Operation "Effective Justice". As part of the Recovery and Resilience Plan (RRP), it acquired the right to draw funds from the EU Recovery and Resilience Mechanism. Key projects included in the Development Programme Plan 2024 include the development of the functionality of the knowledge base, the digitalisation of documentation, the improvement of the e-court user experience and support for court management. Despite the planned financing, no actual drawing of funds took place in 2024 (Annual Report of the Supreme Court, 2024). In 2011 and 2012, the courts covered the costs of mediations incurred under the Alternative Dispute Resolution Act from the budget and European funds. In 2013, however, the costs of mediations were mostly covered by the Ministry of Justice (Findings presented in this article are based on ongoing research conducted within the framework of a doctoral dissertation entitled Alternative Dispute Resolution in the Slovenian Context through the Lens of the Judiciary, 2025).

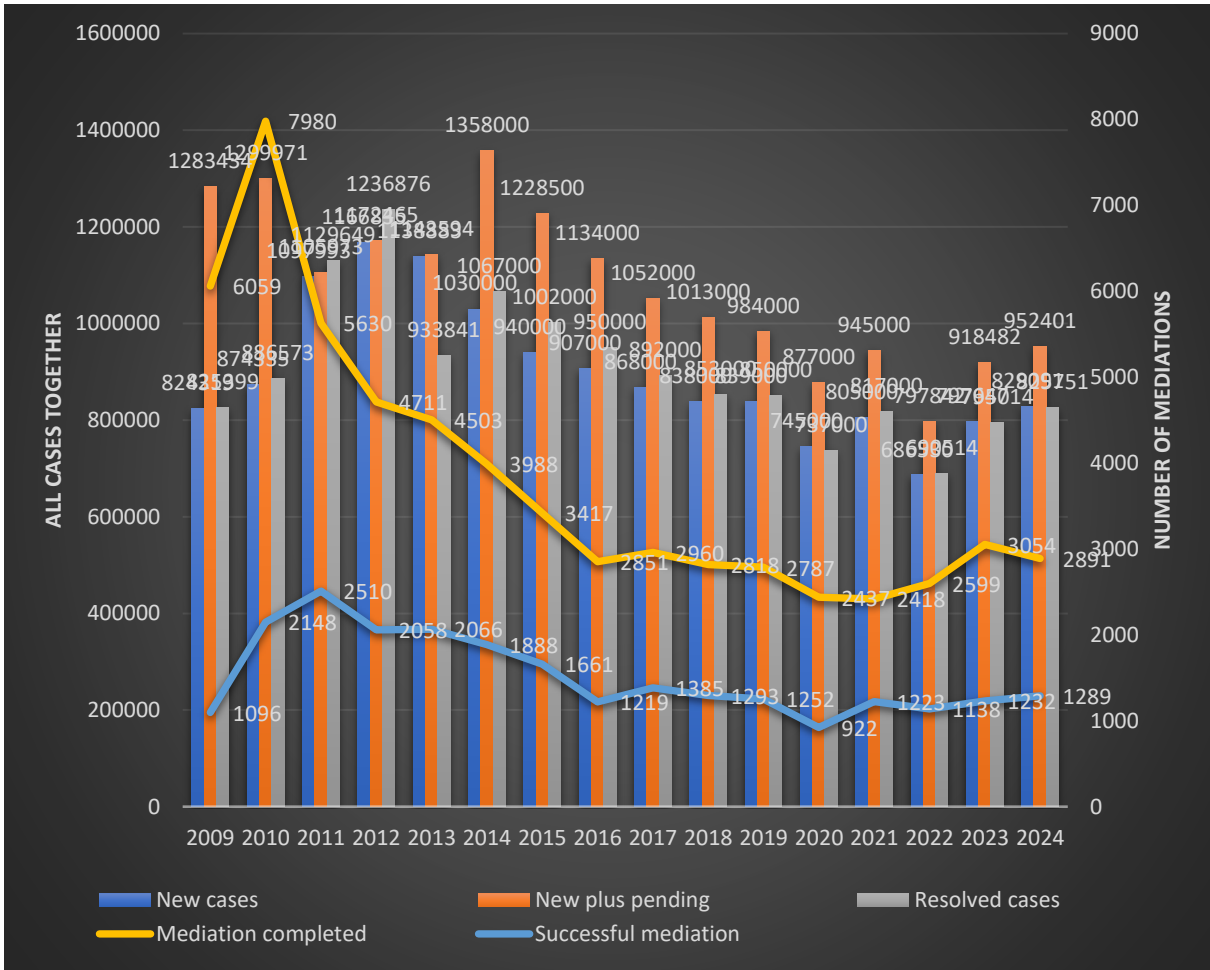
The following graph shows that the number of mediations carried out and successfully completed is disproportionate to the financial resources used. We can also conclude that due to the termination of European co-financing in 2013, the judiciary had a 25.5% lower amount of financial resources than on average from 2011 to 2015, which did not drastically affect the implementation and success of mediations. From 2016 to 2022, a proportional decline in the number of mediations carried out in relation to financial resources is observed. In 2023, however, a growth in allocated financial resources is observed again. In 2024, we see a sharp drop in the use of financial resources, due to the completion of the Operation Efficient Justice project.

Figure 3: Successful mediations in the judiciary in relation to funds spent, source: author (2025).



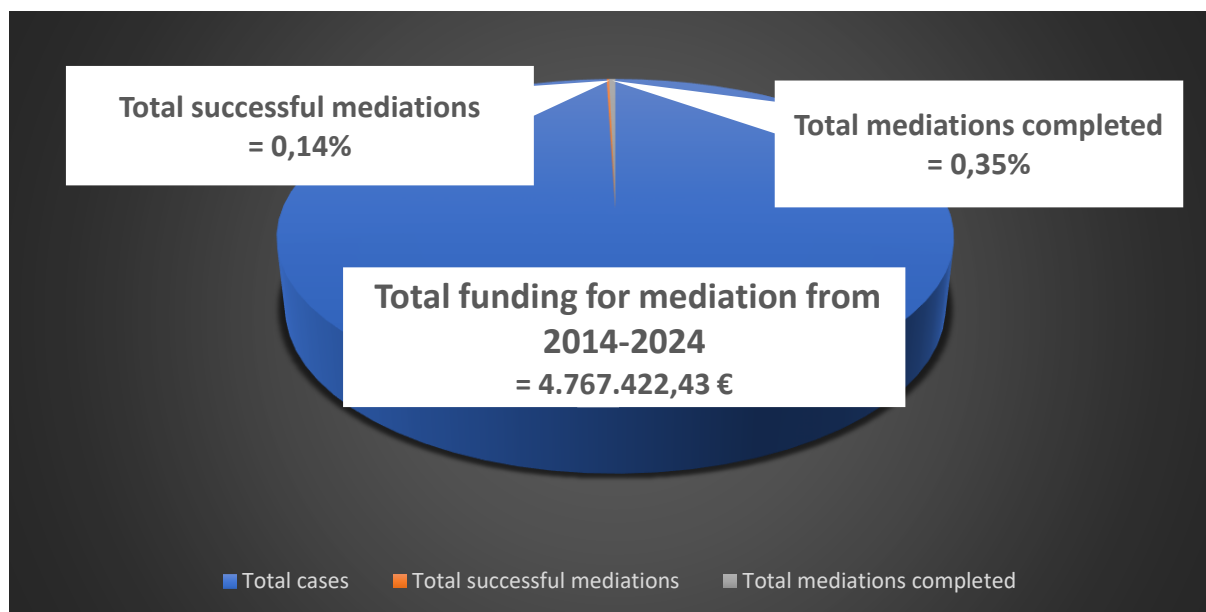
From the graph below, we can see that the number of court cases is decreasing every year, as well as that mediation represents a very small proportion of cases, compared to all cases in court. We can conclude that successfully completed mediation does not represent a major impact on the resolution of cases compared to the number of cases that the judiciary has in general.

Figure 4: Mediation in relation to court cases, source: author (2025).



The research showed that the courts had a total of 17,265,662 cases from 2009, when the ZARSS was adopted, until the end of 2024. In the same period of time, 61,103 mediations were conducted, which represents 0.35% of all cases in court. Of the mediations conducted, 0.14% were successfully completed. It was also found that a total of 4,767,422.43 € was spent on mediation in the same period of time (available data is for the years 2011 to 2024).

Figure 5: Mediations completed as a proportion of all cases in court from 2009 to 2024, source: author (2025).



In 2011, the internal audit service of the Supreme Court conducted an audit of operations and supervision of the implementation of ADR and supervision of the cash flow of funds. It is interesting that after 2011, the publicly available reports do not include the findings of supervisory authorities or supervision of the flow of financial funds. Moreover, the data on financial flows from the reports do not show the financial flow in other years. Nor do they contain data on how many parties paid mediation funds during mediation, except for the years 2014, 2015 and 2016. The Supreme Court found that the mediations carried out in previous years encourage awareness that they are successful, but on the other hand, they call on the authorities to ensure a permanent source of financing for its upgrade. In none of the reports after 2011, does the Supreme Court mention other problems in the field of ADR, regarding financing and the like (Annual reports of the Supreme Court from 2011 to 2024). The number of mediations offered, their treatment and success practically change with a slight deviation in increase or decrease. Furthermore, we can find that in the initial years, the success of completed mediations also gradually increased, which calmed down after 2013 and began to decline until 2024. The highest number of successfully completed mediations was in 2011. From 2016 to 2024, a proportional decline in completed mediations in relation to the allocated financial resources is observed. The number of court cases is decreasing every year, and mediation represents a very small proportion of cases, compared to all cases in court. We can conclude that successfully completed mediation does not have a major impact on the resolution of cases compared to the number of cases that the judiciary has in general. We can find that completed mediations also had an impact on eliminating court backlogs. Another important question is whether the 0.14% success rate of mediation in relation to all cases in court is a satisfactory figure in relation to the financial resources spent in the amount of almost 4.8 million €. The average annual budget of the judiciary in the last 10 years is 285,192,719.40 €. ⁶⁷ Therefore, the funds spent on mediation in the last 10 years represent 1.7% of the total 10-year budget of the judiciary. An important question that arises when analyzing the systemic effectiveness of mediation is to what extent it would be possible to further relieve the burden on judicial authorities or resolve a larger number of cases if the mediation instrument received more adequate financial support from the legislature and the executive. The dilemma comes to the fore, namely whether the field of mediation in the Slovenian judiciary is at a standstill. Last but not least, this is also confirmed by the mediation providers in the court themselves.

⁶⁷ The calculation is based on publicly available data on the judiciary budget for the last 10 years and is available at <https://proracun.gov.si/Public/BudgetVisualization>.

Betetto states that mediation in the courts is a long-standing pilot project that has lost favor with the executive branch of government towards alternative dispute resolution in recent years and lacks political will for measures aimed at promoting these procedures (Betetto, 2022).

Mediation costs and the economics of the proceedings

The empirical analysis is also based on a 2014 European Parliament study, which, among other things, compared the costs of litigation and mediation in EU Member States ('Rebooting' the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU, 2014).

The following data applies to Slovenia:

Court costs: 1,243 €

Court costs for a lawyer: 2,712 €

Total cost for a court case: 4,513 €

Mediation costs: 900 €

Cost for a lawyer in mediation: 525 €

Total costs for mediation: 1,425 €

Mediation therefore reduces costs on average by approximately 60%, which clearly indicates its financial efficiency ('Rebooting' the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU, 2014). Despite this financial potential, the use of mediation in practice remains modest. Hajtnikova points out that the financial aspect is often a key factor in the decision to mediate (Hajtnik, 2012).

Comparative analysis of Italian model

Among all EU Member States, Italy stands out for having implemented a mandatory mediation model that has created effective conditions for alleviating the burden on the judiciary and increasing the number of successfully concluded mediations. Italy remains the only EU country to have introduced a mandatory pre-litigation mediation model for certain categories of civil and commercial disputes, requiring parties to attend an initial mediation session before filing a lawsuit. After this initial session, the parties are free to decide whether to continue with mediation or to terminate the process and initiate court proceedings. This approach preserves the principle of voluntariness in reaching an agreement, while introducing a compulsory first step toward dialogue an approach that has proven highly effective in practice. Italy is the only Member State in which mediation is used in approximately 15% of all civil and commercial cases, the highest rate in the EU (A Ten-Year-Long "EU Mediation Paradox" When an EU Directive Needs to Be More... Directive, 2018). Since the implementation of the mandatory model, Italy recorded over 200,000 mediations annually by 2023 more than all other EU Member States combined. The effects of mandatory mediation have been reflected in significant time and cost savings. A 2014 study by the European Parliament found that, in Italy, the duration of legal proceedings could be shortened by up to 200 days, and the costs reduced by approximately 50% compared to traditional litigation ('Rebooting' the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU, 2014). The introduction of the Italian model raised several legal concerns, primarily related to its compatibility with the right of access to justice. However, the Italian Constitutional Court confirmed the admissibility of such a model, ruling that mandatory participation in the initial informational session does not constitute a restriction of the right to legal protection but rather serves the legitimate aim of rationalizing the judiciary (CJEU in the joined cases of Rosalba Alassini v. Telecom Italia SpA, Filomena Califano v. Wind SpA, Lucia Anna Giorgia Iacono v. Telecom Italia SpA and Multiservice Srl v. Telecom Italia SpA, no. C-317/08 to C-320/08, 18 March 2010).

Interestingly, the initial concerns about the obligation to mediate have now largely been overcome. The model has a high level of social acceptance, and the legal profession emphasises its role in achieving the objectives of the Directive.

The judgment of the Court of Justice of the EU in case C-658/23 (2024) confirms the compliance of the Italian opt-out mediation model with the Directive. According to the court, the mandatory participation of the parties in an introductory information meeting before the start of the legal proceedings does not constitute an infringement of the right to legal protection nor does it undermine the principle of voluntariness. This decision strengthens the legal admissibility of introducing procedurally mandatory elements of mediation and opens the possibility of transferring such a model to the legal systems of other Member States, including Slovenia.

Figure 6: Comparative Overview of the Italian and Slovenian Mediation Models, source: author (2025).

Comparison element	Italy	Slovenia
Mediation model	<i>Mandatory participation (opt-out)</i>	Voluntary participation
Proportions of mediations (all cases)	<i>Up to 15 %</i>	0,36 %
Successfully completed mediations	<i>More than 50 %</i>	38 %
Cost effectiveness	<i>Confirmed by EP analysis (2014)</i>	Confirmed, but poorly used
Legal support for the model	<i>Systemic, with legislative will</i>	Fragmented, without clear direction

This clearly shows that the Italian model has a greater ability to activate parties, which increases the number of mediations and reduces the pressure on the courts. Slovenia lags behind both in the number of procedures carried out and in institutional support for the system, which further deepens the gap between normative potential and practical implementation. Despite the legal and cultural differences between the countries, there are reasons to believe that the mandatory model could be successfully transferred to the Slovenian legal environment. Slovenia already knows certain statutory forms of mandatory mediation (e.g. ZFPPIPP, ZBPP, ZDSS-1), which means that the expansion of these mechanisms would not be contrary to constitutional principles, but would represent a logical upgrade of existing legislation.

This brings us to the key research and argumentation point of this article: mandatory participation in the initial mediation session does not mean the abolition of voluntariness, but its transition to a more efficient, proportionate and goal-oriented model.

Model assessment of the effects of introducing mandatory mediation in Slovenia

In support of the empirical justification for the introduction of mandatory mediation in the Slovenian judiciary, a quantitative simulation of the potential effects of an opt-out model, as known in Italy, was conducted. Assuming that Slovenia would achieve a 15% inclusion of cases in mediation (the same proportion as in Italy) and a 50% success rate of mediations, the results indicate potentially significant effects in terms of both court relief and financial efficiency. Based on the total number of court cases in the period 2009-2024, which is 17,265,662, such a model would mean:

- approximately 2,589,849 mediations conducted (15% of all cases),
- of which 1,294,925 successful mediations (50% success rate),
- which would reduce costs by approximately 3.998 billion € over the total period,
- or 399.9 million € in average annual savings.

The simulation is based on data from the European Parliament, according to which the average cost of legal proceedings with legal representation is 4,513 €, and mediation is 1,425 €, which means a 60% saving on an individual case ('Rebooting' the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU, 2014). When compared with the actual data, 61,103 mediations conducted and 38 % success rate, the gap between the actual and simulated effect is significant enough to indicate a systemic underutilization of the mediation mechanism. In this context, mandatory mediation is not understood as an interference with the right to legal protection, but as a rationalization of the system, enabling greater efficiency, accessibility and cost-effectiveness of dispute resolution.

Challenges of the Slovenian system and the Italian practise

The purpose of this chapter is to present the challenges and developmental limitations of mediation in Slovenia, while comparatively examining these issues through the lens of foreign approaches, particularly the Italian opt-out model. Based on a review of selected domestic and international empirical studies, the discussion focuses on the factors that determine the success of mediation, the institutional framework, the influence of legal culture, and the role of regulatory measures in promoting broader use of mediation as an effective tool for relieving pressure on the judicial system.

Review of Selected Domestic Empirical Research

Metelko (2013) highlights that the Slovenian mediation model compares favourably or even surpasses the average of certain European countries in several respects. However, she simultaneously underscores the underdevelopment of out-of-court mediation formats, which limits the broader applicability of mediation in practice. Sekirnik and Biloslavo (2009) emphasize that both domestic and foreign approaches have failed to achieve their expected outcomes, primarily due to the gap between theoretical concepts and practical implementation. They identify a range of factors that influence mediation effectiveness, including the mode of implementation, timing within the legal process, the role of the judge, mediator selection, mediator competence, use of techniques, organization of sessions, and the system of procedural remuneration. Similarly, Babič (2014) observes that many reform efforts have either been poorly implemented or never materialized. Nonetheless, she recognizes mediation as one of the few methods with demonstrable impact in reducing court backlogs. Barič (2014) further points to the stagnation in the development of court-annexed mediation in Slovenia, noting that the transplantation of foreign models, such as those from the United States, the Netherlands, Norway, and the United Kingdom, does not necessarily yield effective results within the Slovenian legal framework.

Highlights of foreign literature and transferability of models

Based on a comprehensive analysis of the Italian mediation model, Leal concludes that the procedural obligation to attend an introductory mediation meeting, as stipulated by Decreto Legislativo No. 28/2010, does not constitute an interference with the right to legal protection, but rather proves to be a constitutionally permissible and even desirable regulatory instrument when implemented in accordance with the principle of proportionality. Leal particularly emphasizes that such a regulation must be in line with the principles of subsidiarity, predictability and adequate legal protection, which the Italian model, in its current implementation, already achieves. In this context, author advocates the wider use of the opt-out model also in other EU Member States, provided that the cultural and institutional contexts of each legal order are considered (Leal, 2024). Indovina (2018) investigates the impact of the introduction of a mandatory mediation introductory meeting on the legal culture of Italian lawyers. Despite the normative compulsion, the results of the interviews showed that the majority of lawyers are still reluctant to engage with mediation, often due to misconceptions about its nature and procedural value. However, the author notes that the opt-out model has triggered a gradual change in professional culture, as more and more lawyers include mediation in their practice, especially when economic and time aspects are important for their clients. A key obstacle remains the perception that mediation implies a loss of control over the process. Matteucci (2025) provides an in-depth analysis of the development of mandatory

mediation in Italy, from its introduction to subsequent amendments. He notes that the introduction of mandatory attendance at the initial mediation session has significantly increased the number of mediation procedures. He emphasises that the opt-out model has contributed to reducing the burden on the courts, particularly in the area of real estate and family disputes. He also draws attention to the challenges associated with the qualification of mediators and institutional heterogeneity, which has affected the quality of mediation procedures in certain regions. Korsakovien, Branimirova Radanova and Tvaronavičienova (2023) in their analysis of different models of mandatory mediation (categorical, discretionary and quasi-mandatory), identify major institutional differences between countries, particularly in the area of family matters, which makes comparative analysis difficult and calls for a new systematisation of the models. Finally, based on empirical research, Giacalone and Salehi (2022) point out a number of factors that hinder the success of mediation, such as poor user awareness, passivity of legal representatives, negative client expectations and inadequate mediator training. Taken together, these findings indicate the need for systematic reform, better training, greater institutional support and greater social and legal legitimacy of mediation as an effective alternative dispute resolution method.

Conclusion

The paper addresses the issue of introducing a mandatory mediation model into the Slovenian legal order, with a particular emphasis on its compliance with the right to legal protection, its impact on reducing court backlogs and its economic justification. The Italian experience with the opt-out model and the judgment of the Court of Justice of the EU in case C-658/23 confirm that mandatory participation in the initial mediation meeting does not constitute an interference with the right to legal protection, but rather complements it with an additional procedural phase that is consistent with the principles of proportionality and effectiveness. The Italian model introduces an obligation in only one part of the procedure, participation in the initial meeting, while maintaining the principle of self-determination, since the parties are free to decide on the continuation after the meeting. Such a regulation also activates those parties who would otherwise ignore mediation and enables greater inclusion of alternative dispute resolution methods. Empirical data analysis in Slovenia in the period 2009–2024 reveals an extremely low proportion of completed (0.35%) and successfully concluded mediations (0.14%) in relation to all court cases. Despite almost 4.8 million euros of public investment, mediation has not significantly contributed to relieving the burden on the judicial system. Although mediation is on average approximately 60% cheaper than court proceedings, its limited use reduces its cost-effectiveness in the existing voluntarily regulated model. Simulation of the effects of mandatory introductory mediation indicates more than 1.29 million successful mediations and almost 4 billion euros in savings, which represents a strong argument for reform. In this context, it is no longer a matter of theory, but of empirical necessity to consider the gradual introduction of a mandatory mediation model initially in cases with a higher probability of an amicable solution (commercial, family, consumer law). Such an approach would enable monitoring of the effects in practice and their possible expansion. The key here is for the legislator to establish an appropriate infrastructure, including the strengthening of mediation centres, systemic financing, quality mechanisms and the activation of the ADR Council. The transfer of a foreign model must be adapted to the Slovenian legal and institutional environment, but the Italian example clearly shows that it is possible to achieve a high level of use of mediation without interfering with the fundamental rights of the parties. Without a comprehensive reform, mediation in Slovenia remains only a declarative option without any real impact on the efficiency of the judicial system and the culture of legal cooperation.

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The role of central state buildings in building trust in public authorities

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Abstract:

This paper examines the impact of the architectural features and symbolic value of the buildings of central state institutions on citizens' trust in those in power. The buildings of the central institutions of the state are not only functional spaces, but also the physical materialisation and manifestation of the power, stability and values that the state represents. The aim of this paper is to raise awareness of the need for a holistic and interdisciplinary approach that goes beyond the technical or administrative aspects of these buildings. The paper is based on the hypothesis that the buildings of central state institutions, through their architectural design, siting and symbolism, influence the formation of citizens' trust in public authorities. Based on an analysis of Slovenian and comparative analysis of foreign cases, it concludes that the architecture of institutions is not only a reflection of their functionality, but also a tool for political communication and the consolidation of the legitimacy of power. The findings support the thesis on the necessity of an interdisciplinary approach to the subject, combining legal, architectural, political and sociological perspectives. Despite a theoretical depth, the author points out the limitation of the paper in the absence of empirical data, which opens up room for further research. In this context, the author proposes to include the topic of architectural perception of buildings of central state institutions in an international survey of the Organisation for Economic Co-operation and Development (OECD) on trust factors in public institutions and plans to continue the research in the framework of her PhD thesis (in preparation).

Key words:

political trust; architecture; state institutions; buildings of central state institutions; power; legitimacy; branches of state power.

1 Uvod

Zaupanje javnosti v politične institucije je ključno za legitimnost demokratične oblasti, kar potrjujejo številne domače in tuje študije.⁶⁸ Demokracija ni nekaj danega, noben narod ni rojena demokracija. Tako narod, kot demokracija sta procesa, ki se razvijata skozi celotno življenjsko dobo naroda.⁶⁹ V ta proces morajo biti vključeni tudi mladi, saj nihče ne postane dober državljan že ob rojstvu – to postajamo skozi politično socializacijo in aktivno participacijo (Južnič, 1989). Politične institucije za učinkovito in uspešno delovanje nujno potrebujejo zaupanje javnosti. Ob nizki stopnji zaupanja je delovanje institucij lahko oteženo (Kukovič, 2013). To postane posebej očitno v kriznih razmerah, na primer v času svetovne gospodarske krize leta 2008, ob migracijskem valu leta 2015 in pandemiji COVID-19 (Haček, 2024). V takih trenutkih so državljani pripravljeni sprejeti tudi izredne ukrepe, vendar le, če zaupajo institucijam, ki jih sprejemajo (Rieger & Wang, 2022). Določeni začasni ukrepi, ki naj bi izboljšali stanje, se v izrednih razmerah lahko implementirajo le ob zadostni podpori državljanov (Rieger & Wang, 2022). Sistem v negotovih ali kriznih razmerah ne more spodbuditi podpirajočih aktivnosti brez zaupanja. Velja predpostavka, da višja kot je legitimnost sistema, tem večja je podpora, ki jo sistem uživa, in višja kot je participacija državljanov, višja je tudi stopnja zaupanja v osrednje institucije sistema (Kukovič, 2013). Pomen zaupanja za nemoteno delovanje demokracij sta izpostavila Almond in Verba (1963) v svoji klasični študiji o civilni kulturi.

Od nastanka novih demokratičnih držav v devetdesetih letih, po razpadu socialističnih režimov v Srednji in Vzhodni Evropi, se je v znanstvenem raziskovanju vprašanje zaupanja javnosti še dodatno aktualiziralo⁷⁰, gre pa za vedno aktualno vprašanje, saj se ga lotevajo tudi novejšje študije (Toš, 2005). Zaupanje se je tako uveljavilo kot ena osrednjih kategorij v raziskovanju političnih kultur. Pri raziskovanju odnosa ljudi do politike oziroma pri raziskovanju odnosa ljudi do političnega sistema velja predpostavka, da je stopnja legitimnosti v različnih kulturnozgodovinskih sistemih različna. Navedeno pa se izraža tudi v različnih stopnjah zaupanja v konkretne politične, oziroma institucionalne sisteme. V prehodnih, tranzicijskih družbah, iz socialističnega (enostrankarskega) v kapitalistični (večstrankarski) sistem so ljudje pogosto ohranili izkušnje iz enostrankarskih sistemov, kar je vplivalo na njihovo razumevanje in dojemanje legitimnosti novih institucij. Nadomeščanje starega z novim sistemom ni enkratno dejanje, temveč dolgotrajen proces (Toš, 1996).

Zaupanje v osrednje državne institucije se ne gradi le prek politik, institucij in delovanja posameznikov, temveč tudi skozi fizične in simbolne elemente političnega prostora in občutja.⁷¹ Med te elemente sodijo tudi stavbe osrednjih državnih institucij, parlamenta, predsedniških palač, sodišč,⁷² ki s svojo podobo, dostopnostjo in umeščenostjo v prostor lahko vplivajo na to, kako javnost doživlja oblast. Easton (1975) je namreč v svojem delu *A Re-Assessment of the Concept of Political Support* politično zaupanje opredelil kot občutek, da politični sistem upošteva posameznikove interese. Zaupanje vključuje čustvene, kognitivne in vrednotne dimenzije ter se lahko nanaša na posameznike, institucije ali sisteme. Poleg čustvenih, afektivnih in evalvacijskih sestavin zaupanje vsebuje tudi kognitivne elemente, ki pa so težje določljivi. Temelji zaupanja so pogosto pozitivno vrednoteni znaki ali lastnosti, ki jih pripisujemo osebk ali objektu zaupanja, pri čemer se tisti, ki zaupanje izraža, tega vedno nujno ne zaveda (Easton, 1975).

Stavbe osrednjih državnih institucij torej niso zgolj funkcionalni prostori, temveč tudi fizična materializacija in manifestacija moči, stabilnosti in vrednot, ki jih država predstavlja (Gallagher, 2022). Vzpostavljajo občutek avtoritete in zaupanja pri državljanih, saj njihova arhitektura in oblikovanje odražata vrednote, zgodovino ter organizacijsko in politično strukturo države (Bels & Branco, 2017). Arhitektura sodišč, denimo, pogosto simbolno izraža ločenost sodne oblasti od preostalih vej oblasti in

⁶⁸Podrobneje o tem Niko Toš, na http://ejm.fdv.uni-lj.si/e-dokumenti_sjm/Zaupanje_v_institucije_SJM.pdf.

⁶⁹Podrobneje o tem: <https://www.kofiannanfoundation.org/news/democracy-central-and-southern-africa/>.

⁷⁰Glej Kukovič, 2013, Fink-Hafner, 2001, Toš, 1996, Toš, 1999, Bačlija in Johannson, 2007, Klingemann, 1998, Fukuyama, 1995.

⁷¹Za potrebe tega prispevka ni potrebne podrobnejše opredelitve glede vprašanja razpršene ali poglobljene specifične podpore, enodimenzionalno ali večdimenzionalne podpore oziroma zaupanja, kot to razčlenjuje teorija.

⁷²Za potrebe prispevka so nosilci izvrševanja oblasti organi iz obstoječe ureditve v Republiki Sloveniji, kot to določa 3. člen Ustave Republike Slovenije.

vsakdanjega življenja. Malo je javnih stavb, ki imajo tako močan pomen kot sodišča, v katerih se upodablja ali izvaja pravica (Bels & Branco, 2017).

Kljub temu je vloga arhitekturne podobe stavb pri oblikovanju zaupanja državljanov pogosto prezrta. V obstoječi literaturi je zaznati pomanjkanje interdisciplinarnega pristopa, ki bi pri obravnavi te vsebine povezal različne vede – arhitekturo, pravo, sociologijo in politologijo. To še posebej velja za slovenski prostor, kjer se tematika največkrat obravnava posamično, z arhitekturnega ali zgodovinskega vidika, ne srečamo pa prepletanja ved, še posebej pa v obravnavo ni vključen pravni vidik, čeprav se v teh stavbah vodijo in izvajajo najvišje funkcije državne oblasti. Med pravom in arhitekturo obstaja namreč povezava, saj je prav prek arhitekture nevidna realnost prava utemeljena v fizični in družbeni stvarnosti (Bels & Branco, 2017).

Večplastnosti vlog stavb osrednjih državnih institucij se bolj kot v domačem prostoru posvečajo strokovnjaki v tujini, kot na primer Vale, Gallagher, Bels, Branco, Psarra. Vale (2008) pojasnjuje, da vidnost in dostopnost stavb utrdi občutek, da je oblast prisotna in da so institucije vladanja stabilne. Državne stavbe lahko zato služijo kot namestniki oziroma predstavniki tistih, ki nam vladajo, saj večina ljudi nima neposrednega stika z ljudmi, ki nas vodijo. Hkrati so stavbe fizični zapis zgodovine skupnosti in so označevalci njene identitete (Vale, 2008).

V širšem pomenu so stavbe tudi del vsake nacionalne identitete. Pri njeni gradnji in krepitvi ne gre le za označevalce, metafore, znake, za svet idej in nekaj abstraktnega, temveč tudi za svet stvari, tudi za materialnost. Nacionalnost je oblikovana tudi s predmeti in predmetnostjo, tudi v obliki stavb, in materialnost je konstitutivni del nacionalnega (Mlekuž et al., 2015).

Poškodovanje ali uničenje stavb osrednjih državnih institucij lahko povzroči kolektivno žalovanje⁷³, njihovo postopno propadanje ali nezadostno vzdrževanje pa ustvarjata prostor za interpretacijo tega, kako je družba urejena.

Prispevek obravnava vpliv arhitekturnih značilnosti in simbolne vrednosti stavb osrednjih državnih institucij na zaupanje državljanov v nosilce oblasti. Namen obravnave je vzpodbuditi zavedanje o nujnosti celostnega in interdisciplinarnega pristopa, ki presega zgolj tehnične ali upravne vidike. Takšen pristop zahteva sodelovanje različnih strokovnih področij, s čimer se prispeva k materialni kakovosti nepremičninskega portfelja države in ohranjanju simbolne funkcije teh stavb.

V tem okviru se prispevek osredotoča na raziskovalno vprašanje: Ali arhitekturne značilnosti stavb osrednjih državnih institucij vplivajo na zaupanje državljanov v nosilce oblasti? Postavljena je hipoteza, da stavbe osrednjih državnih institucij niso zgolj funkcionalni prostori in okvir za izvajanje oblasti, temveč tudi dejavnik, ki vpliva na oblikovanje zaupanja državljanov v nosilce oblasti in aktivno soustvarja odnos med oblastjo in javnostjo preko arhitekturne govorice, simbolike in dostopnosti stavb.

Metodologija

Prispevek je teoretično-analitičen, vključuje različne metode dela in sicer opisno metodo, zgodovinsko metodo, primerjalno metodo, metodo analize in metodo sinteze. Osredotoča se na razmerje med arhitekturno reprezentacijo osrednjih državnih institucij in političnim zaupanjem. Metoda deskripcije je uporabljena pri opisovanju funkcionalne in simbolne vloge stavb osrednjih državnih institucij v Republiki Sloveniji (stavba Državnega zbora Republike Slovenije, predsedniška palača, Vrhovno sodišče), kjer se obravnava njihov videz, dostopnost, umeščenost v prostor ter osnovne arhitekturne značilnosti. Zgodovinska metoda omogoča umestitev stavb v širši družbenopolitični kontekst. Tako se, na primer, analizira, kako je bila stavba slovenskega parlamenta načrtovana in kako se skozi arhitekturo zrcali kontinuiteta ali diskontinuiteta oblasti. Primerjalna metoda je uporabljena pri analizi tujih primerov stavb osrednjih državnih institucij glede simbolike, dostopnosti, monumentalnosti in vpetosti v urbani prostor.

Metodi analize in sinteze sta uporabljeni v razčlenjevanju arhitekturnih elementov in njihovega pomena za legitimnost oblasti (analiza), nato pa v povezovanju teh ugotovitev v širšo teoretično razpravo o vlogi arhitekture v politični komunikaciji (sinteza).

⁷³ Tako Psarra, Staiger, Sternberg v *Parliament buildings and the architecture of politics in Europe* (2023) kot primer opisujejo vdor Trumpovih privrženecv v Kapitol Združenih držav Amerike (sedež kongresa kot zakonodajnega telesa zvezne vlade) 6. januarja 2021, ki je bil večinoma dojet kot napad na načela in vrednote, na katerih so bile ustanovljene Združene države Amerike.

Prispevek je strukturiran tako, da najprej predstavi teoretična izhodišča, obravnava razmerje med arhitekturno reprezentacijo osrednjih državnih institucij in oblikovanjem političnega zaupanja. Osrednji poudarek je na analizi, kako prostorska materializacija oblasti prispeva k utrjevanju njene legitimnosti v demokratični družbi, nato sledi analiza izbranih slovenskih primerov, ki jo dopolnjuje primerjalna analiza. Primerjalnemu prikazu stavb parlamentov treh drugih držav in umeščenosti stavb osrednjih državnih institucij v Združenih državah Amerike sledi zaključek. Zaključni del zajema razpravo, sklepne ugotovitve ter predloge za nadaljnje raziskovanje.

Stavbe osrednjih državnih institucij kot element političnega zaupanja

Arhitektura javnih objektov se obravnava kot simbolna forma politične komunikacije, ki s svojo obliko, umeščenostjo in dostopnostjo vzpostavlja okvir, znotraj katerega se konstituira odnos med državljani in državo (Vale, 2008).

Pojem političnega zaupanja

Politično zaupanje obsega prepričanje državljanov, da oblast deluje v javno dobro, pri čemer so njene odločitve legitimne, odgovorne in usklajene z demokratičnimi načeli. Gre za kompleksno družbeno pojavnost, ki jo sooblikujejo številni dejavniki, kot so delovanje institucij, politična komunikacija, zgodovinski kontekst ter simbolni elementi oblasti. V najširšem smislu se politično zaupanje nanaša na ocene državljanov o temeljnih državnih institucijah in vključuje pozitivno vrednotenje ključnih lastnosti, zaradi katerih je vsaka politična institucija vredna zaupanja. To so verodostojnost, poštenost, kompetentnost, preglednost pri oblikovanju politike in odprtost za raznolika stališča. Kot konceptualno orodje je politično zaupanje zasnovano kot osrednji indikator podpore med političnimi akterji, ki povezuje posamezne politične akterje in institucije z osnovnimi demokratičnimi vrednotami. V sodobnih političnih raziskavah je to eno od osrednjih orodij za analizo odnosa med državljani in političnim sistemom (Zmerli, 2023).

Raziskovalci so v zadnjih desetletjih ugotavljali različne vzorce izražanja zaupanja v demokratične institucije. Tako se je denimo v devetdesetih letih razkrilo občutno zmanjšanje zaupanja v najpomembnejše družbene in politične institucije Združenih držav Amerike. Čeprav so se državljani zavedali njihove nenadomestljive vloge, so bili do njih vse bolj kritični ali brezbržni, še posebej do političnih strank (Toš, 2007).

Raziskave so izpostavile številne pomembne vidike zaupanja: razmerje med zaupanjem v ljudi in institucije, vpliv političnih konfliktov, preferenčno pripadnost koalicijskim ali opozicijskim strankam ter vpliv osebnih in starostnih izkušenj. Delujoče demokracije se med drugim razlikujejo po tem, da kljub politični konkurenci ohranjajo osnovno raven zaupanja tudi do političnih nasprotnikov, saj se predpostavlja, da vsi spoštujejo temeljna pravila demokratične igre. Seveda pa tudi v starejših demokracijah zaupanje ni enakovredno razdeljeno na vse institucije. Nekateri avtorji poudarjajo, da je politično zaupanje dejansko ocena politične kulture, pri čemer politična kultura države oblikuje celovit odnos državljanov do institucij (Hooghe & Zmerli, 2011).

Za nastanek zaupanja v institucije ni nujna neposredna osebna izkušnja – zadostujejo tudi zaupanja vredni posredniki. Institucijam, ki jim pripisujemo pozitivne lastnosti, smo bolj naklonjeni in jim lažje zaupamo. Vrednote in ideologije v družbi pomembno vplivajo na oblikovanje odnosa do institucij (Hooghe & Zmerli, 2011).

Precej poenoteno je stališče strokovnjakov, da je pojem političnega zaupanja nepogrešljiv koncept v akademskem prostoru in razpravah ter ključen za razumevanje in vzdrževanje demokratičnega sistema. Povezuje državljane z institucijami, krepi stabilnost, omogoča legitimnost oblasti ter prispeva k učinkovitemu delovanju države (Mischler & Rose, 2001).

Zanimiv vidik simbolne dimenzije zaupanja predstavlja tudi arhitektura institucij. Jelušič opozarja, da so zgradbe političnih in upravnih institucij pomembni politični simboli – bodisi monumentalni in sodobni bodisi zgodovinsko impozantni. Takšna zasnova poudarja moč države in relativira vlogo posameznika, kar lahko vpliva na njegovo doživljanje oblasti (Jelušič, 1989).

Republika Slovenija je v letu 2023 prvič sodelovala v raziskavi Študija zaupanja Organizacije za gospodarsko sodelovanje in razvoj (OECD).⁷⁴ Študija zaupanja⁷⁵ ponuja vpogled v stanje zaupanja v slovenske javne institucije, pri čemer primerja rezultate Slovenije z 29 drugimi državami OECD. Študija razkriva tako izzive kot priložnosti za krepitev javnega zaupanja. Analizira podatke raziskave OECD o dejavnikih zaupanja v Republiki Sloveniji. Izpostavlja močna področja v vsakodnevni interakcijah med ljudmi in javnimi institucijami, hkrati pa navaja pomisleke v zvezi s procesi odločanja o kompleksnih političnih vprašanjih. Raziskava je razkrila, da je pri nas zaupanje v javne institucije nižje od povprečja OECD. Zaupanje v sočloveka (58 odstotkov) je na prvem mestu, sledi mu zaupanje v policijo (52 odstotkov) in pravosodni sistem (41 odstotkov), najnižje zaupanje je v politične stranke (14 odstotkov) in medije (26 odstotkov), nekoliko višje je zaupanje v državno upravo (30 odstotkov), vlado (28 odstotkov) in v parlament (27 odstotkov). Predsedniška funkcija izrecno in samostojno v raziskavo ni bila vključena.

Splošni trendi kažejo, da je v zadnjih dveh desetletjih stopnja zaupanja v javne institucije v Sloveniji precej nihala, na kar so vplivali gospodarski cikli in politični pretresi. Čeprav se je raven zaupanja po svetovni gospodarski krizi leta 2008, postopoma izboljšala, ostaja pod povprečjem Evropske unije. Pomembnost zaupanja v delovanje javnega sektorja za dvig konkurenčnosti gospodarstva zaupanja je Republika Slovenija prepoznala ter ga kot kazalnik uspešnosti vključila pod razvojni cilj Učinkovito upravljanje in kakovostne javne storitve v Strategiji razvoja Slovenije 2030.⁷⁶

Raziskava OECD ni vključevala nobenega vprašanja, vezanega na zaupanje državljanov v povezavi s stavbami, zato je v zaključku prispevka oblikovan predlog za dopolnitev naslednje raziskave OECD z vključitvijo vprašanja, ki se nanaša na merjenje zaupanja v nosilce oblasti v povezavi s stavbami osrednjih državnih institucij.

Arhitekturna govorica oblasti in prostorska legitimizacija

Arhitektura ima v političnem kontekstu izrazito simbolno in komunikacijsko funkcijo. Stavbe osrednjih državnih institucij s svojo monumentalnostjo, umeščenostjo v prostor, dostopnostjo in odprtostjo izražajo stabilnost, moč, preglednost, demokratičnost ali celo avtoritarnost oblasti (Vale, 2008).

Estetska vrednost arhitekture velikokrat preglasi njen upravljavski in politični pomen, čeprav so prostorske rešitve pogosto globoko prežete s simboliko. V 20. stoletju so politične spremembe, ki so jih prinesli razpad imperijev, vojne in vzpon novih držav, vplivale tudi na arhitekturo prestolnic in institucionalnih središč. Prestolnice, še posebej načrtovane, pogosto odražajo ravnovesje moči v nacionalni državi, arhitektura pa v njih materializira državne ideale, kot sta demokracija ali avtoriteta (Vale, 2014).

V 20. stoletju smo bili priča izjemnemu porastu nastanka novih držav. Oblikovali so se novi zvezni sistemi in povečala se je vloga nadnacionalnih povezav. Ti prelomni politični in družbeni procesi so imeli pomemben vpliv tudi na razvoj arhitekture in urbanizma. Zelo zanimiv je podatek, da je bilo leta 2000 več kot tri četrtine glavnih mest novih – leta 1900 ta še niso imela statusa glavnega mesta. Čeprav nastanek novih mest ni vedno neposredna posledica oblikovanja držav, je mogoče zaznati sočasnost med ustanavljanjem držav in razvojem njihovih prestolnic. Pri razvoju glavnih mest so nastajala državna okrožja s simbolno in funkcionalno pomembnimi stavbami. Arhitektura razkriva, kdo je pomemben v kompleksni in množični družbi, in je hkrati tudi orodje, skozi katerega se lahko izražata ideala, kot sta demokracija in svoboda (Vale, 2008).

Urbanistično oblikovanje prestolnic in še posebej območja, ki je zasnovano, da predstavlja nacionalni nivo, je produkt ravnovesja ali neravnovesja moči v nacionalni državi. Kadar govorimo o vplivu in moči

⁷⁴Organizacija za gospodarsko sodelovanje in razvoj (OECD) je mednarodna, medvladna organizacija, ustanovljena leta 1961. Predhodnica OECD je bila Organizacija za evropsko gospodarsko sodelovanje (OEEC), ki je bila ustanovljena za upravljanje ameriške in kanadske pomoči v okviru Marshallovega načrta za obnovo Evrope po drugi svetovni vojni. Konvencija o preoblikovanju OEEC v OECD je bila podpisana v Chateau de la Muette v Parizu 14. decembra 1960 in je začela veljati 30. septembra 1961. Več na: <https://www.oecd.org/>.

⁷⁵Več na: https://www.oecd.org/en/publications/lessons-from-the-2023-oecd-trust-survey-in-slovenia_261ac7b2-en/full-report/component-7.html#chapter-d1e3953-6a0e507963.

⁷⁶Strategijo razvoja Slovenije 2030 je Vlada Republike Slovenije sprejela na svoji na svoji 159. redni seji, 7. decembra 2017. Več na: https://www.gov.si/assets/ministrstva/MKRR/Strategija-razvoja-Slovenije-2030/Strategija_razvoja_Slovenije_2030.pdf.

arhitekture, imajo prestolnice poseben pomen. Arhitektura in urbanistično oblikovanje nosita v primerih, ko ju pri zasnovi prestolnic podpira država, nesporno politično agendo, čeprav je le-ta predmet številnih interpretacij. Glavna mesta morajo po definiciji vsebovati in predstavljati sedež vlade in drugih nacionalnih institucij. Kljub temu pa niso istovetna z državo kot celoto – ostajajo mesta, vendar kot prostori posebne vrste, kjer se nacionalna identiteta ne le odraža, temveč tudi aktivno konstruira. Načrtovanje nove prestolnice ali vzpostavljanje pomembnih nacionalnih institucij v obstoječem glavnem mestu zato neizogibno odpira vprašanja o naravi in reprezentaciji nacionalne identitete (Vale, 2014).

Gallagher (2022) opozarja, da javne stavbe poosebljajo in izražajo politične ureditve v različnih vidikih. Zgodovinsko so te stavbe označevalci političnih dogodkov in polemik ali sprememb režima, ki so se odvijali v njih. Nosijo asociacije z določenimi političnimi osebnostmi ali ljudskimi demonstracijami, na njih so v prenesenem pomenu ali dobesedno vidne brazgotine – so fizični zapis zgodovine skupnosti in označevalci njene identitete. Takšne ikonične stavbe se lahko opišejo kot obraz države in se uporabljajo za predstavljanje ter projiciranje osebnosti države.

Monumentalna arhitektura pooseblja sposobnost vodje, da nadzoruje in vpliva na svoje privrženke. Je znamenje, ki kaže na voditeljevo moč in vrednost, prikaz vodstvenih sposobnosti in potenciala za politično moč. Zagotavlja poseben in nepozaben čustveni naboj, ki je v zavesti za vedno povezan z določenim krajem. Sposobnost, da vpliva na ljudi in učinkuje nanje, naredi zgradbo mogočno (Glenn, 2003).

Predsedniška palača je izraz monumentalne arhitekture. Kot osrednji prostor izvršilne oblasti ni zgolj administrativni objekt, temveč nosilec simbolnega pomena, ki ga je mogoče razbrati iz videza, lokacije in načina uporabe stavbe. V literaturi se pojem »predsedniška palača« uporabljata v povezavi s pojmom politična moč – kot glavni simbol moči države ali naroda, kot prostor, ki velja za uradno rezidenco predsednika države. V tem kontekstu se postavlja vprašanje: »Če torej predsedniška palača ne bi predstavljala ali simbolizirala moči, kaj jo bo?« (Humphrey, 2019). Ta retorična formulacija opozarja, da je arhitekturna podoba predsedniške rezidence bistvena za izražanje legitimnosti in avtoritete države. Simbolna moč palače ni usmerjena zgolj navznoter, temveč tudi navzven, kar potrjuje trditev: »Predsedniška palača bi morala pokazati politično moč, ne le narodu samemu, ampak tudi bodisi tekmečem ali zaveznikom (drugim državam)« (Venturi & Brown, 2019). S tem se utrjuje funkcija predsedniške palače kot prostora politične reprezentacije, kjer arhitektura postane orodje komuniciranja politične stabilnosti, državne kontinuitete ter diplomatske prisotnosti. Predsedniška palača torej ne odraža zgolj identitete nosilcev oblasti, temveč skozi simbolno govorico izraža tudi vrednote, ki jih želi država projicirati v mednarodno skupnost (Venturi & Brown, 2019).

Prostorska legitimizacija

Ključno vlogo pri družbeni sprejemljivosti posega v prostor ima vključevanje javnosti (Pogačnik, kot navaja Perovič, 2016). Poleg legalizacije, ki predstavlja zakonski okvir in normativno podporo, je za uresničitev ciljev prostorskih načrtov bistvena legitimizacija, ki jo posameznemu posegu v prostor predstavlja podpora javnosti (Kos, 2003). Šele s podporo javnosti, še posebej prebivalcev ožjega lokalnega okolja, projekti v prostoru lahko resnično zaživijo in uresničujejo svoj namen. Z zagotovljeno podporo in dostopom do informacij javnosti ter ustrezno promocijo projektov, se lahko izvedbene faze uresničujejo hitreje in učinkoviteje (Perovič, 2016). Dostop do informacij in pravico sodelovanja javnosti pri odločanju in izvajanju prostorskih politik zapoveduje Aarhuška konvencija⁷⁷, ki jo je Republika Slovenija ratificirala leta 2004 (Ur. l. RS, št. 62/2004). V nacionalni zakonodaji, je načelo sodelovanja javnosti in pravica do sodelovanja javnosti v prostorskih politikah, opredeljeno tudi v sistemskem področnem predpisu Zakonu o urejanju prostora (ZUreP-3, 2021).

V okviru strateškega prostorskega načrtovanja ima razvoj kakovostne komunikacije z javnostjo poseben pomen (Ogorelec, kot navaja Prelog, 2009). Sodobni pristopi k načrtovanju namreč presegajo zgolj tehnične vidike in normativno obdelavo razvojnih interesov, vključujejo tudi pomembne družbene dimenzije. Tradicionalno prostorsko načrtovanje je pogosto temeljilo na znanstveni racionalnosti, ki pa se je v praksi večkrat izkazala za nezadostno, saj rezultati niso vedno odražali interesov javnosti.

⁷⁷Več na: <https://eur-lex.europa.eu/SL/legal-content/summary/environmental-information-public-participation-and-access-to-justice-aarhus-convention.html>.

Strateško načrtovanje tako predstavlja pomemben premik v paradigmi, saj ne povečuje le uporabnosti načrtov za javnost, temveč zahteva tudi iskanje konsenza med vsemi vključenimi deležniki (Prelog, 2009).

Tudi pri prostorski legitimizaciji se srečamo z vprašanjem zaupanja. Uspešnost prostorskega načrtovanja je tako neposredno povezana z zaupanjem javnosti v državne institucije. Če zaupanja ni, so tudi postopki načrtovanja šibkejši in manj učinkoviti. Tradicionalno prevladujoči sistem prostorskega načrtovanja je z državno avtoriteto formalizirana in institucionalizirana aktivnost, zato je seveda učinkovitost planiranja v veliki meri odvisna od splošno priznane legitimnosti države oziroma državnih institucij. Oblika in vsebinska ambicioznost planskega postopka oziroma planskega dokumenta je odvisna od stopnje zaupanja v državne institucije (Zupančič, 2001).

Prostorsko legitimizacijo razumemo kot del širšega simbolnega aparata države, kjer prostor in arhitektura delujeta kot orodji politične komunikacije in konstrukcije družbenih razmerij moči. O vladajočem režimu se lahko veliko naučimo že zgolj iz tega, kaj gradi (Vale, 2008).

Trg republike v Ljubljani je eden najbolj izrazitih primerov prostorske legitimizacije v slovenskem prostoru. Arhitekt Edvard Ravnikar je leta 1960 zmagal na natečaju za izgradnjo novega političnega središča, ki ga je zasnoval na mestu, kjer je od 17. stoletja stal največji ljubljanski vrt. Ta je bil sprva v lasti grofov Turjaških, kasneje pa je postal nunski vrt. S svojo osrednjo lego med dvema pomembnima vpadnicama (Slovensko cesto in Prešernovo cesto) je območje ponujalo veliko nezazidano površino. Trg je bil zasnovan v času socializma kot simbol nove politične ureditve in državnosti, imenovan Trg revolucije, gradili pa so ga postopno več kot dvajset let. Danes ohranja svojo funkcijo kot prostor politične reprezentacije pred stavbo Državnega zbora Republike Slovenije. Kot odprt prostor med parlamentom in Cankarjevim domom omogoča tudi javna zborovanja, kar simbolizira demokratično participacijo. Trg zborovanja je ostal pomemben tudi po osamosvojitvi Slovenije, saj so prav na tem mestu 26. junija 1991 razglasili samostojnost Republike Slovenije. Celoten kompleks je umeščen v neposredno bližino starega mestnega jedra, kar pomeni prostorsko navezavo na zgodovinsko kontinuiteto, hkrati pa jasno izraža prelom s preteklostjo preko modernističnega arhitekturnega jezika. Trg ima pomemben politično-mitološki pomen (Bartulovič, 2010).

Podoben primer iz tujine je National Mall v Washingtonu, ki predstavlja klasičen primer prostorske legitimizacije v zahodnem kontekstu. Umeščenost ključnih institucij – Kapitola, Bele hiše, spomenikov Abrahamu Lincolnu in Thomasu Jeffersonu ter nacionalnih muzejev Smithsonian – v jasno definirano in monumentalno os je skrbno premišljena. Zasnova sledi idealom razsvetljenskega racionalizma in demokratičnega reda, pri čemer arhitekturna govorica Kapitola z značilnimi klasičnimi elementi (stebri, kupola) posnema rimsko republiko ter simbolizira kontinuiteto z antičnimi ideali vladavine prava. Prostor kot celota ustvarja občutek enotnosti, nacionalnega ponosa in identifikacije z ameriškim državnim projektom (Gherom, 1952).

Slovenski primeri arhitekturne reprezentacije oblasti

Stavbe osrednjih državnih institucij v Sloveniji so nastale v začetku ali sredini 20. stoletja kot posledica določenega družbenega razvoja na prelomni točki v zgodovini in simbolizirajo avtoriteto ter moč države, hkrati pa označujejo ozemlje in suverenost države.

Pred več kot 100 leti so bili na prostoru, kjer zdaj na naslovu Tavčarjeva ulica 9 v Ljubljani stoji sodna palača, travniki in vrtovi ljubljanskih meščanov. Sodni uradi so bili raztreseni predvsem po južnem delu mesta. Osrednji del sodstva je bil pri Križankah, okrog pa so bile notarske in odvetniške pisarne. V poslopu nemškega viteškega reda sta imela sedež okrajno sodišče in zemljiška knjiga. Sodno palačo so izdelali po načrtih še danes neznanega arhitekta. Gradnjo sodne palače je nadziral dunajski arhitekt Anton von Spindler. Ljubljana je tako dobila monumentalno dvonadstropno palačo s prevladujočimi neorenesančnimi in neoklasicističnimi elementi. Glavna fasada je v antičnem slogu, zlasti opazni so štirje jonski stebri, ki se vzdigujejo v srednjem, izpostavljenem delu, skozi obe nadstropji. Načrt fasade, po katerem je bila stavba realizirana, je nepodpisan, tako da ostaja vprašanje avtorstva nerešeno, obstajali pa so trije različni načrti glede fasade (Ciko Hočevar, 2016).

Aprila 1903 je sodna palača dobila zaključni kamen.⁷⁸ Leta 1937 je znani slovenski kipar Tine Kos ustvaril kip Pravice, ki še danes stoji desno od glavnega vhoda (Ciko Hočevnar, 2016).

Državni zbor Republike Slovenije zaseda stavbo na naslovu Šubičeva ulica 4 Ljubljana. Stavbo, zasnovano kot skupščinsko po ideji arhitekta Vinka Glanza, so začeli graditi leta 1954. Gradnjo so končali leta 1959. Ljudska skupščina Republike Slovenije je v njej prvič zasedala 19. februarja 1959. Stavba ima okoli 14.000 m² uporabnih površin. Sprva je v njej zasedala Skupščina Socialistične republike Slovenije (Državni zbor Republike Slovenije, n.d.), od samostojne Republike Slovenije pa je sedež zakonodajne veje oblasti in kjer danes zasedata Državni zbor ter Državni svet.⁷⁹ Pri gradnji so se držali načela, da se uporabijo domači materiali, kot so marmor, kamen in les. Stavba je obložena s ploščami koprivskega marmorja, podokenska polnila na fasadi pa so iz zelenega oplotniškega granita. Pročelje krasi portal, ki se na petih granitnih pilastrih vzpenja do polovice prvega nadstropja, zaključek portala služi kot balkon. Leta 1991 so skupščinsko stavbo z več prehodi povezali s sosednjo klasicistično stavbo na Tomšičevi ulici. Slednja je bila zgrajena v letih 1879 in 1880 kot Kranjska hranilnica, ki je bila prva bančna ustanova v našem prostoru. Obe stavbi imata tudi izjemno bogato arhitekturno in kulturno umetnostno notranjost. Stavba parlamenta na Šubičevi ulici je umeščena v neposredno bližino Trga republike, kar poudarja njen simbolni pomen. Vhodni portal je obogaten s kiparsko okrasitvijo. Razmeroma zadržana monumentalnost stavbe odraža umirjeno institucionalno prisotnost (Državni zbor Republike Slovenije, n.d.).

Sedež nominalnega šefa izvršilne veje oblasti, predsednika Republike Slovenije, je predsedniška palača na naslovu Erjavčeva cesta 17, Ljubljana. Gradnjo palače, ki je potekala po načrtih arhitekta Emila von Försterja in inženirja Rudolfa Bauerja, sta zaznamovala močvirnato zemljišče in odkritje rimskega najdišča. Gradnja se je začela spomladi 1897. Močan potres je leta 1895 v Ljubljani uničil večino stavb uradov deželne oblasti tedanje Avstro-Ogrske in gradnja stavbe sega v čas obnove ter ponovnega vzpostavljanja mesta. Uporabno dovoljenje za prve prostore je bilo izdano leta 1898. Od tedaj je v palači delovalo več uradov, med njimi deželna oblast dežele Kranjske, krajši čas Narodna vlada Države Slovencev, Hrvatov in Srbov, bila je sedež Dravske banovine in ljubljanskih županov. Po drugi svetovni vojni sta v njej delovala Izvršni svet Skupščine Socialistične republike Slovenije ter Ustavno sodišče, od leta 1975 pa Predsedstvo Socialistične republike Slovenije. Po osamosvojitvi palačo uporablja predsednik Republike Slovenije in njegov urad. Del palače je namenjen tudi protokolarnim prostorom predsednika vlade, generalnemu sekretariatu vlade in Protokolu Republike Slovenije. Predsedniška palača na Erjavčevi cesti ima izrazito klasično arhitekturo, ki v kombinaciji z varnostnimi elementi deluje distancirano. Položaj ob parku in diplomatski četrti Ljubljane ji daje simbolno težo, tudi fizična dostopnost za javnost ni pretirano omejena (Predsedniška palača, n.d.).

Primerjalni pogled: simbolika, monumentalnost in dostopnost v tujini

Arhitektura državnih institucij v različnih državah odraža zgodovinske, kulturne in politične spremembe, ki so se dogajale skozi čas. Različni pristopi k oblikovanju prostorov oblasti lahko močno vplivajo na dožemanje zaupanja državljanov v te institucije. Kljub temu pa znotraj arhitekture, politologije in sorodnih disciplin ostaja premalo razumevanja o tem, kako arhitektura vpliva na politične procese in kako ti procesi sooblikujejo arhitekturo. Arhitekti in oblikovalci se že dolgo časa zavedajo, da med prostorom in politiko obstaja tesna povezava. Arhitektura ni zgolj ozadje političnega delovanja, temveč aktivno oblikuje načine, kako se oblast dojema, izvaja in celo legitimira. Arhitektura je sama po sebi politični agent, saj skozi prostorske rešitve izraža vrednote, hierarhije in ideologije določene družbe (Psarra & Maldonado Gil, 2023).

⁷⁸In sicer, ploščo na desni strani glavnega vhoda, z napisom AEDIFICATUM SUB AUSPICIIIS IMPERATORIS FRANCISCI JOSEPH I MDCCCIC–MDCCCII, podrobneje o tem Ciko Hočevnar, 2016, str. 117.

⁷⁹Podrobneje o pravni umestitvi, položaju, posebnostih in pristojnostih Državnega sveta Grad in Kaučič, 1999, str. 192–194.

Združene države Amerike

Združene države Amerike so bile za primerjalno analizo izbrane zaradi ikoničnosti in globalne prepoznavnost političnih stavb.

Stavbi, kot sta Bela hiša in Kapitol, sta postali mednarodni simboli demokracije in politične stabilnosti, zaradi česar sta referenčna točka za primerjavo z drugimi državami. Združene države Amerike ponujajo izrazit primer, kjer so reprezentativne zgradbe, kot je Bela hiša, simbol prvenstvene demokracije in zahodne kulture (Rupel, 2025). Bela hiša, rezidenca in urad predsednika Združenih držav Amerike, je primer arhitekture, ki povezuje politično moč z načelom dostopnosti. Zgrajena je v slogu neoklasicizma, z elementi, ki spominjajo na antično Grčijo in Rim.⁸⁰ Kljub varnostnim omejitvam ostaja simbolično odprta javnosti, saj obiskovalci lahko dostopajo do določenih območij ali se sprehajajo po njeni okolici, kar utrjuje podobo vlade kot »vlade ljudstva« (National Park Service, 2016).

Ustava Združenih držav Amerike v 1. členu določa, da je zakonodajna oblast države Kongres. Stavba, v kateri deluje Kongres, se imenuje Kapitol in stoji na Kapitolskem griču v Washingtonu. Ob napadu na Kapitol, 6. januarja 2021, se je jasno pokazala čustvena navezanost ameriškega naroda na arhitekturne simbole oblasti (Psarra, Staiger, & Sternberg, 2023). Kapitol v tem trenutku še zdaleč ni predstavljal zgolj prostora, temveč je bila stavba označevalec pomena, svetišče demokracije, ki so ga deležniki v spopadu interpretirali kot osvobojeno ozemlje (Hernandez, 2024).

Primerjalna analiza treh parlamentov

Za primerjalno analizo so bile izbrane stavbe parlamentov treh držav: Westminsterška palača (Združeno kraljestvo Velike Britanije), Reichstag (Zvezna republika Nemčija) in Škotski parlament (Škotska je država, ki je del Združenega kraljestva Velike Britanije in Severne Irske), ker stavbe predstavljajo tri izrazito različne zgodovinske in politične pristope k reprezentaciji oblasti. Westminsterška palača (Združeno kraljestvo) je zgodovinski simbol kontinuitete in tradicije (Flinders, 2023). Reichstag (Nemčija) predstavlja arhitekturni simbol demokratične prenove in transparentnosti po združitvi Nemčije (Psarra & Maldonado Gil, 2023). Škotski parlament predstavlja decentralizirano, regionalno identiteto v okviru širšega državnega sistema.

Westminsterška palača: materializacija tradicije in parlamentarnega formalizma

Westminsterška palača, sedež britanskega parlamenta, predstavlja eno bolj prepoznanih arhitekturnih utelešenj nacionalne politične identitete.

Po uničujočem požaru leta 1834 je bila zasnovana na novo, v neogotskem slogu, s strani arhitektov Charlesa Barryja in Augusta Pugina. Neogotski slog, zaznamovan z vertikalnostjo, ornamentalnostjo in zgodovinskimi referencami, ni bil izbran zgolj zaradi estetske vrednosti, temveč kot zavestna gesta ohranjanja kontinuitete britanske konstitucionalne tradicije (Flinders, 2023).

Z notranjo arhitekturno zasnovo stavba uteleša načelo hierarhične razdelitve oblasti: Lordska zbornica in Poslanska zbornica sta ločeni, razmejeni tako fizično kot simbolno, kar ustreza strukturi britanskega političnega sistema. Prostor za razpravo v Poslanski zbornici je urejen v obliki nasprotujočih si klopi, kar spodbuja kulturo razprav, značilno za večinske sisteme (Lijphart, 1999).

Palača je tudi simbol suverenosti in kontinuitete britanske države. Njena monumentalnost in lokacija v središču Londona poudarjata elitni značaj oblasti. Vendar pa nedavne razprave o prenovi razkrivajo napetosti med ohranjanjem dediščine in zahtevami po funkcionalni učinkovitosti in varnosti. S tem postaja Westminsterška palača tudi prostor ideoloških in praktičnih konfliktov o vlogi tradicije v sodobni demokraciji (Flinders, 2023).

Reichstag: arhitekturna rekonstrukcija demokracije in transparentnosti

Nemški parlament, Reichstag v Berlinu, predstavlja izjemen primer arhitekturne preobrazbe političnega pomena. Po ponovni združitvi Nemčije je arhitekt Norman Foster zasnoval prenovno stavbo, ki je vključevala dodatek steklene kupole nad sejno dvorano. Ta arhitekturni element ima jasno simbolno

⁸⁰Več o tem: <https://www.whitehouse.gov/about-the-white-house/the-white-house/>.

funkcijo, saj omogoča obiskovalcem, da fizično in vizualno gledajo navzdol na poslance, s čimer se vzpostavlja metafora demokratičnega nadzora in preglednosti (Psarra & Maldonado Gil, 2023).

Arhitekturna ureditev Reichstaga odraža sodobne ideje o odprtosti, vključujoči demokraciji. Notranjost stavbe sledi načelom prostorske povezanosti in vidnosti, kar naj bi spodbujalo bolj horizontalne oblike interakcije med političnimi akterji. Kupola tako ni zgolj arhitekturna dominantna, temveč del političnega sporočila o transformaciji države, ki se oddaljuje od preteklosti in vzpostavlja novo identiteto demokratične družbe v Nemčiji (Psarra & Maldonado Gil, 2023).

Obnovljeni parlament ni samo sedež političnega odločanja, temveč je tudi priljubljena turistična destinacija, kar dodatno utrjuje njegovo vlogo kot medij politične reprezentacije. V tem smislu deluje stavba kot arhitekturni artefakt demokratične pedagogike in omogoča državljanom neposreden stik z materialnostjo oblasti (Aliyu & Abdulsalam, 2020).

3.4.2.3 Škotski parlament: utelešenje regionalne identitete in demokratične participacije

Škotski parlament v Edinburghu je radikalno drugačen primer. Zgrajen med letoma 1999 in 2004 po načrtih katalonskega arhitekta Enrica Mirallesa, zavrača tradicionalne monumentalne oblike oblasti in se namesto tega obrača k organski arhitekturi, ki odraža krajino, kulturo in identiteto Škotske. Stavba je zasnovana kot »integrirana v zemljo«, kar simbolizira pripadnost ljudstvu in lokalni skupnosti (White & Sidhu, 2005).

Parlamentarna dvorana je razporejena v polkrogu, kar simbolizira enakopravnost in spodbujanje soglasja. Arhitektura omogoča prostorsko odprtost, naravno osvetlitev in vizualno povezanost, kar podpira demokratični ideal preglednosti in dostopnosti (White & Sidhu, 2005).

Poseben poudarek je namenjen javnosti. Prostori za obiskovalce, umetniške instalacije in javne poti skozi stavbo ustvarjajo izkušnjo odprtosti in vključenosti. Parlament tako postane več kot sedež zakonodaje, postane simbol decentralizacije in regijskega političnega opolnomočenja (White & Sidhu, 2005).

Analiza treh primerov razkriva, kako arhitektura parlamentov ni nevtralna, temveč oblikuje in odraža politične kulture, ideologije in zgodovinske kontinuitete. Westminsterška palača ohranja formalistični model moči z jasno hierarhično strukturo in tradicionalnim simbolnim jezikom (Flinders, 2023). Reichstag uteleša modernistično interpretacijo odgovornosti in nadzora (Psarra & Maldonado Gil, 2023), medtem ko Škotski parlament predstavlja eksperiment participativne demokracije, utemeljen v regionalni identiteti in arhitekturni inkluzivnosti (Melvin, 2023).

Stavbe nosilcev oblasti kot materializacija avtoritete, legitimnosti in čutna izkušnja države

Stavbe osrednjih državnih institucij niso zgolj prostori, kjer se izvajajo funkcije oblasti, temveč so tudi močni simboli politične avtoritete, legitimnosti in državne identitete. Arhitektura teh stavb je neločljivo povezana z materialno reprezentacijo države in s tem z načinom, kako oblast komunicira svojo moč, pravičnost in vrednote. Tako fizični kot simbolni elementi teh stavb, od lokacije in velikosti do oblikovne zasnove in notranje organizacije, vplivajo na doživljanje oblasti s strani državljanov (Vale, 2008).

Patrícia Branco v svojih raziskavah o sodnih stavbah poudarja, da sodišča niso zgolj prostori odločanja, temveč prostori interakcij, čustev in simbolov. Stavbe sodišč niso zgolj funkcionalna infrastruktura, temveč nosijo pomen normativne referenčnosti, predstavljajo pravičnost in utelešajo institucionalno avtoriteto. Branco opozarja na problem arhitekturne banalizacije sodišč. Nove sodne stavbe so pogosto brez simbolne govorice, zlahka zamenljive s poslovnimi objekti, kar zmanjšuje njihovo prepoznavnost kot simbolov pravičnosti. S tem izgubljajo sposobnost utelešanja legitimnosti sodne veje oblasti. V svojih analizah primerov iz Brazilije, Jeruzalema, Neaplja, Pariza, Koimbre in Milana, Branco pokaže, kako urbanistična umeščenost, zgodovinska kontinuiteta ali obrobna marginalizacija, v smislu umeščanja sodne stavbe fizično ali simbolno na rob družbenega in urbanega okolja, vplivajo na zaznavanje sodne institucije v kolektivni zavesti (Branco, 2016; Bels & Branco, 2017; Branco et al., 2019; Branco, 2024).

Branco vpelje koncept »življenjskega prostora«¹ Henrija Lefebvra, ki vključuje fizično, koncipirano in doživeto razsežnost prostora, ter ga uporabi za analizo čustvenih odzivov uporabnikov portugalskih družinskih sodišč. Intervjuji z udeleženci pravosodnih postopkov kažejo, da neustrezna fizična infrastruktura (primeroma slabe delovne razmere, nedostopne stavbe, pomanjkanje zasebnosti) generira

občutke frustracije, izključenosti in dvoma v institucionalno pravičnost. To vpliva na zaupanje v sodstvo in na zaznavanje njegove legitimnosti (Branco, 2024).

Sodobna sodna infrastruktura pogosto izgublja prepoznavnost v urbanem okolju, saj jo nadomeščajo stavbe na obrobjih mest, zgrajene brez upoštevanja simbolnega pomena. Selitve sodišč iz središč mest v poslovna območja, kakršne najdemo v Parizu in Neaplju, pomenijo ne le fizično oddaljenost od prebivalcev, temveč tudi simbolno erozijo prisotnosti pravosodja. V Bariju na jugu Italije je sodna funkcija celo prostorsko degradirana, saj obravnave potekajo v začasnih šotorih, kar jasno kaže na upad institucionalnega dostojanstva (Branco, 2019). Branco oblikuje model razumevanja dostopa do pravosodja, ki vključuje tri razsežnosti: kognitivno-simbolno (prepoznavnost sodne stavbe kot simbolne institucije), funkcionalno-ergonomsko (ustrezna notranja organizacija prostora) in geofizično (dostopnost glede na lokacijo in mobilnost). Te dimenzije niso le arhitekturne značilnosti, temveč ključni elementi legitimizacije institucij (Branco, 2017).

Parlamentarne stavbe, kot kažejo raziskave Psarra, Staiger in Sternberga, utelešajo politične vrednote in sooblikujejo razumevanje demokracije. Gre za prostorsko artikulacijo ideala ljudske suverenosti in politične reprezentacije. Arhitektura parlamenta ni nevtralna. Način, kako je prostor organiziran, kako se vstopa vanj, kako potekajo razprave, vpliva na politično kulturo in na zaznavanje demokratičnih procesov (Psarra et al., 2023).

Abdelkhalek o predsedniških palačah ugotavlja, da velikost, starost, materiali in umestitev stavbe izražajo moč ali šibkost oblasti. Predsedniške palače so oblikovane kot prostori simbolne ekspanzije, njihova arhitektura je politična govorica sama po sebi (Abdelkhalek et al., 2019). Čeprav se raziskava osredotoča zgolj na izvršilno vejo oblasti, njeni izsledki ponujajo uporabne koncepte tudi za razumevanje drugih stavb osrednjih državnih institucij.

Podobne ugotovitve ponujata tudi Bels in Branco, ki osvetlujeta napetost med reprezentacijo in funkcionalnostjo. Raziskava poziva k novi arhitekturi, ki ne bo več žrtvovala simbolnega pomena na račun učinkovitosti, temveč bo ponovno uravnotežila identiteto, dostopnost in operativno učinkovitost sodne institucije. Arhitektura pravosodja naj ponovno postane komunikacijsko orodje, prostor, ki javno razglasa vrednote pravičnosti, enakosti in zakonitosti (Bels & Branco, 2017).

V kontekstu sodobnega razmisleka o zaupanju v politične institucije raziskava OECD iz leta 2023 izpostavlja, da na zaupanje ne vplivajo zgolj zaznave kompetentnosti in integritete, temveč tudi občutki dostojanstva posameznikov pri interakciji z vladami, individualni in kolektivni občutek varnosti ter kompleksne komunikacijske funkcije in način komuniciranja o informacijah (OECD, 2024).

Pomembno je, kako se institucije predstavljajo, kako državljani doživljajo obravnavo in kako so prostori oblasti oblikovani. Zaupanje v demokracijo se tako ne gradi zgolj z zakonodajo in delovanjem, temveč tudi s prostorsko in simbolno prezenco oblasti v vsakdanjem življenju.

3.5.1 Arhitekturno-čutna izkušnja države

Državne stavbe ne predstavljajo zgolj materialnih struktur, temveč delujejo kot čutni in afektivni generatorji politične izkušnje. Državljeni se z državo pogosto ne srečujejo le prek zakonov ali politik, temveč prek vsakdanjih izkušenj z njenimi fizičnimi prostori, stavbami, v katerih delujejo njene institucije.

Gallagher (2022), v raziskavi razkriva, da državljani državo zaznavajo kot »stvar«, materialno in čutno prisotno entiteto, prek vizualnih, zvočnih, taktilnih in celo vonjalnih vtisov. V raziskavi, ki vključuje fokusne skupine in terensko opazovanje različnih vrst javnih stavb, od parlamenta in sodišč, do bolnišnic in policijskih postaj, se izriše kompleksen zemljevid zaznavanja države. Ugotovljeno je, da zunanost stavb pogosto izraža red, moč in nacionalno enotnost, medtem ko notranost razkriva neurejenost, zanemarjenost in razpad. Ta razcep med racionalno fasado in kaotično notranostjo ustvarja ambivalentno doživljanje države, in sicer po eni strani kot simbol reda, po drugi kot vir frustracije in nezaupanja. Zunanja monumentalnost lahko vzpostavi vtis dostojanstva in varnosti, a če se za njo skriva nefunkcionalen in degradiran notranji prostor, se ustvarja diskrepanca med pričakovanim in doživetim. S tem je legitimnost države na čutni ravni pod vprašajem. Gallagher (2022) opozori na metaforo »opečnate fasade«, ki zakriva notranjo »nesmiselnost« institucije. Fizična struktura služi kot maska, ki ne odraža dejanskega stanja notranjega delovanja.

Ta koncept telesnosti države, države kot čutno prisotne entitete, kaže, da stavbe niso le ozadje političnega dogajanja, temveč aktivno oblikujejo razmerje med državo in državljani. Senzorična

zaznava, recimo vonj plesnivih hodnikov, zvok dolgotrajnega čakanja, hladni dotik kovinskih klopi, vpliva na občutek vključevanja ali izključevanja iz državnega aparata. Zato je arhitekturno-čutna izkušnja države pomemben del razumevanja legitimnosti. Institucije, ki želijo graditi zaupanje, morajo razmišljati tudi o tem, kako se njihove stavbe čutijo, ne le kako izgledajo. Država, zaznana kot oddaljena in hladna, izgublja sposobnost vzpostavljanja stika z družbo. Država, ki omogoča izkušnjo dostopnosti, spoštovanja in vključevanja, se utrjuje kot legitimna in zaupanja vredna (Gallagher, 2022).

Obravnavano poglavje odpira ključna vprašanja o vlogi arhitekture v procesih politične reprezentacije in gradnji zaupanja v institucije oblasti. Izpostavlja pomen simbolne in prostorske dimenzije stavb osrednjih državnih institucij ter nakazuje, da arhitekturne značilnosti niso zgolj estetski ali funkcionalni elementi, temveč potencialno relevantni dejavniki v razumevanju institucionalne legitimnosti.

V nadaljevanju bo razprava te ugotovitve podrobneje razdelala in podan bo predlog za nadaljnje delo.

Razprava in sklep

Teoretično-analitična raziskava potrjuje, da imajo stavbe, kot so parlament, sodišča in predsedniška palača, pomembno komunikacijsko vlogo pri reprezentaciji demokratičnih vrednot. Arhitekturne značilnosti, kot so umeščenost v prostor, odprtost, monumentalnost ter estetsko in simbolno sporočilo, pa pomembno vplivajo na zaznavanje legitimnosti, dostopnosti in zaupanja v nosilce oblasti, kar v svojih delih potrjujejo številni strokovnjaki, kot so Branco, Gallagher Psarra, Staiger, Sternberg, Vale. Ustrezna arhitekturna rešitev prispeva k večji občutljivosti oblasti za potrebe državljanov ter okrepi občutek vključenosti in pripadnosti skupnosti. V tem okviru materialna kakovost stavb ni le upravna ali finančna kategorija, temveč tudi demokratični instrument, ki vpliva na zaupanje, legitimnost in predstavlja stabilnost političnega sistema.

Analiza slovenskih primerov (Državni zbor Republike Slovenije, Predsedniška palača, Vrhovno sodišče Republike Slovenije) je pokazala, da so te stavbe pogosto zgodovinsko determinirane in zaznamovane z arhitekturnimi rešitvami, ki deloma utrjujejo avtoriteto, hkrati pa lahko tudi omejujejo občutek odprtosti in participacije. Primerjava s tujino, nemškim parlamentom Reichstagom v Berlinu, ki z dodatkom steklene kupole po Fostrovem načrtu uteleša idejo demokratičnega nadzora ali škotskim parlamentom v Edinburghu, ki z vključujočo arhitekturo izraža pripadnost ljudstvu, kaže razlike v arhitekturnih pristopih, ki vplivajo na čustveni in kognitivni odnos.

Teoretično-analitična raziskava tako odgovarja na raziskovalno vprašanje in potrjuje hipotezo, da stavbe osrednjih državnih institucij aktivno soustvarjajo odnos med oblastjo in državljani preko arhitekturne govorice, prostorske umeščenosti in čutne izkušnje. Kot opozarjajo Almond in Verba (1963) ter Easton (1975), je politično zaupanje kompleksen pojav, ki presega zgolj vsebinsko delovanje institucij in vključuje tudi njihovo simbolno prezenco. Temu pritrjujejo tudi izsledki raziskave OECD (2023), ki poudarjajo pomen zaznavnih (komunikacijskih) dejavnikov pri oblikovanju zaupanja državljanov do oblasti.

V pravnem smislu je zaupanje v institucije temeljna predpostavka za učinkovito uresničevanje načel pravne države. Tako kot zakonodaja tvori normativni okvir pravne države, materialna infrastruktura institucij, soustvarja občutek legitimnosti pravnega reda. Kot izpostavlja Branco (2024), sodne stavbe niso zgolj prostori odločanja, temveč prostori institucionalnega sporočanja o tem, kaj pomeni pravičnost, enakost in dostop do pravnega varstva. Njeno opozorilo glede arhitekturne banalizacije sodne infrastrukture, ki se izgublja v poslovnih kompleksih brez simbolne vrednosti, je vredno premisleka tudi za slovenski prostor, v katerem je sodna palača kljub arhitekturni impozantnosti, pogosto premalokrat prepoznan simbol sodne avtoritete.

Primerjalna analiza stavb, kot sta Reichstag v Berlinu ali Škotski parlament v Edinburghu, jasno kaže, kako lahko sodobna arhitekturna zasnova aktivno prispeva k demokratizaciji zaznavanja oblasti. Transparentna steklena kupola Reichstaga je več kot arhitekturni element, je fizična artikulacija načela nadzora oblasti s strani ljudstva. Podobno velja za Škotski parlament, kjer prostorska odprtost in integracija z okoliško krajino simbolizirata pripadnost skupnosti in decentralizacijo oblasti. Ta primera kaže, kako arhitektura v funkciji oblasti presega zgolj estetske ali funkcionalne dimenzije in postane politični medij v najširšem smislu besede.

Raziskava je dodatno osvetlila pomen prostorske legitimizacije, ki pomeni proces, v katerem fizična umeščenost stavb osrednjih državnih institucij legitimira oblast ne zgolj s pravnimi akti, temveč z vključevanjem in odobravanjem posameznikov in ožjega, lokalnega okolja. Trg republike v Ljubljani

kot prostor politične reprezentacije je primer, kjer zgodovinska konotacija prostora in njegova povezava s ključnimi institucijami ustvarjata simbolno sidrišče državnosti.

Na podlagi opravljene analize in sinteze se ugotavlja, da povezava med arhitekturnimi značilnostmi državnih stavb in zaupanjem državljanov še ni zadostno raziskana, zlasti ne v okviru sistematičnih, interdisciplinarno zasnovanih študij, ki bi združevale pravno, sociološko, politološko in arhitekturno perspektivo. Zaradi interdisciplinarne narave tematike obstaja nevarnost razpršenosti analize, ker zahteva natančno in premišljeno sintezo različnih znanstvenih disciplin, vendar celovita obravnava tematike, brez tovrstnega interdisciplinarnega pristopa in empiričnega dela, ni izvedljiva.

Ugotovimo lahko, da se ustavna načela, kot so delitev oblasti, vladavina prava, dostop do sodnega varstva in pravnega sredstva, sodelovanje pri upravljanju javnih zadev, ne udeležajo le prek normativnih pravil, temveč tudi v simbolni, fizični in doživljajski ravni, katere nosilka je tudi arhitektura. Zato je razumljivo, da degradacija fizične infrastrukture (primeroma neustrezno vzdrževanje, oddaljena in neustrezna lokacija in umeščenost stavb osrednjih državnih institucij) vpliva na dojemanje legitimnosti oblasti in zaupanja državljanov v nosilce oblasti.

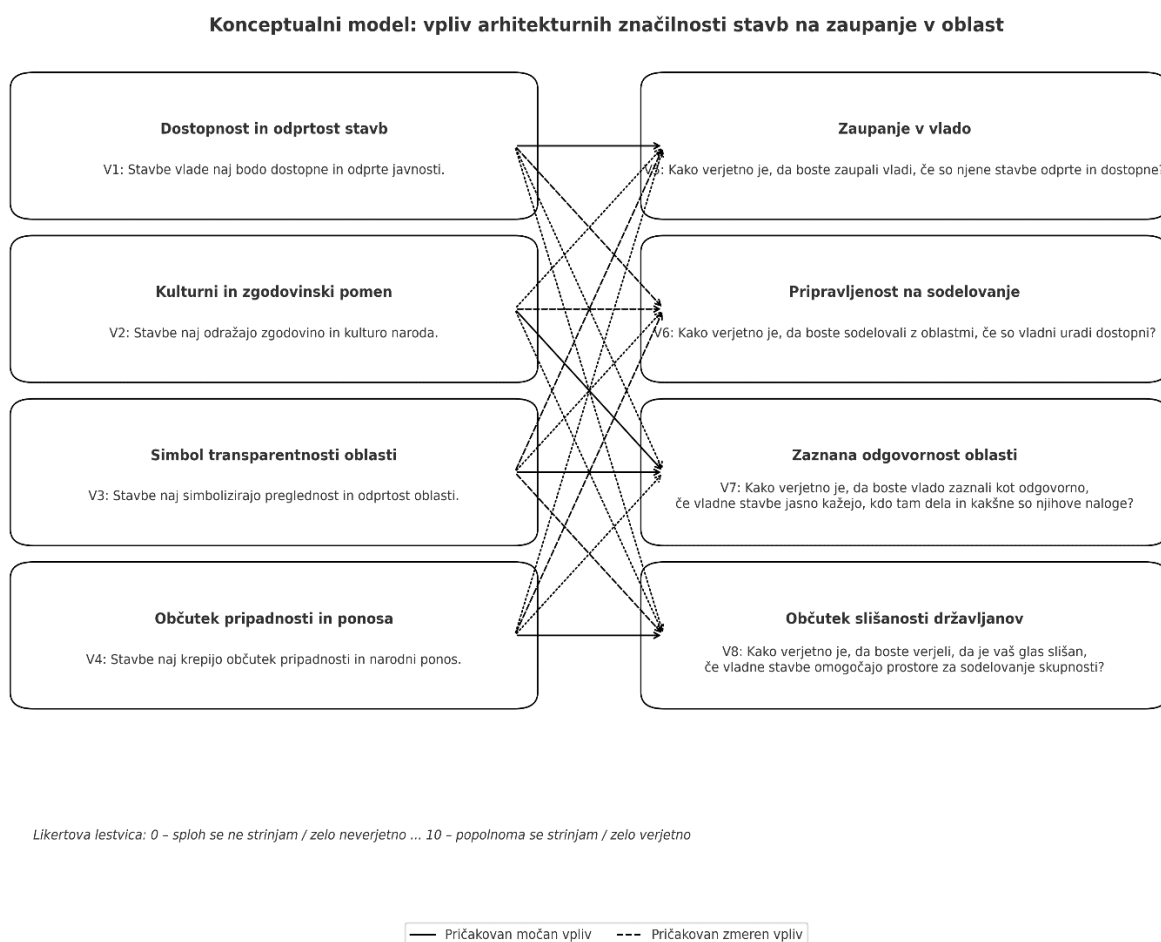
V tem kontekstu je pomemben predlog avtorice za vključitev novega vprašanja v naslednji krog raziskave OECD Trust Survey, in sicer dopolnitev raziskave OECD Trust Survey z vprašanjem, ki zajema percepcijo stavb osrednjih državnih institucij s strani državljanov.

Predlagano vprašanje, ki ga je avtorica že naslovila na OECD je oblikovano v dveh delih. S prvim delom vprašanja bi preverili stališča glede pomena arhitekturnih in simbolnih lastnosti stavb osrednjih državnih institucij (dostopnost, kulturni pomen, transparentnost, občutek pripadnosti). Drugi del pa bi meril vpliv takšnih lastnosti na pripravljenost posameznikov, da zaupajo oblastem, z njimi sodelujejo in zaznavajo njihovo odgovornost.

Vsa vprašanja so oblikovana na Likertovi lestvici od 0 do 10.

Vizualni povzetek predlaganega vprašanja, ki povezuje arhitekturne lastnosti stavb osrednjih državnih institucij z zaznavami državljanov in oblikovanjem zaupanja, je prikazan v spodnjem konceptualnem diagramu, pri čemer je na podlagi teoretično-analitske raziskave opredeljen pričakovan močan vpliv in zmeren vpliv arhitekturnih značilnosti stavb na zaupanje oblasti.

Slika 1: Vizualni povzetek predloga raziskovanja.



Vir: Lastno delo.

Ocena pričakovanega močnega vpliva temelji na literaturi, ki arhitekturno dostopnost in transparentnost obravnava kot neposredno povezani z zaznavo legitimnosti. Analizirani primer Reichstaga, kjer steklena kupola kot arhitekturni element materializira načelo nadzora ljudstva nad oblastjo, Psarra, Staiger, Sternberg, podobno Branco poudarjajo, da fizična odprtost institucij, tako na ravni arhitekturne zasnove kot urbane umeščenosti, bistveno vpliva na občutek vključenosti državljanov. Takšne prostorske rešitve sporočajo, da oblast ni oddaljena, temveč je del družbenega vsakdana (Branco, 2019).

Zmerni vplivi so utemeljeni na konceptualni ravni, vendar so njihovi učinki bolj posredni in kontekstualni. Gallagher (2022) ugotavlja, da tudi če prostori omogočajo participacijo, ni nujno, da jo državljani zaznavajo kot učinkovito, razkorak med simbolno odprtostjo in realnimi možnostmi sodelovanja lahko celo povzroči občutek frustracije.

Zaupanje javnosti v politične institucije je ključno za legitimnost demokratične vlade. To zaupanje se ne gradi le s politikami in posameznimi dejanji, ampak tudi s fizičnimi in simbolnimi elementi. Kot kažejo dosedanje raziskave, je dojetje in zaznavanje oblasti kompleksno in večplastno področje, vendar nobena od dosedanjih raziskav zares neposredno ne povezuje zaupanja in stavb osrednjih državnih institucij v povezavi s funkcionalno vlogo oblasti, ki se v njih izvaja.

Pristop, kot ga predlaga avtorica, bi omogočil pomemben empirični doprinos k razumevanju simbolne vloge arhitekture v sodobnih demokracijah ter bi podprl nadaljnji razvoj področnih politik.

V zaključku se lahko potrdi, da stavbe osrednjih državnih institucij niso le materialni prostori izvajanja oblasti, temveč so hkrati simbolni označevalci politične in pravne identitete države. Njihova arhitektura

ne vpliva zgolj na urbani prostor, temveč soustvarja odnos med državo in njenimi državljani. Poglobljeno razumevanje te vloge zahteva interdisciplinarno in dolgoročno raziskovanje, ki lahko ponudi pomembne uvide tudi za prihodnji razvoj politik.

Sklepni zaključek prispevka je, da je nadaljnje raziskovanje te tematike potrebno, tako zaradi pomanjkanja obstoječih študij, kot tudi zaradi velikega potenciala, ki ga nosi arhitektura kot orodje politične komunikacije in stavbe osrednjih državnih institucij kot podporni del normativnega aparata države. Prispevek tako predstavlja teoretsko izhodišče za nadaljnjo empirično raziskavo, ki bo poleg opisanega predloga razvita tudi v okviru doktorske disertacije, v kateri bo avtorica raziskovala vprašanje zaznavanja stavb osrednjih državnih institucij kot nosilcev državne simbolike (v pripravi).

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