# Fostering Local and Regional Innovation Through Partnerships

## THE ROLE OF UNIVERSITIES

*Edited by:*

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accent

# Fostering Local and Regional Innovation Through Partnerships – The Role of Universities

Editors

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accent

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# Contents

Foreword ..... 9

Raluca Ioana ANTONIE
Simona Claudia CREȚA
Samir Mihai CORB

New European Bauhaus Principles and Indicators of Success ..... 13

Simona Andreea BANU

The Impact of the New European Bauhaus on EU Security ..... 29

Emese BELÉNYESI
Andrea GYŐRFYNÉ KUKODA

Leveraging Digital Serious Games:
Integrating FLIGBY into Public Administration Education ..... 37

András BENCSIK
János PRIBELSZKI

Consumer Protection Aspects
of the Use of Artificial Intelligence in the Financial Sector ..... 58

Ionuț Bogdan BERCEANU
Mihaela Victorița CĂRĂUȘAN
Alina ZORZOANĂ

The Influence of Universities
in the Activity of Local Public Administration from Romania ..... 72

Mihai-Alexandru CHIRA

An inclusive Perspective on the Evolution of Ethics
and Ethical Schools of Thought from Values to a 'Hub' of Sciences ..... 94

Giorgiana-Florina GÂSCĂ
Felicia Cornelia MACARIE

Gender Differences in Employees' Motivation
for Advancement in Romanian Higher Education ..... 123

Marcell KÁRÁSZ

Private or Public Law Entities?
Some Issues Regarding the Legal Status
of Professional Chambers of Liberal Professions in Hungary ..... 138

Patrizia MAGARÒ

The Role of Universities
in the Italian Regional and Local Innovation Systems ..... 152

Iulian-Costin MATACHE

The Development of Romanian Higher Education After 1990.
Challenges and Institutional Transformations ..... 161

Ondrej MITAĽ
Silvia RUČINSKÁ
Matúš RUČINSKÝ

Innovation Potential of the Košice Region Ecosystem ..... 174

Claudia PAU
Mihaela MARTIN
Diana TĂNASE

Comparative Models of University Extensions
in European and International Contexts ..... 192

Andreea Paula PERȘA
Felicia Cornelia MACARIE

Effective Leadership:
A Crucial Factor in Improving High School Performance ..... 206

Alina G. PROFIROIU
Corina C. NASTACĂ

The Benefits of the Joint Cross-border Cooperation Program
on Local Communities from Romania and Moldova ..... 223

Andrei ȚOCA

The Dynamics of Post-Contractual Remedies:
A Synthesis of General Principles ..... 236

Paul V. ZAI
Razvan Aurelian CONTIN

The Role of Human AI in Transforming Public Administration:
Enhancing Decision-Making and Service Delivery ..... 247

The papers included in the following section of the volume
were presented in the Hungarian panel of TICPA

HOFFMAN István

Az önkormányzati pénzügyek külső
ellenőrzésének átalakítása Magyarországon ..... 278

FÉNYES Marcell

A felsőoktatási intézmények döntéseivel szembeni jogorvoslatok
— a magyar szabályozás tükrében ..... 295

GYÖRGYJAKAB Miklós

A közigazgatás kihívásai és a romániai jogrendszer hatékonysága
a fogyatékossággal élő emberek társadalmi integrációjának előmozdításában .... 314

BOKOR-SZŐCS Izabella

A munkavállaló fegyelmi felelőssége a Kolozs megyei
Törvényszék ítélkezési gyakorlatában ..... 328

OLÁH Emese

3P és a romániai önkormányzás — mi kell a sikerhez? ..... 339

MĂTEA Katalin

Az állampolgári e-részvétel meghatározói
a posztkommunista EU-tagállamokban ..... 351

SATA Kinga-Koretta

Közösségi irányítású helyi fejlesztés Romániában:
A LEADER a demokratikus kormányzás szempontjából ..... 364

BALOGH Martin
POP Daniel

Helyi kontextus korlátolt szerepe
a LEADER program finanszírozási szempontrenszerében
— Esettanulmány a Közép-romániai fejlesztési régiórol ..... 381

# Foreword

Public Administration and Management Department (PAMD) at Babeș-Bolyai University, Romania, has been since its establishment in the mid-1990s at the forefront of the movement to reinstate and redevelop higher education programs and research in public administration in Central and Eastern Europe (CEE). In most of the CEE countries, public administration education during the communist regimes was done by party schools and was clearly subordinated to political influences and political doctrine.

After the collapse of the communist regime in Romania, PAMD, with the support of Western European and American partner universities, has been instrumental in the development of an interdisciplinary curriculum for public administration programs and for supporting empirical research as an important component of their mission. PAMD at Babeș-Bolyai University is currently recognized at both national and international level as a leading teaching, research, and training entity in public administration.

Cluj-Napoca, the city which houses Babeș-Bolyai University, is currently experiencing tremendous economic and social growth. Universities are a key engine for the growth of the city, together with the IT sector and creative industries. Cluj is currently regarded at both national and regional level as a positive example of urban growth which is the result of cooperation among the city, on the one hand, and other relevant stakeholders, on the other hand. The city is praised for implementing participatory mechanisms which allow citizens and interest groups to have a saying in how the city develops and in how decides its strategy for the years to come. DAMP has provided pro-bono consultancy for the city regarding the drafting of local master plans and sectorial comprehensive plans since mid-2000s. Currently, PAMD is deeply involved in conducting different analyses and studies for the city and its metropolitan area regarding quality of life and moreover factors which make the city of Cluj-Napoca more resilient and sustainable in how it develops compared to other cities.

Due to its leading role in the CEE region in the area of public administration higher education, PAMD organizes dissemination and networking events for PA scholars and practitioners. One important tool for bringing together academics, researchers, and practitioners in public administration is the Transylvanian International Conference in Public Administration, held annually in Cluj-Napoca, Romania, in the months of October or

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 9–12

November. The conference allows PAMD to use the city of Cluj-Napoca as a living lab for illustrating different practical implications of relevant scientific topics and paradigms. This is why, the conference is organized in partnership with the City Hall of Cluj-Napoca and the mayor of the city usually offers in his welcoming message the municipality's vision on the topic of the conference.

In 2024, the Transylvanian International Conference in Public Administration took place from 3 to 5 October. This event was envisioned to bring together academics, researchers and practitioners in the field of public administration from all over the world and to create the framework in which they can exchange ideas, disseminate best practices and develop networking opportunities for future teaching, research, and capacity building projects.

**The overarching topic for 2024.** The overarching topic for 2024 is ***fostering local and regional innovation through partnerships, with an emphasis on the role of universities***. In the last three decades, the role and functions of universities worldwide have undergone a significant transformation process. From basic functions such as teaching and research, the role of universities has evolved to include economic initiatives geared toward profit generation, policy development, knowledge transfer, etc. Concepts such as the 'engaged university', 'multiversity' or 'university as a complex enterprise' all encompass this transformative process and have received their fair share of scrutiny from academics and practitioners. More recently, the role of universities is discussed within the framework of local innovation ecosystems where they interact with, evolve/grow and coproduce innovation alongside and/or in partnership with the other relevant actors in these ecosystems. There is currently EU-wide recognition of the changing role of universities. In 2022 we had the first European Strategy dedicated to universities. A significant dimension is that the Strategy recognizes the changing role of universities and the importance of them being active actors within local innovation networks. The European strategy for universities emphasizes how universities should be the central nodes of local innovation systems and use a living lab approach – piloting public solutions/policies in a real context and generating them through co-design with beneficiaries. The conference is focused on critically discussing and analyzing characteristics and dynamics of local innovation systems, on defining local and locality in relation to existing cities and communities, and more importantly on assessing how universities enter into and interact with the other actors in the local networks whose interactions initialize, stimulate and diffuse economically useful knowledge. Local innovation systems and the role of universities within them can be examined from a variety of perspectives, including power relations and negotiation, communication and marketing, strategic planning, and leadership studies, etc. Our conference welcomes all these perspectives as we strive to explore this topic through the contributions coming from different academic fields.

The present book includes a selection of the papers presented in all sections of the conference. The intention of the conference organizers is to disseminate the materials discussed during the conference and to generate scientific debates beyond the two days event. Papers

presented by the PhD students are included, as an opportunity given to young researchers to publish the results of their work, even if it is still work in progress.

Our hope is to be able to increase the visibility and reputation of international conferences organized by universities/departments. While we acknowledge that big and well known conferences such as EGPA (European Group in Public Administration) and NISPAcee (Network of Institutes and Schools in public Administration from Central and Eastern Europe) play an important role, smaller conferences are also crucial for not only their scientific value but also for providing venues for interaction between academia and practice, between practice and PhD students, and among a variety of scholars who call public administration their area of interest. The book is a natural extension of the conference and serves similar purposes. Moreover, PAMD has significant experience in publication of scientific papers. The Department publishes independently a prestigious journal in PA, namely, Transylvanian Review of Administrative Sciences, a publication indexed by Thompson Reuters in Web of Science since 2008.

We would like to thank all conference participants for attending Transylvanian International Conference in Public Administration, 2024 edition, and for their contribution to this book.

Local conference organizers Cluj-Napoca

Contents

# New European Bauhaus Principles and Indicators of Success

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**Abstract**

This study explores the alignment of the STARHAUS project with the principles and success indicators of the New European Bauhaus (NEB) policy, focusing specifically on sustainability, innovation, and collaboration in urban development. Utilizing a multi-method approach, the study combines qualitative interviews and open-ended responses from an online questionnaire, with the

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 13–28

aim of gaining in-depth insights into the project's alignment with NEB goals. Three key stakeholders from diverse sectors (industry, government, and academia) participated in interviews, while seven additional respondents completed the questionnaire. The data reveals a strong emphasis on sustainability, particularly the integration of eco-friendly practices and circular economies. It also highlights the importance of innovation in urban regeneration and the critical role of collaboration across various disciplines. The findings suggest that the STARHAUS project is well-aligned with the NEB's principles, with a clear focus on creating resilient, inclusive, and aesthetic urban spaces. This study contributes valuable insights into the implementation of NEB principles in urban development projects.

**Keywords:** STARHAUS, New European Bauhaus, NEB principles, NEB indicators, multi-dimensional approach.

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## 1. NEB Principles

The New European Bauhaus (NEB) initiative is grounded in a set of principles aiming to redefine the relationship between design, sustainability, and social inclusion within the context of urban development. These principles reflect both the historical Bauhaus movement and contemporary challenges such as climate change, social inequality, and the need for aesthetic revitalization in urban environments. The NEB emphasizes a holistic approach that integrates aesthetics, sustainability, and inclusiveness, articulated through several key principles. One foundational principle of the NEB is transversality, which refers to the intersection of various disciplines, including art, science, and technology. This principle is crucial for fostering innovative solutions to complex urban challenges. The NEB encourages collaboration among diverse stakeholders, including architects, urban planners, artists, and community members, to co-create spaces that reflect the needs and aspirations of local populations (Rosado-García *et al.*, 2021; Rosado-García, 2024). This interdisciplinary approach enhances the creative potential of urban projects and ensures they are grounded in a comprehensive understanding of the social and environmental contexts in which they are situated. Sustainability is another core principle of the NEB, emphasizing the need for environmentally responsible design practices that minimize ecological impact. This principle aligns with the broader objectives of the European Green Deal, which supports European transition towards a more sustainable economy (Vukmirović *et al.*, 2023; Polo López *et al.*, 2021). The NEB advocates for the use of renewable materials,

energy-efficient building practices, and the integration of green infrastructure within urban settings. By prioritizing sustainability, the NEB aims to create urban environments that are functional and resilient to the impacts of climate change (Bosone *et al.*, 2023; Negro and Romano, 2022). In addition to transversality and sustainability, the NEB places a strong emphasis on aesthetics. The initiative seeks to redefine the relationship between beauty and functionality in urban design, asserting that aesthetically pleasing environments can significantly enhance the quality of life for residents (Nowakowski, 2024; Kang, 2023). This principle encourages designers to consider the emotional and sensory experiences of users, fostering a deeper connection between individuals and their environments. The NEB posits that beauty should not be an afterthought but rather an integral component of urban planning and design, contributing to the overall well-being of communities (Peterek, Bürklin, 2021; Nowakowski, 2024). Inclusiveness, another principle of the NEB, ensures that all citizens have access to the benefits of sustainable urban development. This principle emphasizes the importance of engaging communities in the design process, ensuring that their voices are heard, and their needs are addressed (Santus *et al.*, 2023; Bosone *et al.*, 2023). The NEB promotes participatory design practices that empower communities to take an active role in shaping their environments. By fostering social cohesion and inclusiveness, the NEB seeks to create urban spaces that are equitable and accessible to all (Santus *et al.*, 2023; Bosone *et al.*, 2023). Also, promotion of circular economies supports the efficient use of resources, emphasizing the importance of reusing and recycling materials to minimize waste (Vaitiekuniene *et al.*, 2024; Díaz-López, 2023). The NEB encourages urban interventions that prolong the life of buildings and promote sustainable rehabilitation practices. By integrating circular economy principles into urban design, the NEB aims to create environments that are economically viable and environmentally responsible (Polo López *et al.*, 2021; Negro and Romano, 2022). This approach aligns with the broader goals of the European Green Deal, which seeks to establish a more sustainable and resilient economy across Europe. The NEB also emphasizes the role of culture and creativity in urban development. This principle recognizes that cultural heritage and creative practices are essential for fostering a sense of identity and belonging within communities (Daldanise and Clemente, 2022; Bosone *et al.*, 2023). The NEB encourages the integration of cultural elements into urban design, promoting artistic expression and creativity as vital components of sustainable development. By celebrating cultural diversity and heritage, the NEB aims to create vibrant urban spaces that reflect the unique identities of local communities (Bosone *et al.*, 2023; Daldanise and Clemente, 2022). Education and capacity building are integral to the NEB's principles. The initiative emphasizes the need for educational programs that promote sustainable design practices and raise awareness about the importance of aesthetics in urban environments (Sadowski, 2021; Nowakowski, 2024). By equipping future architects and urban planners with the knowledge and skills necessary to implement NEB principles, the initiative seeks to ensure the long-term sustainability of its projects. This educational dimension is crucial for fostering a culture of innovation and creativity within communities, ultimately contributing to the success of

the NEB (Sadowski, 2021). Furthermore, the NEB advocates for the creation of walkable cities, emphasizing the importance of accessibility and mobility in urban design. This principle aligns with the concept of the 15-minute city, where essential services and amenities are within a short walking distance from residents' homes (Balletto *et al.*, 2022). By prioritizing walkability, the NEB aims to enhance the livability of urban environments, promoting healthier lifestyles and reducing reliance on automobiles. This approach contributes to environmental sustainability and fosters social interaction and community engagement (Balletto *et al.*, 2022; Busacca and Paladini, 2022). The NEB's principles also highlight the importance of resilience in urban design. This principle emphasizes the need for cities to adapt to changing environmental conditions and social dynamics. The NEB encourages the development of resilient urban systems that can withstand the impacts of climate change, economic fluctuations, and social challenges (Vaitiekuniene *et al.*, 2024; Bilić and Šmit, 2024). By prioritizing resilience, the NEB aims to create urban environments that are sustainable and capable of thriving in the face of uncertainty. Finally, the NEB promotes the idea of beauty as a fundamental aspect of urban living. This principle asserts that urban spaces should be functional and aesthetically pleasing, contributing to the overall well-being of residents (Nowakowski, 2024; Busacca and Paladini, 2022). The NEB encourages designers to explore innovative approaches to aesthetics, integrating artistic elements into urban environments to enhance their visual appeal and emotional resonance. By prioritizing beauty, the NEB seeks to create urban spaces that inspire and uplift, fostering a sense of pride and belonging among residents (Kang, 2023; Nowakowski, 2024). In conclusion, the principles of the New European Bauhaus reflect a comprehensive approach to urban development that integrates transversality, sustainability, aesthetics, inclusiveness, circular economies, cultural heritage, education, walkability, resilience, and beauty. By adhering to these principles, the NEB aims to create urban environments that are functional, sustainable, vibrant, inclusive, and reflective of the diverse needs and aspirations of European citizens. As the NEB continues to evolve, its principles will serve as a guiding framework for shaping the future of urban living in Europe.

## 2. NEB Indicators of Success

The New European Bauhaus (NEB) initiative represents a transformative approach to urban development, intertwining aesthetics, sustainability, and inclusiveness. This initiative is a response to the pressing challenges posed by climate change, urbanization, and social inequality, aiming to create beautiful, sustainable, and inclusive living spaces across Europe. To evaluate the success of the NEB, it is essential to establish a set of indicators that can effectively measure its impact across various dimensions, including environmental sustainability, social cohesion, and economic viability. One of the primary indicators of success for the NEB is the integration of sustainability principles into urban planning and design. The initiative emphasizes the importance of green infrastructure (GI), public open spaces (POS), and urban reconstruction (UR) as key components

of sustainable urban environments. Research has shown that these elements not only enhance the aesthetic appeal of urban areas but also contribute significantly to ecological health and community well-being (Bilić and Šmit, 2024). For instance, the incorporation of green spaces within urban settings has been linked to improved air quality, reduced urban heat, and enhanced biodiversity, all of which are critical in the context of the European Green Deal (Angrisano, 2024). Moreover, the NEB aims to foster a culture of transversality, where art, science, and technology converge to create innovative solutions for urban challenges. This interdisciplinary approach is crucial for addressing the complexities of modern urban environments, as it encourages collaboration among various stakeholders, including architects, urban planners, artists, and community members (Rosado-García *et al.*, 2021; Rosado-García, 2024). The success of the NEB can thus be measured by the extent to which it facilitates such collaborative efforts, leading to the co-creation of spaces that reflect the needs and aspirations of diverse communities. Social inclusion is another vital indicator of the NEB's success. The initiative seeks to bridge the gap between urban and rural areas, promoting equitable access to resources and opportunities for all citizens (Santus *et al.*, 2023). By prioritizing social needs in urban planning, the NEB can address issues of inequality and ensure that marginalized communities are not left behind in the transition towards sustainable urban living. Evaluating the effectiveness of the NEB in fostering social cohesion can involve assessing community engagement levels, participation in decision-making processes, and the overall satisfaction of residents with their living environments (Bilić and Šmit, 2024; Bosone *et al.*, 2023). Economic viability is also a critical aspect of the NEB's success. The initiative encourages the development of circular economies, where resources are reused and recycled, minimizing waste and promoting sustainability (Vaitiekuniene *et al.*, 2024). By measuring the economic impact of NEB projects, including job creation, investment in local businesses, and the overall economic resilience of communities, stakeholders can gain insights into the initiative's effectiveness in fostering sustainable economic growth. Furthermore, the integration of cultural and creative industries into urban development can enhance economic vitality by attracting tourism and stimulating local economies (Polo López *et al.*, 2021; Torchia *et al.*, 2023). The role of education and capacity building is paramount in the NEB framework. The initiative emphasizes the need for educational programs that promote sustainable design practices and raise awareness about the importance of aesthetics in urban environments (Daldanise and Clemente, 2022; Busacca and Paladini, 2022). Evaluating the success of the NEB can thus include assessing the effectiveness of educational initiatives in fostering a new generation of architects and urban planners who are equipped to implement the principles of the NEB in their work. This educational dimension is crucial for ensuring the long-term sustainability of NEB projects and for cultivating a culture of innovation and creativity within communities (Sadowski, 2021). Furthermore, the NEB's success can be evaluated through the lens of community empowerment and engagement. Initiatives that promote active participation in the design and implementation of urban projects can lead to a greater sense

of ownership among residents, fostering a stronger connection to their environments (Vaitiekuniene *et al.*, 2024; Eckert, 2022). Indicators such as the level of community involvement in planning processes, the diversity of voices represented, and the tangible outcomes of participatory initiatives can provide valuable insights into the effectiveness of the NEB in promoting inclusive urban development. In addition to these indicators, the aesthetic quality of urban spaces is a fundamental aspect of the NEB's vision. The initiative seeks to redefine the relationship between beauty and functionality in urban design, emphasizing that aesthetically pleasing environments can enhance the quality of life for residents (White-Hancock, 2023). Evaluating the success of the NEB can involve assessing the visual and emotional impacts of urban interventions, as well as the extent to which these interventions resonate with the cultural identities of local communities. The NEB also aims to address the challenges posed by the climate crisis through innovative design solutions that prioritize ecological sustainability. This includes the promotion of renewable energy sources, energy-efficient building practices, and sustainable transportation options (Vaitiekuniene *et al.*, 2024). Indicators of success in this area can include the reduction of greenhouse gas emissions, improvements in energy efficiency, and the overall resilience of urban environments to climate-related challenges. Moreover, the NEB's focus on cultural heritage preservation is essential for fostering a sense of identity and continuity within communities. By integrating cultural heritage considerations into urban planning, the NEB can enhance the historical and cultural significance of urban spaces, contributing to their attractiveness and livability (Santus *et al.*, 2023; Girard, 2021). Evaluating the success of the NEB in this regard can involve assessing the preservation of historical sites, the promotion of local traditions, and the overall impact on community identity. Finally, the NEB's success can be measured by its ability to inspire and replicate innovative practices across Europe. The initiative encourages the sharing of best practices and lessons learned among cities and regions, fostering a collaborative learning environment that can drive continuous improvement (Bosone *et al.*, 2023; Rossi and Bournas, 2023). Indicators of success in this area can include the number of cities participating in NEB initiatives, the diversity of projects undertaken, and the overall impact on policy development at the local, national, and European levels. In conclusion, the New European Bauhaus initiative represents a holistic approach to urban development that integrates sustainability, aesthetics, and social inclusion. By establishing a comprehensive set of indicators to evaluate its success, stakeholders can gain valuable insights into the effectiveness of the NEB in addressing contemporary urban challenges. These indicators encompass environmental sustainability, social cohesion, economic viability, educational impact, community engagement, aesthetic quality, climate resilience, cultural heritage preservation, and the capacity for innovation and replication. As the NEB continues to evolve, its success will ultimately depend on its ability to foster collaborative, inclusive, and sustainable urban environments that reflect the diverse needs and aspirations of European citizens.

## 3. Methodology

This study adopts an exploratory approach within a multi-method paradigm, with a primary focus on the qualitative analysis of interview responses and open-ended questions from an online questionnaire. The objective of this study is to explore how the STARHAUS project aligns with the principles of the New European Bauhaus (NEB), particularly with respect to sustainability, innovation, and collaboration. By integrating both qualitative interviews and open-ended questionnaire responses, the study aims to capture the perceptions of key stakeholders involved in the project and understand the factors that contribute to its success in alignment with the NEB's goals.

The data collection process utilized two primary methods: an interview guide and an online complex questionnaire. The interview guide was designed to gather in-depth insights from a select group of stakeholders. Three subjects, representing various sectors relevant to the STARHAUS project — industry, government, and academic, participated in the interviews and offered a broad and diverse range of perspectives. The interview questions were structured around key themes such as market analysis, sustainability, innovation, and collaboration. The open-ended nature of the questions allowed the interviewees to provide detailed responses, giving them the opportunity to express their views on the anticipated and actual impacts of the project, and how these impacts relate to the New European Bauhaus (NEB) principles. In addition to the interviews, an online questionnaire was distributed to seven respondents. The questionnaire was designed to collect both quantitative and qualitative data across four key areas: stakeholder analysis, market analysis, needs assessment, and impact assessment. Although the questionnaire contained closed-ended questions, the study focused primarily on the open-ended responses. These qualitative questions enabled respondents to share deeper insights into their perceptions of the STARHAUS project, particularly in relation to sustainability, technological readiness, and collaboration. The qualitative data collected from the questionnaire responses complements the interview data, providing a broader context to understand the alignment of the project with the NEB's core principles. In addition to the interviews and questionnaire responses, document analysis of the STARHAUS project proposal was incorporated to gain a more comprehensive understanding of the project's alignment with the NEB principles. The project proposal outlines the Key Performance Indicators (KPIs), Work Packages (WPs), and specific activities designed to ensure the project meets the NEB's success indicators. Through this analysis, we assessed how well the proposals addressed sustainability, innovation, collaboration, and community inclusion, all key elements of the NEB. The document analysis specifically examined the project's KPIs to determine how they align with the NEB's core goals. For example, the proposal includes a 15% improvement in environmental footprint using recycled materials and circular economy practices, ensuring that the project adheres to sustainability goals and EU Green Deal targets. These KPIs also track the adoption of innovative technologies, including AI-based energy management systems and personalized product designs. The project's Work Packages were examined for their relevance to the NEB's objectives. WP2 and WP4 focus on sustainability and circular economy

models, while WP5 targets community involvement, ensuring that local stakeholders are actively engaged in the co-design and customization of products. Activities within WP4 include public consultations, workshops, and the development of participatory design models, ensuring that the project responds to the needs of the communities it serves. To analyze the qualitative data from both the interviews and questionnaire responses, thematic analysis was employed. This method involves identifying, analyzing, and interpreting patterns or themes within textual data. The responses were coded and organized around key themes related to the NEB's principles of sustainability, social inclusion, collaboration, and innovation. The analysis aimed to identify how the STARHAUS project aligns with these principles and highlight the key factors that stakeholders perceive as essential for the project's success. Furthermore, the study explored the relationship between the anticipated impacts and actual outcomes as reported by the respondents, providing insights into how well the project is progressing towards its goals and meeting NEB success indicators.

The findings from the document analysis of the STARHAUS project proposal were integrated into the thematic analysis to assess how the project's proposed activities, KPIs, and WPs align with the NEB's success indicators. The combination of qualitative interview data, open-ended questionnaire responses, and document analysis allows for a holistic understanding of the STARHAUS project and its alignment with the New European Bauhaus principles.

The present study primarily focuses on the qualitative analysis of interview responses and open-ended questions from the online questionnaire. By integrating insights from three interviewees, seven questionnaire respondents, and the document analysis of the STARHAUS project proposal, the study provides a nuanced understanding of how the STARHAUS project aligns with the New European Bauhaus principles. The findings underscore the importance of sustainability, innovation, and collaboration in achieving the NEB's goals. Through this multi-method approach, the study offers valuable insights into the factors that influence the success of urban development projects under the NEB framework and highlights how these factors can be implemented in practice.

## 4. Main findings

The results of this study are derived from a synthesis of three distinct methods: qualitative interviews, open-ended questionnaire responses, and document analysis of the STARHAUS project proposal. Each method provided unique insights into how the STARHAUS project aligns with the New European Bauhaus (NEB) principles of sustainability, innovation, collaboration, and community inclusion.

Through the interviews, key stakeholders from industry, government, and academia shared their views on the project's anticipated and actual impacts. The open-ended responses from the online questionnaire provided a broader understanding of the perspectives of additional respondents, mainly end-users, allowing for a deeper exploration of the project's alignment with NEB's success indicators. Finally, the document analysis

of the STARHAUS project proposal offered an in-depth look at how the project's Key Performance Indicators (KPIs) and Work Packages (WPs) are designed to meet the NEB's goals.

Together, these methods reveal that the STARHAUS project is strongly aligned with NEB's principles, particularly in terms of fostering sustainable, innovative, and collaborative urban development. The results demonstrate that the project emphasizes circular economy practices, integrates cutting-edge technologies, and promotes community-driven design, all of which contribute to creating inclusive, aesthetic, and functional urban spaces. The following sections detail these findings in relation to each of the core NEB principles and success indicators.

### 4.1. Document analysis

The STARHAUS project proposal reflects a strategic alignment with the New European Bauhaus (NEB) principles, focusing on sustainability, innovation, and collaboration in urban development. This alignment is further reinforced through the project's Key Performance Indicators (KPIs) and Work Packages (WPs), each of which supports the project's overall objectives. The KPIs and WPs are designed to ensure that the STARHAUS project meets the NEB's success indicators, which include environmental sustainability, technological innovation, community involvement, and aesthetic integration. Below, we analyze the KPIs, Work Packages, and the corresponding activities outlined in the STARHAUS proposals and how they align with the NEB's principles.

a. Sustainability and Environmental Impact

The NEB's principle of sustainability is foundational to the STARHAUS project. One of the cores KPIs for the project is related to the reduction of carbon emissions and waste, emphasizing the project's commitment to environmentally friendly practices. Specifically, the project aims for a 15% improvement in the environmental footprint of the products it creates, ensuring that the project contributes to sustainability goals and EU Green Deal targets.

Work Packages (WPs) dedicated to circular economy models, such as WP2 and WP4, focus on eco-friendly material usage and energy efficiency, with specific activities aimed at incorporating recycled materials into production and minimizing waste generation. WP2, for instance, emphasizes modular production systems that reduce the need for transportation, lowering the overall carbon footprint of the project. These activities are directly aligned with the NEB's focus on green regeneration and creating sustainable cities.

b. Innovation and Technological Integration

Innovation is another pillar of the NEB, which calls for the integration of art, technology, and sustainability. STARHAUS embraces this principle by embedding digital technologies like AI, digital twins, and augmented reality (AR) into its Work Packages and activities. WP3, for example, focuses on smart technologies for optimizing supply chain

resilience and improving energy efficiency. Key performance indicators related to technological innovation are embedded in the project's proposal, such as increasing the adoption of AI-based management systems and enhancing product personalization. These KPIs ensure that the project remains competitive and addresses the NEB's innovation goals.

The project also integrates the principles of human-centered design by ensuring that end-users (including local communities) participate in the co-creation of products, ensuring that technological advances meet real-world needs. WP1 and WP5 support this focus on user engagement through open innovation platforms and community participation, where stakeholders contribute to designing personalized products such as eco-friendly home products, fertilizers, and beverages.

The NEB's emphasis on collaboration is reflected in STARHAUS's focus on cross-sector partnerships. The project proposes to involve a diverse range of stakeholders across various sectors, including government, industry, academia, and civil society. WP6 is dedicated to creating and fostering these partnerships, with activities focused on networking and knowledge exchange.

KPIs for collaboration focus on the number of new partnerships formed and the extent of cross-sector collaboration achieved. For example, the project aims to engage at least 1000 local community members in product development and customization activities, ensuring that the urban regeneration process is inclusive and participatory. This aligns with the NEB's goal to create urban environments that are not only sustainable and innovative but also socially inclusive.

Community engagement and inclusion are core to the NEB's mission, and STARHAUS incorporates these elements into its proposals through specific Work Packages focused on public participation and stakeholder engagement. WP4 is dedicated to engaging local communities in the creation of sustainable, personalized products, as well as in the design of inclusive urban spaces. Activities within WP4 include public consultations, workshops, and the development of participatory design models, ensuring that the project responds to the needs of the communities it serves.

Key performance indicators for community inclusion include the number of community members involved, as well as the diversity of participants in the decision-making process. The project aims to involve 500 local businesses and 1,000 residents in the co-design and customization of urban products. This focus on community-driven design ensures that the STARHAUS project supports the NEB's principle of inclusive urban development.

The NEB emphasizes the importance of aesthetic integration in urban projects, ensuring that spaces are not only functional and sustainable but also beautiful. STARHAUS incorporates this principle through its focus on design excellence and public art. WP5 integrates artistic interventions into urban spaces, including interactive art installations and community-driven public art projects, which help improve public spaces and contribute to the overall aesthetic quality of the environment.

The project's commitment to beauty is also reflected in the design of personalized products, where the aesthetics of eco-friendly and locally produced goods are prioritized. This

aligns with the NEB's goal of creating beautiful, functional, and sustainable urban spaces that contribute to the overall quality of life in cities.

The STARHAUS project proposals demonstrate a comprehensive alignment with the core principles of the New European Bauhaus, particularly in the areas of sustainability, innovation, collaboration, community inclusion, and aesthetic integration. Through its Work Packages and Key Performance Indicators, the project is positioned to make meaningful contributions to the creation of sustainable, inclusive, and beautiful urban spaces. The integration of circular economy practices, digital innovation, collaborative partnerships, and community engagement ensures that STARHAUS aligns with the NEB's indicators of success, while also addressing the urgent need for green regeneration in urban areas.

### 4.2. Qualitative analysis of the interviews applied

The interview responses from S1 (Team 2), S2 (Inova+), and S3 (Cluj-Napoca City Hall) consistently emphasize key aspects that align with the New European Bauhaus (NEB) principles. A significant theme across all responses is the importance of sustainability and eco-friendly practices, which is central to the NEB's vision of creating green, resilient, and inclusive urban environments.

S1 from Team 2 emphasized the importance of sustainable practices with material purity, indicating a clear focus on integrating eco-friendly approaches in urban development. This reflects the NEB's commitment to promoting high-quality materials and sustainable urban designs that support environmental resilience. Similarly, S2 (Inova+) pointed to the importance of quality in recycled materials, which reinforces the NEB's goal of creating circular economies within urban spaces, ensuring that sustainable practices are integrated into urban regeneration. S3 (Cluj-Napoca City Hall) echoed this attitude by noting that companies compete based on high-quality recycled materials, highlighting how competition in urban markets is increasingly driven by sustainability. This is in line with the NEB's objective of incorporating green infrastructure into urban spaces to ensure both environmental sustainability and community well-being.

Innovation was another critical theme discussed by all three subjects. S1, S2, and S3 all emphasized the need for innovation in both products and processes to stay competitive in urban development markets. S1 stressed the necessity of innovation in process and product, aligning with the NEB's interdisciplinary approach that brings together art, science, and technology to address urban challenges through sustainable and innovative urban solutions. S2 similarly highlighted the importance of new entrants focusing on sustainability and quality in recycled materials, which ties directly with the NEB's advocacy for eco-innovation in urban planning. S3 also emphasized innovation in both product and process, supporting the NEB's call for advanced technologies and innovative practices to drive urban regeneration.

The interview responses also shed light on the competitive market dynamics and the need for differentiation. S1 pointed out that new entrants must differentiate themselves to

succeed in a highly competitive market, reflecting the NEB's emphasis on creating unique urban spaces that prioritize quality, sustainability, and aesthetic value over cost-based competition. S2 highlighted the cost-based competition as a major challenge but also emphasized that differentiation through sustainability and quality is key to success. Similarly, S3 noted that differentiation from competitors is crucial, which aligns with the NEB's vision of creating distinctive urban environments that are both resilient and inclusive, while reflecting local identities and embracing sustainability.

In conclusion, the responses from S1, S2, and S3 provide valuable insights into the future of urban development and regeneration that are in line with the New European Bauhaus principles. All three subjects recognized the importance of sustainability (especially through recycled materials and eco-friendly solutions), innovation in both product and process, and differentiation through quality and sustainability. These insights demonstrate how the NEB can foster collaborative urban development, integrating art, technology, and sustainability to tackle the challenges of creating beautiful, functional, and resilient urban spaces in the modern era.

### 4.3. Data analysis related to open-ended questions in the questionnaire applied

The responses from the seven subjects reveal a clear alignment with the core principles of the New European Bauhaus (NEB), particularly in the areas of sustainability, innovation, and collaboration. The subjects consistently rated key factors, such as supply chain resilience, alignment with sustainability goals, public awareness, and collaboration growth, as critical to the success of projects aimed at sustainable urban development.

Supply chain resilience was seen as a crucial factor by the respondents. Many subjects rated it as essential or very important, underlining the importance of creating resilient urban systems that can adapt to environmental challenges. As S1 noted, *"Essential for ensuring sustainability, as stable supply chains are crucial for resilient production systems."* This sentiment was echoed by S2, who emphasized the importance of supply chain adaptability, saying, *"Very important, as it's key to maintaining the adaptability and reliability of the system."* S3 added, *"Essential. The ability to manage risks and adapt to changes in the supply chain is crucial for long-term sustainability."* These responses reflect the NEB's focus on building urban systems that are resilient to environmental changes and capable of supporting sustainable development.

The alignment with sustainability goals, especially in relation to the EU's sustainability targets, was another key theme in the responses. Many subjects rated this factor as essential, recognizing its importance for driving long-term sustainable change. S4 emphasized, *"Essential. It's crucial that projects align with global and EU sustainability targets to have a meaningful impact."* This was supported by S5, who stated, *"Very important, as it ensures we are contributing to the collective goal of achieving a sustainable future."* S6 also underlined the significance of aligning projects with sustainability goals, saying, *"Essential. Alignment with sustainability targets should be the core of any urban regeneration project."*

These responses highlight how the NEB's principles are reflected in the emphasis on ensuring that urban development projects contribute meaningfully to global and EU sustainability targets.

When discussing public awareness and support, most of respondents rated this aspect as essential or very important, indicating the critical role of community engagement in ensuring the success of sustainable initiatives. S7 pointed out, *"Very important. Gaining public support ensures that projects are not only sustainable but also socially accepted."* S1 shared a similar view, stating, *"Essential. Public approval is key to the success of any initiative aimed at improving sustainability."* S3 added, *"Essential. Public awareness is crucial to ensure that people understand the benefits and are motivated to participate in sustainable practices."* These insights align with the NEB's emphasis on social inclusion, as projects must be supported by the communities they aim to serve, to create sustainable, vibrant urban spaces.

Finally, collaboration and partnership growth were also emphasized across the subjects. Most respondents rated collaboration as essential for the success of sustainable urban projects. S2 highlighted the importance of building strong partnerships, saying, *"Essential. The growth of partnerships will drive innovation and ensure the success of sustainable projects."* S4 agreed, stating, *"Very important. Building strong partnerships is crucial for scaling sustainable solutions."* S5 also echoed this idea, saying, *"Essential. Collaborative efforts are needed to address the complex challenges of sustainable urban development."* These responses demonstrate how the NEB's principles of collaboration and interdisciplinary cooperation are integral to achieving success in urban regeneration projects.

In conclusion, the responses from the seven subjects show a clear alignment with the New European Bauhaus (NEB) principles of sustainability, innovation, and collaboration. Supply chain resilience, alignment with sustainability goals, public awareness, and collaborative partnerships were all rated as essential or very important by most of respondents. These findings indicate that, to achieve the goals of the NEB, urban development projects must prioritize environmental sustainability, technological readiness, and strong community engagement. By fostering collaboration and innovative solutions, projects can meet the challenges of creating beautiful, sustainable, and inclusive urban environments in the 21st century.

## 5. Conclusion

The findings of this study demonstrate a significant alignment between the STARHAUS project and the New European Bauhaus (NEB) principles, specifically in the areas of sustainability, innovation, and collaboration. The insights gained from the interviews and open-ended responses in the online questionnaire reveal that the project is seen as an important example of how urban regeneration can integrate green solutions, cutting-edge technologies, and inclusive approaches. The consistent emphasis on sustainability reflects the growing recognition among stakeholders that environmentally responsible practices are not just beneficial, but essential for the future of urban development.

Respondents highlighted the importance of recycled materials and eco-friendly practices, which resonates with the NEB's commitment to creating resilient and environmentally conscious urban spaces. Furthermore, the project's focus on innovation, particularly in how it integrates new technologies and creative processes, aligns well with the NEB's call for the fusion of art, science, and technology to solve modern urban challenges. Lastly, the repeated emphasis on collaboration underscores the need for cross-sector partnerships to drive meaningful, scalable change. The study's findings suggest that collaboration across industries, academia, and government is not only essential for project success but also fundamental to achieving the NEB's vision of creating inclusive, aesthetic, and functional urban environments.

## 6. Recommendations

Building on the study's findings, there are several recommendations for further enhancing the alignment of the STARHAUS project with the NEB principles and maximizing its potential impact on urban regeneration. First, the study highlights the need to strengthen collaboration across sectors, particularly among the diverse disciplines of art, science, and technology. The NEB emphasizes interdisciplinary collaboration as a central pillar of creating innovative urban environments. To advance this goal, the STARHAUS project could benefit from further fostering partnerships between urban designers, technologists, artists, and scientists. This would not only result in more holistic solutions to urban challenges but also encourage the development of creative solutions that push the boundaries of sustainability.

Secondly, the study emphasizes the importance of circular economy practices in ensuring the sustainability of the project. Expanding the use of recycled materials, eco-friendly construction techniques, and waste reduction strategies could help make STARHAUS a model of circular urban regeneration. This aligns with the NEB's overarching goal of transforming urban spaces into sustainable, resource-efficient environments that contribute to broader EU sustainability targets. By scaling up these practices, STARHAUS could further contribute to the EU Green Deal and serve as a blueprint for future sustainable urban projects across Europe.

Another key finding from the study is the need for increased public engagement and awareness. As public support plays a critical role in the success of any urban development initiative, ensuring that local communities are actively involved in the project's design, development, and decision-making processes is crucial. The study suggests that participatory design and community-led initiatives should be prioritized to ensure that the STARHAUS project meets the needs and aspirations of residents. Moreover, raising public awareness about the environmental, social, and economic benefits of the project can help foster greater acceptance and encourage community buy-in.

Finally, the aesthetic dimension of urban development, which is central to the NEB, should be integrated into every phase of the STARHAUS project. The NEB emphasizes

the creation of beautiful, functional, and inclusive spaces that people can connect with emotionally. Therefore, aesthetic considerations should not only be seen as an afterthought but rather as a guiding principle from the initial design stages to the final implementation. By embedding beauty into the core of urban design, STARHAUS can create spaces that are not only sustainable but also enhance the quality of life for residents and visitors alike.

In conclusion, the STARHAUS project has the potential to serve as a model for sustainable urban development under the New European Bauhaus framework, but to maximize its impact, it will be important to continue fostering collaboration, scale up circular economy practices, deepen community involvement, and ensure that aesthetic principles are fully integrated into the project's development. These actions will contribute to the creation of inclusive, sustainable, and innovative urban spaces that meet the growing demands for green infrastructure, technological innovation, and social inclusion in the modern world.

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# The Impact of the New European Bauhaus on EU Security

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**Abstract**

The New European Bauhaus was inspired by the German current that appeared in 1919. The Bauhaus emerged as a necessity in troubled times when the German state had to offer something palpable to citizens to bring stability and hope. This stability has been installed, and with it the current has spread worldwide. Urban overpopulation in developed cities has directly influenced the alarming and chaotic growth of building construction. The European Commission has developed the Bauhaus strategy with the support of professionals from different countries. The objectives of the strategy are achieved with the 8 active European programs that can be accessed to obtain funds. In this article, we detailed how the New European Bauhaus strategy influences security of the EU and the states involved.

Also, a centralizer will be seen with the situation of the number of projects submitted in the 4 years since the beginning of the development, together with the number of approved projects. The interesting aspect of this trend is how many states worldwide have adapted this style to the construction of state institutions. Romania enjoys the existence of at least four important buildings where the Bauhaus style is found in an authentic way.

**Keywords:** New European Bauhaus, strategy, change, group relationship, history, support, transparency, innovation, engagement, projects, security, quality of life and openness.

## 1. Introduction

The New European Bauhaus Strategy was inspired by the German model. In 1919 (Gropius, 1965, pp. 20–45), an artistic movement was established in the city of Wiemar by the German educator and architect Walter Gropius. The word Bauhaus is of German origin which translated means: bau-build and haus-house.

The artistic current Bauhaus emerged from a pressing need of the Germans. After the Second World War, the German state experienced defeat, but also a peace that involved the payment of very large war reparations. As the German state began to assume the obligations arising from the war, citizens began to suffer and be affected by poverty more and more. In this way, the Bauhaus current appeared, which had as its role the combination of fine arts, architecture, sculpture, design, photography, furniture, etc. in creating something unique, that something that the citizen with lower incomes can afford.

Thus, 3 schools were created in the cities of Weimar, Dessau and Berlin. These schools united engineers, designers, builders and architects who created the Bauhaus style, that was taught by specialists in the period 1919–1933, who pursued a well-common that is accessible and accessible to as many German citizens as possible. Since 1933, with the change of power and the installation of Nazism, these schools have not been functional.

## 2. A brief history of the evolution of the Bauhaus style

The time and history of this current has given us more than a lesson in increasing the quality of life for all citizens, in troubled and uncertain times. Bauhaus came as a carefully chosen solution that had as main purpose the integration and training of citizens to succeed with the support of the state to ensure minimalism through mass production of premises habitable. This way, the German people in difficult situations succeeded with the involvement of the state to keep citizens close and to have as an objective the increase of the quality of life. The maintenance of this unit has directly contributed to the creation of a security line for the future generations. Every time after a war that affects each camp badly, it takes a lot of skill to give hope and confidence to the population that things will go in a good direction.

The Bauhaus artistic style has resisted to this day, achieving improvements with the passage of time. Currently, many artists refer to and embrace this style (Droste, 2002, pp. 70–90). In addition to the applied part, there are several authors who have created numerous books/encyclopedias with the evolution of this style, from which those passionate can draw inspiration in their work.

As we have seen above, the Bauhaus style was a pioneer for constructors and architects in urban areas. After the onset of the Cold War, globally, this style is commonly found in the dialogues of professionals, with more or less differences from the basic rules (Whitford, 1984, pp. 105–110). Walter Gropius, after the 60s, was disappointed with the chaotic way applied by the decision-makers to develop urban areas. Overpopulation of urban areas is maintained at the World level in all major cities and with developed economy (Moe, 2014,

pp. 155–160). Urban overpopulation has led to chaotic and excessive construction, which favors a very high price increase (on purchases and rentals) and a decrease in air quality, mental health and health in general. With the Covid-19 pandemic, mental health specialists have been raising alarms about the loneliness and anxiety suffered by children and adults in urban areas. The main causes are the finding of refuge in technology and the internet and the lack of outdoor activities, social contact.

The COVID-19 pandemic, besides the loneliness and anxiety it induced, has totally changed the world. When I say change, I mean good parts, but also less good parts that directly influence the security of the area and states that I will treat in this article.

Humanity has learned to live in a different way. Their needs have changed, new services have emerged as necessary and many have been replaced. Individuals became more practical and comfortable at the same time. Time will decide whether these features help human beings or contribute to their 'degradation'.

The New European Bauhaus (NEB) emerged as a necessity aimed at adapting the Ecological Pact into real changes in the field. The main objective of the NEB is to increase the quality of life and strengthen the security of EU citizens and 12 non-EU states. The new concept launched by the European Commission attracted about 1,400 members from diverse backgrounds such as companies, NGOs, public authorities and project owners of the NEB (Moe, 2014, p. 160).

NEB is based on 4 development directions that respect the 3 European values (sustainability, aesthetics and inclusion) (European Commission, 2024). Development directions are: developing innovative solutions on living spaces that are more inclusive and accessible; maintaining identity; capitalizing on cultural heritage and technology.

The results obtained in 2021-2024 (New European Bauhaus, 2024):

- ✓ In 2021: 2,025 applications; two categories of projects (STRAND A- NEB AWARDS and STRAND B- NEB RISING STARS); 20 funded projects.
- ✓ In 2022: 1,048 applications; two categories of projects (STRAND A- NEB AWARDS and STRAND B- NEB RISING STARS); 18 funded projects, 2 of which were voted by the public.
- ✓ In 2023: 1,419 applications; three categories of projects (STRAND A- NEB CHAMPIONSHIP, STRAND B- NEB EDUCATION CHAMPIONS and STRAND C-NEB RISING STARS); 14 funded projects, of which 3 projects were voted by the public.
- ✓ In 2024: 525 applications; two categories of projects (STRAND A- NEB CHAMPIONS and STRAND B- NEB RISING STARS); 20 funded projects, of which 2 projects were voted by the public.

The projects funded during the 4 years of the project were different. The countries that have obtained funding have highlighted the culture and creativity of young people. The interesting aspect of the NEB public policy program is that other states can adopt good practices as well. In this way, in a few years, the major cities in Europe will turn into cities

where the population regardless of age will be involved in various educational and creative activities. Stress, anxiety and depression will be a memory long forgotten.

In 2024, Cluj-Napoca received funding for the project called Forest Park Faget; Green Lung of Cluj. This project aims to integrate the forest into 'urban fabric'. The city of Cluj-Napoca is one of the 100 cities designated by the EU Mission to achieve climate neutrality by 2030 (New European Bauhaus, 2024).

Following the analysis of the purpose and objectives of the NEB, we have identified the implications and the impact that the long-term NEB can have on the security of the participating states, such as:

1. Contribute to the physical security and safety of communities through safer public spaces. The integration of lighting and space monitoring discourages the development of hooligan behavior over time. In recent years, large European-level cities have become increasingly crowded, which has led to excess construction. In Bucharest and the neighboring localities due to the lack of active involvement of public authorities, the housing construction was chaotic, which led to the failure to comply with the urban plan and illegal construction. On one hand, Bucharest enjoyed an ascent in real estate and on the other hand, old buildings were left without solutions, residents face a lack of hot water and heat each year in the cold season. In addition to the fact that they suffered thousands of inhabitants of Bucharest, every year millions of euros are invested in momentary repairs to the district heating network. Due to lack of funds and a clear plan, only short-term repairs are carried out.
2. Energy sustainability and security. Eco-friendly solutions and energy-efficient buildings over time help reduce vulnerabilities to energy crises by supporting national security alongside economic security. Starting with the Russian–Ukrainian war of February 24, 2022, all European states had to face the energy and gas crisis. This crisis has directly influenced the explosion of prices, the terror on citizens with the accentuation of tomorrow's care. European countries to avoid creating instability have capped prices, so a good part of the budget has turned to energy suppliers. The energy crisis has also brought uncertainty and significant price growth across all production and construction lines. All the listed situations have influenced the European Commission to lay the foundations for public policies that in the future contribute to sustainability and energy security.
3. Social inclusion directly contributing to the improvement of social security. The European Commission strongly supports the reunification of diverse communities and the reduction of inequality through urban regeneration and renovation projects that contribute to increasing the quality of life. This reduces the risks of social exclusion and conflicts that can lead to social tension. Political crises in the Middle East have favored increased migration in some European countries. The states concerned had to take various measures to increase vigilance and ensure the security of the state. That is why social inclusion through NEB public policy offers perspective and a better standard of living for migrants as well.

4. Increased resistance to natural disasters and climate security. With the European directive on resilience to natural disasters and climate security, each EU member state has had to customize these measures according to their needs. In Romania, the developers respect the construction norms taking into account each area. New buildings are made much more efficient in terms of strength and an adaptation to the warmer climate environment caused by global warming.
5. Increased resistance to natural disasters and climate security. With the European directive on resilience to natural disasters and climate security, each EU member state has had to customize these measures according to their needs. In Romania, the developers respect the construction norms taking into account each area. New buildings are made much more efficient in terms of strength and an adaptation to the warmer climate environment caused by global warming.

Starting with 2022 (Romanian Order of Architects, 2022) in Bucharest, the Centre of Excellence in Architecture, Arts and Audiovisual (C.E.A.A.) with the support of other institutions, profile centers organized the first Bauhaus event in Romania, attended by students from architecture, design and audio-visual fields of studies. During this event, there were various presentations on awareness of the stage in which the buildings in Bucharest are located, presentation by the participants of innovative solutions on Bauhaus style together with the start of project exhibitions that have been awarded at national and international level. In this way, young professionals will be able to practice and exchange innovative ideas that I hope in the future to bring a thriving note to architecture and quality of life in urban areas.

Bauhaus style has been taken up in modernism by various institutions internationally. In Bucharest, among the institutions that took over this style are: Ministry of Foreign Affairs, Victoria Palace, CFR Palace and Economy Palace (Romanian Government).

Currently, Romania and other member states adopted NEB policy and are waiting for innovative ideas and developing markets that have the main purpose of increasing the quality of life of the population by creating an architecture that is as sustainable and practical as possible.

NEB will bring significant improvements to the buildings in Bucharest because in the future it is desired to create a General Urban Plan that will lead to a considerable improvement in everything that means the chaotic constructions after the year 1989.

Over the past 15 years, the European Union has made improvements year after year by creating programs where the ideas of young generation professionals have been put into practice, so European programs have been increasingly attractive.

The NEB public policy was conceived at the macro level being, in my opinion, the first European program of such complexity. To achieve the objectives of the NEB at the moment there are 8 European programs (New European Bauhaus, *2023-2024)* supporting it, as follows: European Regional Development Fund (ERDF), Environment and climate action program (LIFE), ERASMUS+ Program, Single Market Program (SMP), Horizon Europe, European Solidarity Corps (ESC), Digital Europe and Creative Europe Program (CREA).

Society at global level is constantly changing, and the measures to transform and keep it in balance must be adapted. A society in balance is one where development is continuous and security is guaranteed. As long as humanity is motivated to participate in joint activities, the degree of security in society increases.

Time is irreversible, but nevertheless at a certain period, time also shows us causes that contribute to the destabilization of the population in certain areas of the world. In the 21st century, there are still conflicts between the population and the state or between peoples that subsequently degenerated into frequent armed wars. These conflicts without plausible justifications do nothing but divide states, families lose dear ones, and peace on both the inner and outer levels is hard to achieve even after a few decades. Armed conflicts and low quality of life create chaos that cannot be erased. When the security of a state is affected, the regional security situation is automatically affected and everything is uncertain. That is why the EU is trying to bring a new breath to society globally through its projects and policies.

At this year's Bauhaus festival, people representing Ukraine also spoke. During the meeting, participating professionals debated how the reconstruction of the country could be conducted and which would correspond to the new European norms. Thus, Ukraine (World Cultural Heritage Union, 2024) would be the first European state to have a significant part of the country's territory built to current standards. The involvement of the European Commission together with professionals would provide real help for Ukrainian citizens to return to an environment they never dreamed of. The transition of this kind is the most favorable and effective for a normal life and a solid foundation for future generations. At global level, it would be necessary to be put into practice a similar plan for the reconstruction of countries in the Middle East as well. As is known, in Syria, Afghanistan, Iraq, Palestine, Israel and Lebanon unfortunately there are still armed conflicts that are resulting in the loss of lives. If we looked at statistics on conflicts, we would find it worrying how many lives were taken and how many families were divided. First of all, it would be a challenge to have measures that would increase the quality of life of the population. All in all, Europeans are lucky to be part of different organizations that help us keep the trend and prosper. Teamwork has always yielded the best results.

## 3. Conclusions and recommendations

The New European Bauhaus positively influences the security of states by improving the quality of life for citizens, both in their living spaces and in specially designed recreational areas. So far, we could see how many projects were implemented and the most important thing is how young people and specialists from several states mobilized to create something in unison. Nowadays, we are seeing less and less the involvement of several states in the creation of projects that will last for years and and involved in the support of the ordinary citizen. The European community and the states needed a new spirit to inspire and involve talented young people with innovative ideas.

Among the projects that caught my attention were those projects through which young people, regardless of social class, are able to participate in various activities in nature or near their living spaces and contribute to their social inclusion and education. For example, the Romanian state is in great need of the involvement of the young generation in projects of this kind. Unfortunately, a certain part of the country's population faces many shortcomings. These shortcomings affect children who are in training. I would also like to see involvement in social inclusion projects also from local authorities with a smaller population and from counties with lower living standards. This way, citizens and the younger generation in smaller cities will be able to benefit from the advantages of implementing innovative EU-funded projects. Currently, most of the funded projects have been implemented by local authorities that are part of the most developed cities.

The EU will need to pay particular attention to the new technological and security challenges that may arise with the proposed transformations. The technological challenges of recent years have shown us that they can also have a negative influence on the population. That is why in the future the European Commission together with specialists from ONG's and companies will have to organize awareness campaigns against the fake-news and the consumption of information provided by unknown authors that are designed to destabilize the security.

That's why European countries together with the EU level institutions must be on the watch and develop mechanisms whereby young people are not vulnerable when spending more time on different pages and groups on the Internet and in some gloomy situations choose to spend time in the Dark Web space as well.

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# Leveraging Digital Serious Games: Integrating FLIGBY into Public Administration Education

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**Abstract**

This study is based on the use of FLIGBY (Flow Is Good Business for You) - a digital serious game specifically designed for measuring and developing leadership skills - in public administration higher education, it examines the aspects of decision-making based on Csikszentmihalyi's flow theory, with particular attention to those that facilitate the achievement of a flow state in the workplace. One of the research objectives is to analyze the relationship between leadership decision-making and flow-promoting skills, which is investigated using empirical methods. Applying the Technology Acceptance Model (TAM) as a theoretical framework, another objective is to understand the impact of the model's elements on student behavior while using the game in educational contexts. The analysis is based on the responses to the questionnaire and game data of students at the Ludovika University of Public Service Executive Diplomatic Leadership Training (EDLT) program, compared with data from hundreds of students from Hungary and other countries, collected in a unique database accumulated over recent years. The study's findings highlight the impact of demographic characteristics on students' leadership skills and decision-making, their achieved results, the correlations between the individual elements, and their behavior while using the game. These results are expected to contribute to a more effective integration of digital games in higher education and a broader professional discourse on innovative educational tools and their impacts.

**Keywords:** Flow theory, digital serious game, FLIGBY, public administration, higher education.

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## 1. Introduction

In recent years, innovative methodologies in higher education have garnered significant attention. This study employs the concept of serious games for the assessment and development of so-called soft skills. Unlike traditional games, serious games serve educational purposes, providing a simulated environment where participants can engage in complex decision-making processes. This approach enables experiential learning, which is often lacking in traditional methods.

The research examines the impact of FLIGBY (Flow Is Good Business for You), a digital serious game, in higher education. Although originally not specifically designed for the development of soft skills in higher education students, the game's features allow higher education institutions to utilize it for this purpose. Through the game, students experience the role of a CEO in a family business and make approximately 150 decisions across 23 game scenarios in key areas such as human resource management, marketing, sales, and innovation. The game's immersive environment is a critical factor, as students perceive the experience as realistic, managing relationships among various characters in complex situations, and encountering unique challenges tailored to their decisions.

FLIGBY is suitable for measuring leadership skills, including decision-making abilities. The advantage of measuring within the context of a digital serious game is that it is based on decisions made in a virtual space, comparable to others, and follows a pre-established algorithm. The simulation allows for measuring skills used in decision-making, exploring their interrelationships, and comparing them with other student groups.

The study relies on the game results of participants of the Executive Diplomatic Leadership Training (EDLT), comparing them with the results of several hundred Hungarian and international players collected over recent years (2017–2024). This extensive database provides a relevant foundation for analyzing the interactions between flow-promoting skills and leadership decision-making. The empirical analysis employs the Technology Acceptance Model (TAM) to examine how its elements influence the acceptance and use of FLIGBY in a higher education setting.

## 2. Literature Review

### 2.1 Serious Games in Leadership Training

Unlike traditional games, serious games are designed with educational and training purposes in mind (Michael and Chen, 2006). They provide a dynamic platform for practicing complex decision-making in a risk-free environment, offering immediate feedback, highlighting the consequences of decisions, and fostering strategic thinking (Wouters *et al*., 2013).

The use of serious games in leadership training programs offers several advantages:

1. *Risk-free environment*: Leaders can experiment with various decision-making strategies without facing real-world consequences.

2. *Immediate feedback*: They provide instant feedback, helping leaders understand the impacts of their decisions and adjust their strategies accordingly.
3. *Engagement and motivation*: The immersive nature of these games can increase engagement and motivation, facilitating a deeper learning experience (Gee, 2003; Connolly *et al*., 2012).
4. *Development of soft skills*: In addition to professional skills, they aid in the development of critical soft skills such as communication, teamwork, and emotional intelligence (Boyle *et al*., 2016).

Serious games thus offer a simulated environment where leaders can participate in complex decision-making processes, enabling an experiential learning approach and the measurement and development of leadership skills. Research on serious games has demonstrated their effectiveness in developing critical skills by simulating real-world challenges and providing immediate feedback (Gee, 2003; Susi and Backlund, 2007).

## 2.2 From Flow to FLIGBY

Mihály Csikszentmihalyi's flow theory describes an optimal experience in which individuals are fully immersed and engaged in their activities, leading to enhanced performance and satisfaction (Csikszentmihalyi, 1990). Achieving flow in the workplace can result in increased productivity, creativity, and overall job satisfaction (Csikszentmihalyi, 2003). In a leadership context, attaining a flow state can improve decision-making efficiency and effectiveness. Key factors that promote flow include clear goals, immediate feedback, and a balance between challenges and skills. These principles are directly applicable to leadership decision-making, where leaders must navigate complex environments, make strategic decisions, and motivate their teams (Nakamura and Csikszentmihalyi, 2002).

Research suggests that key leadership skills that promote flow — such as strategic thinking, feedback receptiveness, recognition of individual strengths, and balance creation — are essential for successful leadership (Nakamura and Csikszentmihalyi, 2009). These skills enable leaders to create environments conducive to flow, thereby enhancing individual and team performance (Csikszentmihalyi, 1997). Findings indicate that leaders proficient in strategic thinking, who actively seek and utilize feedback, recognize individual strengths, and balance skills with challenges, are more likely to create environments that facilitate flow (Nakamura and Csikszentmihalyi, 2014).

Research also indicates that leaders who can induce flow within their teams often achieve higher performance and job satisfaction (Fullagar and Kelloway, 2009). These flow-promoting skills are crucial as they allow leaders to navigate complex situations, make informed decisions, and cultivate a motivating organizational culture (Engeser and Schiepe-Tiska, 2012).

The interactive and immersive nature of serious games aligns well with the principles of flow theory, creating conditions that promote deep learning and engagement (Kiili, 2005).

An example is FLIGBY, a digital serious game designed to measure and develop leadership decision-making and skills, widely used in leadership training programs. The game simulates complex leadership scenarios to assess and enhance leadership skills. Participants assume the role of a general manager of a winery, making decisions that impact the virtual organization and its employees. The game evaluates 29 different leadership skills, including the ability to foster flow among team members (Buzady *et al*., 2022).

Research has shown that FLIGBY players demonstrate significant improvement in recognizing individual strengths, strategic thinking, and balancing skills and challenges (Rieber, 2017). These skills are essential for achieving flow and effective leadership decision-making. Moreover, the game's design, which includes real-time feedback and challenges tailored to the player's skill level, reinforces the conditions necessary for achieving flow, thereby enhancing the learning experience (Michael and Chen, 2006).

The controlled environment provided by serious games allows researchers to examine decision-making behavior under various conditions. This method has been applied in different contexts, such as engineering systems design, highlighting the versatility and applicability of serious games in research (Vermillion *et al*., 2017). Traditional approaches focus on rational analysis, but FLIGBY and other serious games suggest incorporating intuitive thinking and experiential learning into decision-making processes (Gigalová, 2017), thus enriching the decision-making paradigm (Grund and Meier, 2016).

Empirical studies on FLIGBY have demonstrated its effectiveness in developing leadership decision-making skills. These studies have confirmed that such interactive and immersive experiences can significantly enhance leaders' strategic thinking, feedback reception, recognition of individual strengths, and maintenance of the balance between skills and challenges (Csikszentmihaly, Khosla and Nakamura, 2016). The game includes elements of feedback and self-assessment, consistent with the principles of flow theory, thereby promoting learning and development outcomes (Keller and Bless, 2008).

### 2.3 The Use of FLIGBY in Leadership Training

FLIGBY, a digital serious game specifically developed to measure and enhance leadership skills and decision-making, exemplifies the application of these games in leadership training programs. It engages participants in a series of complex leadership decisions, enabling them to gain deeper insights into their capabilities and understand the consequences of their decisions, thereby enhancing their competitiveness. Players increase their awareness of their strengths and weaknesses, improve their strategic thinking, and better balance their skills with challenges (Buzady *et al*., 2022).

Multiple studies have examined the effectiveness of FLIGBY in developing leadership skills. One study analyzed the decision-making skills of 734 leaders and managers concerning their leadership capabilities, demonstrating that serious games effectively measure and develop these skills (Pasin and Giroux, 2011; Wimmer *et al*., 2022). Another study, which

examined data from 7931 global managers, supported FLIGBY's role in leadership skill development, emphasizing its usefulness in teaching flow theory in leadership training (Buzady *et al*., 2022.

Key soft skills in leadership, such as communication, conflict resolution, diplomacy, and emotional intelligence, are widely recognized. FLIGBY effectively develops these skills through its interactive and immersive gameplay (Almeida and Buzady, 2022). Through realistic scenarios, players can practice and refine their soft skills, preparing them for real-world leadership challenges.

FLIGBY has also been analyzed through comparative studies involving a broader population, including hundreds of Hungarian and international players, highlighting the game's wide applicability and effectiveness. These studies show that serious games can be effectively used in various educational and professional environments to develop leadership decision-making skills. Data collected from FLIGBY users over the past decade provides a rich source for understanding the impact of serious games on leadership development and decision-making (Gee, 2003).

This digital serious game has also been used to assess entrepreneurial skills among university students, demonstrating the game's versatility in different educational contexts. The game provides a practical framework for evaluating and developing skills such as strategic thinking, feedback utilization, and emotional intelligence, which are critical in entrepreneurial activities (Almeida and Buzady, 2019).

Analyzing data from Hungarian university students using FLIGBY, researchers can identify patterns and correlations between flow-promoting skills and decision-making performance. This data-driven approach not only validates the theoretical foundations of flow theory in a leadership context but also guides the design of more effective training programs (Csikszentmihalyi, Abuhamdeh and Nakamura, 2014).

### 2.4 The Technology Acceptance Model (TAM)

The Technology Acceptance Model (TAM) is a widely applied tool for understanding the acceptance of new technologies (Davis, 1989). TAM posits that perceived usefulness and perceived ease of use determine users' attitudes towards technology, which in turn influence their intention to use the technology (Varannai and Urbanovics, 2017).

In the context of serious games, TAM provides a framework for analyzing how positive attitudes, user experience, and ease of accessibility affect users' performance and their intention to use the game for educational purposes. Studies have shown that these factors significantly impact engagement and effectiveness in educational technologies (Venkatesh and Davis, 2000). Furthermore, in the context of serious games, positive attitudes and a seamless user experience are critical for effective engagement and learning outcomes (Venkatesh and Bala, 2008). Empirical studies on serious games have utilized TAM to evaluate their effectiveness in enhancing leadership skills and user acceptance (Agarwal and Prasad, 1999).

In summary, integrating serious games like FLIGBY into higher education leadership training programs offers a novel and effective approach. Based on flow theory and supported by TAM, this approach not only develops leadership skills and decision-making but also provides valuable insights into the factors influencing the acceptance and effectiveness of FLIGBY as an educational serious game.

## 3. Research Design

The research employs a comparative approach and a quantitative research method to investigate the impact of FLIGBY on leadership skills and decision-making. The Technology Acceptance Model (TAM) serves as the theoretical framework to analyze the effects of user attitudes, experiences, and ease of use concerning the game. Through quantitative analysis of surveys and performance data, the research provides insights into the factors influencing the acceptance and use of serious games in higher education, particularly in leadership training.

Research Questions:

1. How do *demographic factors* influence participants' leadership skills and game outcomes when using the *FLIGBY leadership decision-making simulation* in the Executive Diplomatic Leadership Training (EDLT group), Hungarian higher education, and international higher education?

2. What is the correlation between the participants' *29 leadership skills* and the *partial/final results* of Executive Diplomatic Leadership Training (EDLT group), Hungarian higher education, and international higher education?

3. What is the correlation between the participants' *four FLIGBY key skills* (balancing, feedback, applying personal strengths, strategic thinking) and *decision-making skills* in the case of Executive Diplomatic Leadership Training (EDLT group), Hungarian higher education, and international higher education?

4. What is the correlation between participants' *FLIGBY decision-making skills* and the *partial/final results* of Executive Diplomatic Leadership Training (EDLT group), Hungarian higher education, and international higher education?

5. How does the *TAM framework* explain the interplay between perceived ease of use, perceived usefulness, user experience, attitude towards use, intention to use, and actual usage when using FLIGBY in Executive Diplomatic Leadership Training (EDLT group)?

The research involves *three groups of participants*: (1) *Executive Diplomatic Leadership Training Participants.* These individuals are undergoing a specialized leadership training program. (2) *Hungarian Database Participants*. This group comprises several hundred Hungarian users in higher education who have interacted with FLIGBY over the past decade. (3) *International Database Participants.* This group includes several hundred international users in higher education who have interacted with FLIGBY over the past decade.

*Instruments* used: (1) *FLIGBY Game.* A serious game designed to simulate complex managerial decision-making scenarios. (2) *Survey Questionnaires*. These include items

measuring perceived ease of use, perceived usefulness, user experience, attitude towards use, intention to use, and actual usage when using FLIGBY, developed based on TAM.

*Data collection* includes (1) *Performance Data*. In-game performance metrics are collected to evaluate participants' decision-making abilities, including the FLIGBY leadership skills of participants. (2) *Surveys.* Post-intervention surveys are administered to assess Executive Diplomatic Leadership Training participants' perceptions of ease of use, usefulness, and overall attitudes towards FLIGBY based on TAM constructs.

*Data analysis* contains (1) *Descriptive Statistics.* Calculate means, standard deviations, and frequencies to summarize participant demographics and survey responses. (2) *Inferential Statistics.* Quantitative research results are processed using the SPSS statistical program. Conduct paired t-tests to compare pre-and post-intervention survey scores and examine changes in perceptions and attitudes. Use correlation analysis to explore the relationship between TAM variables and in-game performance metrics.

*Ethical considerations*: (1) *Informed consent.* Participants were informed about the study's objectives, procedures, potential risks, and benefits, and their consent was obtained before participation. (2) *Confidentiality.* Participant data is anonymized to protect privacy, and data is securely stored.

## 4. Discussion of results

### 4.1 Description of the Sample by Demographic Characteristics

Between January 1, 2017, and March 31, 2024, a total of 615 higher education students from 47 countries participated in the FLIGBY simulation. The majority of participants were from the USA (197 participants), followed by Hungary (116 participants), and Portugal (59 participants). The distribution of higher education participants by country is illustrated in Diagram 1.

The Hungarian group accounted for 18.9% (116 participants) of the total sample, while the remaining 46 countries collectively contributed 499 participants. The EDLT group comprised 11 participants (6 males and 5 females). Across the entire sample, the gender ratio favored females, approximately 60–40%, with males being predominant in Hungary and females being the majority in the international group. The gender distribution within each sample is shown in Diagram 2.

Examining the sample by age reveals a diverse composition in each group. The majority of participants were young adults (21–35 years old), followed by middle-aged individuals (36–50 years old). However, the older age group was also represented, accounting for 5.9% of the total sample. In the EDLT group, there was one more participant from the older age group than from the younger group. The age composition of each sample is depicted in Diagram 3.

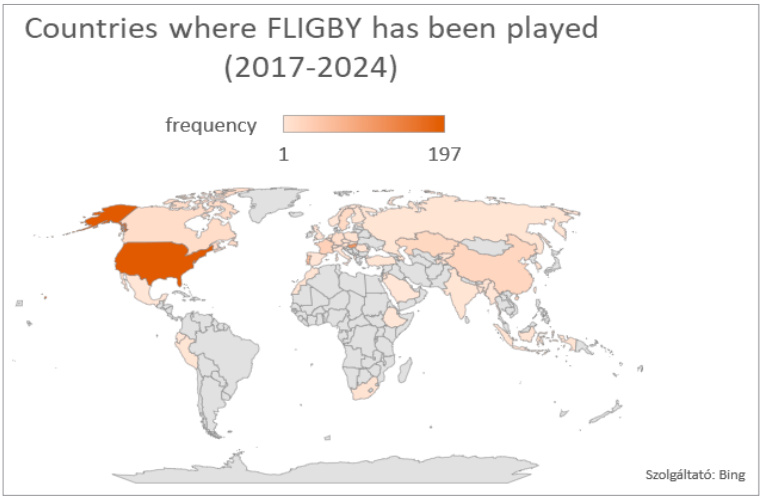


Diagram 1. Distribution of Higher Education FLIGBY Participants by Country (2017–2024)

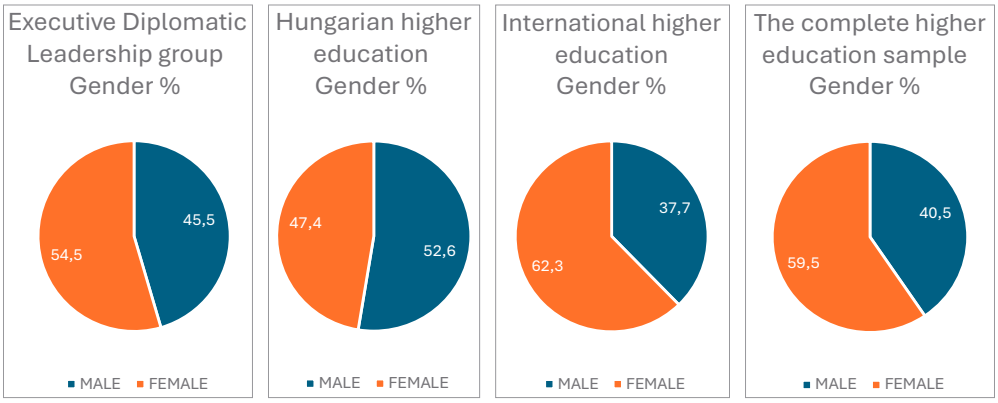


Diagram 2. Gender Distribution within Each Sample

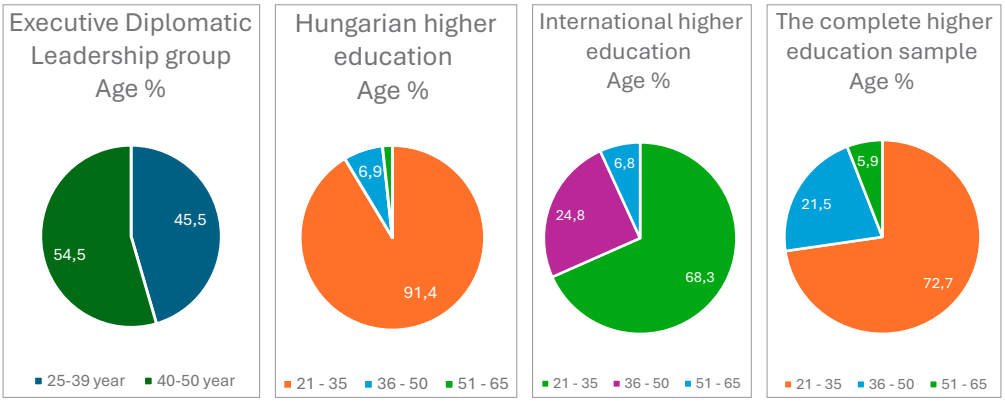


Diagram 3. Age Composition of Each Sample

The participants' job positions were also varied, predominantly composed of part-time students. The majority were in administrative, expert, and middle management positions, with fewer participants being top executives and entrepreneurs. In the international group, 22.0% did not specify their job positions, which introduces a bias when comparing with the Hungarian and overall samples. This discrepancy arises because, while FLIGBY players typically have active job positions in the labor market and pursue their higher education part-time, the simulation is used full-time in higher education in some countries, such as the USA. The job position composition of each sample is illustrated in Diagram 4.

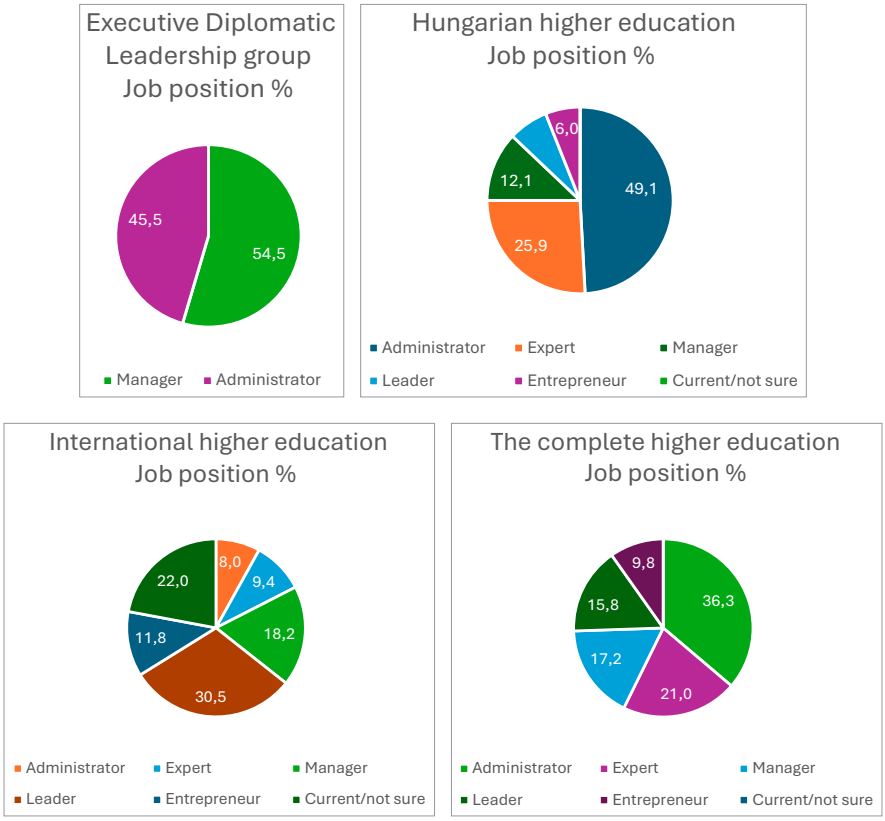


**Diagram 4.** Job Position Composition of Each Sample

## 4.2 Examination of Research Questions

RQ1. *How do demographic factors influence participants' leadership skills and game outcomes when using the FLIGBY leadership decision-making simulation in the Executive Diplomatic Leadership Training (EDLT) / Hungarian higher education / international higher education?*

*Countries – Skills/Results.* The higher education students participating in the survey were divided into two groups (Hungarian and international) and examined using a

two-sample t-test to determine whether nationality plays a role in the differences in game results and the scores obtained for skills during the game. The strength of the relationship between demographic characteristics and skills/game results was analyzed using eta statistics and, after coding nominal variables, Pearson correlation coefficients. Our results were analyzed by comparing the EDLT group, Hungarian higher education, and international higher education.

Regarding game results, significant differences ($\rho < 0.05$) were found between the nationality groups in the Corporate atmosphere ($\rho = 0.049$) and Profitability ($\rho = 0.021$) subcategories, indicating that the differences in sub-results between the two groups are not due to chance but to nationality. However, no significant differences ($\rho > 0.05$) were found for Sum Flow, Flow Trophies, or the "Spirit of the Wine" Award, indicating that these differences are due to chance and not nationality.

For key skills, no significant differences ($\rho > 0.05$) were found for any of the key skills, indicating that the differences in scores are due to chance and not nationality. However, among the 29 leadership skills, significant differences were found in three skills between Hungarian and international higher education, indicating that the differences are not due to chance but to nationality: Diplomacy ($\rho = 0.000$), Future orientation ($\rho = 0.004$), and Prioritizing ($\rho = 0.007$).

*Gender – Skills/Results.* In the EDLT group, a significant ($\rho = 0.016$, $r = 0.702$) moderate-to-strong relationship was found between gender and Stakeholder management, indicating a significant difference between the skills of males and females in the group. For other skills, only weaker or non-significant relationships were found with gender. For key skills, only weaker relationships were observed with gender, indicating that gender does not significantly affect skill development.

Regarding sub-results/results categories, no significant differences were found between the results of males and females in the EDLT group. A moderate non-significant positive relationship was found between gender and Sum Flow, "Spirit of the Wine" Award, and Flow Trophies.

The results from the Hungarian higher education sample are similar, showing no significant relationship between gender and skills, except for a weak non-significant negative relationship ($\rho = 0.011$, $r = -0.235$) with Time management. In the relationship between gender and result categories, only a weak significant negative relationship ($\rho = 0.001$, $r = -0.293$) was found with Profitability in Hungarian higher education.

In international higher education, independence was also observed between gender and skills. Among key skills, Recognizing individual strengths ($\rho = 0.016$, $r = -0.107$) and Strategic thinking ($\rho = 0.035$, $r = -0.094$) showed very weak significant negative relationships with gender. The game results achieved by international students were also independent of gender.

*Age – Skills/Results.* Regarding the relationship between age and skills/results categories, the research yielded similar findings as with the relationship between gender and skills/results. In all three samples, only weak correlations ($r < 0.2$) were found, indicating

that age (and the associated experience) does not strongly influence the development of skills/results.

*Job position – Skills/Results.* Examining whether the job position of higher education participants influences their leadership skills and game results, similar conclusions were drawn as with the previous characteristics: no significant relationships were found between the observed values in any of the samples.

Summarizing the research findings on the statistical relationship between demographic factors and the examined leadership skills/game results, it can be stated that – *with the exception of nationality* – other demographic characteristics do not significantly influence the values. No significant correlation was found between the players' demographic parameters and their leadership skills/game results.

RQ2. *What is the correlation between the participants' 29 leadership skills and the partial/final results in the case of Executive Diplomatic Leadership Training, Hungarian higher education, and international higher education?*

In the various samples, only a few skills exhibit a correlation with game outcomes that is stronger than moderate. Contrary to the hypothesized or expected positive, significant correlations, certain statistical values warrant attention due to their indication of negative correlations with game outcomes. This raises questions regarding the reasons why individuals with stronger skills might produce poorer game outcomes compared to those with lesser skills. Detailed analysis of the correlations between specific skills and FLIGBY game outcomes within each sample yielded the following statistical results from the research:

For the *EDLT group*, the Corporate atmosphere sub-score category is significant, and more strongly than moderately, correlated with the skills of Delegating ($\rho = 0.049$, $r = 0.603$), Intuitive thinking ($\rho = 0.004$, $r = 0.792$), and Stakeholder management ($\rho = 0.014$, $r = -0.710$). This indicates that participants with higher levels of these skills achieved better results in improving the corporate atmosphere. Interestingly, the Stakeholder management skill shows a negative correlation with the Corporate atmosphere sub-score category, which is surprising since strengthening this skill leads to a decrease in game outcomes. A similar inverse relationship is observed between Corporate atmosphere and Communication skills, although not significant ($\rho > 0.05$), it is stronger than moderate ($r = -0.514$). Conversely, there is a positive correlation between Motivation skills ($r = 0.580$) and the Profitability sub-score ($r = 0.575$), aligning with expectations. Therefore, the Corporate atmosphere does not show significant relationships with key skills, only weak correlations.

The Profitability sub-score shows significant correlations with Sustainability ($\rho = 0.001$, $r = 0.865$), Future orientation ($\rho = 0.011$, $r = -0.726$), Intuitive thinking ($\rho = 0.021$, $r = 0.681$), and Stakeholder management ($\rho = 0.029$, $r = -0.653$). These correlations are stronger than moderate. Additionally, there is a stronger-than-moderate but non-significant ($\rho > 0.05$) negative correlation with skills such as Building engagement (-0.501), Business-oriented thinking (-0.572), Diplomacy (0.566), Feedback (-0.600), and

Involvement (-0.545). Besides the Feedback skill, the Profitability sub-score does not show significant relationships with other key skills, only weak correlations.

The Sum Flow sub-score has stronger-than-moderate (non-significant) correlations with Communication skills (r = 0.586), Intuitive thinking (-0.512), and Stakeholder management (0.562). The Sum Flow sub-score category shows only weak, non-significant relationships with key skills.

The Flow Trophies outcome category shows a significant, stronger-than-moderate correlation with Assertiveness (ρ = 0.012, r = 0.723). Medium-strength (non-significant) correlations are found with Analytical skills (0.548) and Execution skills (0.539). The Flow Trophies outcome category does not show significant relationships with key skills.

The "Spirit of the Wine" Award exhibits significant, stronger-than-moderate, positive or negative correlations with skills such as Recognizing individual strengths (ρ = 0.035, r = -0.637), Analytical skills (ρ = 0.034, r = 0.641), Emotional intelligence (ρ = 0.036, r = -0.635), and Communication skills (ρ = 0.002, r = 0.868). Among other skills, the award shows non-significant, stronger-than-moderate correlations with Assertiveness (0.526), Building engagement (-0.570), Delegating (-0.529), Empowerment (-0.505), Execution skills (0.521), and Time management (-0.563). Among the key skills, the award shows a stronger-than-moderate, negative correlation with Recognizing individual strengths (ρ = 0.035, r = -0.637), while only weak, non-significant relationships are observed with other key skills.

For *Hungarian higher education*, Corporate atmosphere shows a positive, weak, significant correlation with Empowerment (ρ = 0.013, r = 0.230) and Strategic thinking (ρ = 0.018, r = 0.219), the latter being a key leadership skill. The relationships with other skills are weak.

Profitability shows a significant, medium-strength, positive correlation with Information Gathering (ρ = 0.000, r = 0.470) and Time management (ρ = 0.000, r = 0.560). The relationships with other skills are weak, and no significant correlation is found with key skills.

The Sum Flow sub-score shows significant correlations with almost all skills (exceptions: Empowerment, Information gathering, and Teamworking management). There are stronger-than-moderate significant correlations with Conflict management (ρ = 0.000, r = 0.522), Execution skills (ρ = 0.000, r = 0.547), Feedback (ρ = 0.000, r = 0.571), Stakeholder management (ρ = 0.000, r = 0.640), Future orientation (ρ = 0.000, r = 0.648), Prioritizing (ρ = 0.000, r = 0.517), Time-pressured decision-making (ρ = 0.000, r = 0.578), and Recognizing individual strengths (ρ = 0.000, r = 0.514). The Sum Flow sub-score category shows significant medium or weaker correlations with key skills.

The Flow Trophies outcome category shows significant correlations with almost all skills (exceptions: Communication, Stakeholder management, and Time management). Stronger-than-moderate correlations are observed with Emotional intelligence (ρ = 0.000, r = 0.591) and Intuitive thinking (ρ = 0.000, r = 0.515). Only weaker correlations are found with other skills, including key skills.

The "Spirit of the Wine" Award shows significant correlations with all skills. Medium-strength significant correlations are observed with Emotional intelligence ($\rho = 0.000$, $r = 0.526$), Future orientation ($\rho = 0.000$, $r = 0.513$), and Execution skills ($\rho = 0.000$, $r = 0.531$). The relationships with other leadership skills, including key skills, are significant but weaker or medium-weak.

In *international higher education*, the Corporate atmosphere shows significant but weak correlations with all skills (including all key skills), except for Delegating and Empowerment.

The Profitability sub-score category shows significant but weak correlations with all skills (exceptions: Time-pressured decision-making, Stakeholder management, and Strategic thinking). Among key skills, significant weak correlations are observed with Recognizing individual strengths ($\rho = 0.006$, $r = 0.123$), Balancing skills ($\rho = 0.000$, $r = 0.230$), and Feedback ($\rho = 0.001$, $r = 0.148$).

The Sum Flow sub-score category shows significant correlations with all skills. There are stronger-than-moderate correlations with Future orientation ($\rho = 0.000$, $r = 0.549$) and Stakeholder management ($\rho = 0.000$, $r = 0.555$). The relationships with other skills (including key skills) are significant but weaker than moderate.

The Flow Trophies outcome category shows significant correlations with all skills. A stronger-than-moderate correlation is observed only with Intuitive thinking ($\rho = 0.000$, $r = 0.514$). The relationships with other skills, including key skills, are significant but weak.

The "Spirit of the Wine" Award shows significant correlations with all skills, with a stronger-than-moderate correlation with Social dynamics ($\rho = 0.000$, $r = 0.537$). The relationships with other skills are weaker than moderate. The relationships with key skills are significant but weaker than moderate.

Table 1 shows stronger-than-moderate relationships ($\rho < 0.05$, $r > \pm 0.5$) between leadership skills and the sub-results/outcomes of the game.

Overall, no significant differences are observed among the three samples examined. Generally, only weak or weaker-than-moderate correlations exist between skills and the FLIGBY game outcome categories in each group.

RQ3. *What is the correlation between the participants' four FLIGBY key skills (balancing, feedback, applying personal strengths, strategic thinking) and decision-making skills in the case of Executive Diplomatic Leadership Training / Hungarian higher education / international higher education?*

In the *EDLT group*, the key skill of Time-pressured decision-making does not show a significant relationship with other key skills. It can be concluded that, within this group, Time-pressured decision-making does not have a substantial impact on other key skills.

In the broader context of *Hungarian higher education*, however, Time-pressured decision-making demonstrates a medium to a strong positive relationship with each of the key skills. Based on the research findings, it can be established that the more developed a participant's ability in rapid decision-making, the more successful they are in skills such

Table 1. Relationships between leadership skills and partial/final results of the game

| Sample Result | Executive Diplomatic Leadership Training | Hungarian higher education | International higher education |
|---|---|---|---|
| ***Corp. Atmosphere*** | Delegating<br>Intuitive thinking<br>Stakeholder management | - | - |
| ***Profitability*** | Future orientation<br>Intuitive thinking<br>Stakeholder management | Information gathering<br>Time management | - |
| ***Sum Flow*** | --- | Conflict management<br>Execution<br>Feedback<br>Stakeholder management<br>Future orientation<br>Prioritizing<br>Time-pressured decision-making<br>Recognizing individual strengths | Future orientation<br>Stakeholder management |
| ***Trophies*** | Assertiveness | Emotional intelligence<br>Intuitive thinking | Intuitive thinking |
| ***„Spirit of the Wine" Award*** | Recognizing individual strengths<br>Analytical skills<br>Emotional intelligence<br>Communication | Emotional intelligence<br>Future orientation<br>Execution | Social dynamics |

as Balancing skills (ρ = 0,000 r = 0,592), Recognizing individual strengths (ρ = 0,000 r = 0,735), Strategic thinking (ρ = 0,000 r = 0,509), and Feedback (ρ = 0,000 r = 0,725).

Similar to Hungarian higher education, in *international higher education*, Time-pressured decision-making shows significant medium or stronger relationships with all key skills: Balancing skill (ρ = 0,000 r = 0,532), Recognizing individual strengths (ρ = 0,000 r = 0,545), Strategic thinking (ρ = 0,000 r = 0,465), and Feedback (ρ = 0,000 r = 0,653).

The relationship between Time-pressured decision-making and the key skills, as measured by the Pearson correlation coefficient, is illustrated in Diagram 5.

In summary, it can be concluded that among the higher education students from all the countries involved in the study, Time-pressured decision-making has a positive correlation with key skills.

RQ4. *What is the correlation between participants' FLIGBY decision-making skills and the partial/final results of Executive Diplomatic Leadership Training / Hungarian higher education / international higher education?*

In the *EDLT group*, Time-pressured decision-making does not show a significant relationship with game results, generally revealing only non-significant, weak to moderate correlations. The only exception is the Sustainability (ρ = 0,045 r = -0,612) partial result, which demonstrates a significant, negative medium to a strong relationship with Time-pressured

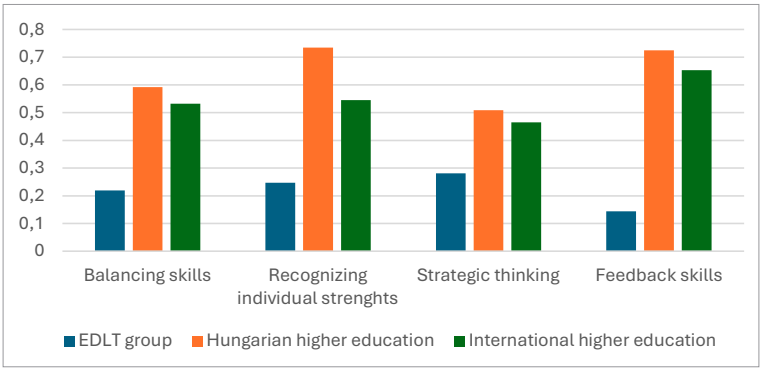


**Diagram 5.** The relationship between Time-pressured decision-making and key skills, based on the Pearson correlation coefficient (r).

decision-making. (Due to data limitations in the Hungarian and international samples, this partial result category was only included in this small group.)

In the overall *Hungarian higher education* group, weak positive significant correlations are observed between Time-pressured decision-making and the examined indicators: Flow Trophies (ρ = 0,000 r = 0,377) and "Spirit of the Wine" Award (ρ = 0,008 r = 0,245). Notably, Time-pressured decision-making shows a significant positive medium to a strong relationship with the Sum Flow (ρ = 0,000 r = 0,578) partial result category, indicating that those with good decision-making skills achieve higher scores in this game result category.

Analyzing the *international higher education* group results, it is found that Time-pressured decision-making has significant but weak to medium relationships with all result categories: Corporate atmosphere (p = 0,003 r = 0,079), Profitability (p = 0,080 r = 0,132), Sum Flow (p = 0,000 r = 0,418), Flow Trophies (p = 0,000 r = 0,380), and "Spirit of the Wine" Award (p = 0,000 r = 0,422).

The relationship between Time-pressured decision-making and results, as measured by the Pearson correlation coefficient, is illustrated in Diagram 6.

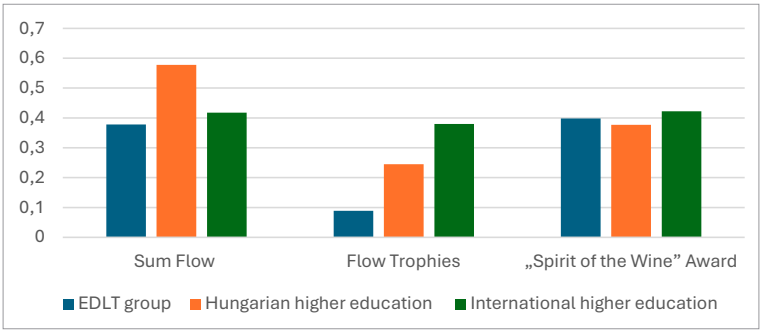


**Diagram 6.** Relationship between Time-pressured decision-making and results based on the Pearson correlation coefficient (r)

In summary, it can be concluded that the decision-making ability of higher education students in all participating countries positively, but not strongly, influenced/improved the result categories achieved during the FLIGBY game.

RQ5. *How does the TAM framework explain the interplay between perceived ease of use, perceived usefulness, user experience, attitude towards use, intention to use, and actual usage when using participants FLIGBY in Executive Diplomatic Leadership Training?*

Following the analysis of the questionnaires completed by the participants of the EDLT group, the following findings emerged regarding the relationships between the factors:

1. There is a clear positive correlation between Attitude towards Gamified Sessions and Future Participation Intent in additional gamified sessions. This relationship is supported by significant values found between six pairs of questions in the pilot study.

2. Similarly strong is the connection between Perceived Usefulness and Intention, as evidenced by significant correlation values between three question pairs in the study. The more useful students perceive the gamified learning format to be, the more they are inclined to participate in additional gamified classes.

3. The Perceived Usefulness factor positively influences students' Attitudes towards learning and active class participation, suggesting that students view the application of FLIGBY in higher education as a good idea.

4. Experiences from gamified sessions, including the perceived ease of use of the game, also enhance the intention to participate.

5. The ease of access to the game improves the positive student attitude towards the application of FLIGBY in class and increases the perception of the experiences gained from gamified sessions.

In other cases, only non-significant, weak to moderate, or statistically weak correlations were observed between the elements. The correlations among the TAM elements are illustrated in Figure 1.

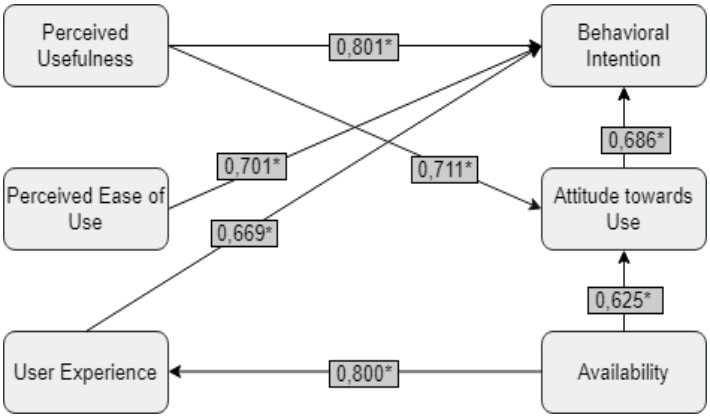


Figure 1. Correlation (r) among TAM elements (* ρ < 0,05).

Examining the relationships among the TAM elements (Perceived Usefulness, Attitude towards Use, Perceived Ease of Use, Availability, Behavioral Intention, User Experience), the following significant positive correlations at a 5% significance level ($\rho < 0,05$) are detailed in Table 2.

**Table 2.** Significant positive correlations among TAM elements ($\rho<0,05$).

| Question | Factor | Question | Factor | Pearson Correlation Coefficient (r) | Significance (ρ) |
|---|---|---|---|---|---|
| 2.3 After the game, I discuss the questions with my peers. | Attitude | 7.1 I would gladly participate in another course using gamification. | Intention | 0.686 | 0.020 |
| 6.2 I think gamified learning is a good idea. | Attitude | 7.1 I would gladly participate in another course using gamification. | Intention | 0.625 | 0.040 |
| 7.2 I participate in the game during the gamified class. | Attitude | 7.1 I would gladly participate in another course using gamification. | Intention | 0.630 | 0.038 |
| 2.3 After the game, I discuss the questions with my peers. | Attitude | 4.1 I look forward to the next game. | Intention | 0.627 | 0.039 |
| 6.1 I am frustrated by the game. | Attitude | 4.1 I look forward to the next game. | Intention | -0.677 | 0.022 |
| 7.2 I participate in the game during the gamified class. | Attitude | 4.1 I look forward to the next game. | Intention | 0.669 | 0.024 |
| 2.1 Thanks to the game, I got to know others better. | Perceived Usefulness | 7.1 I would gladly participate in another course using gamification. | Intention | 0.732 | 0.010 |
| 2.4 Gamified assessment is useful in higher education. | Perceived Usefulness | 7.1 I would gladly participate in another course using gamification. | Intention | 0.625 | 0.040 |
| 6.3 I find the idea of gamification... | Perceived Usefulness | 7.1 I would gladly participate in another course using gamification. | Intention | 0.801 | 0.003 |
| 2.1 Thanks to the game, I got to know others better. | Perceived Usefulness | 2.3 After the game, I discuss the questions with my peers. | Attitude | 0.630 | 0.038 |
| 2.1 Thanks to the game, I got to know others better. | Perceived Usefulness | 6.2 I think gamified learning is a good idea. | Attitude | 0.711 | 0.014 |
| 7.3 The gamified class is less monotonous. | Experience | 4.1 I look forward to the next game. | Intention | 0.669 | 0.024 |
| 6.2 I think gamified learning is a good idea. | Attitude | 5.2 I join the game with a mobile/tablet. | Accessibility | 0.625 | 0.040 |
| 4.2 I feel liberated during the game. | Experience | 7.2 I participate in the game during the gamified class. | Accessibility | 0.800 | 0.003 |
| 3.1 The rules of the game and the results are easily interpretable. | Perceived Ease of Use | 4.1 I look forward to the next game. | Intention | 0.701 | 0.016 |

Overall, it can be concluded that individuals who have a positive attitude towards the concept and practice of gamification are more likely to favor the application of gamification in their studies, even in other subjects.

## 5. Conclusions and implications

The central focus of this research is FLIGBY, a digital serious game specifically designed to measure and develop leadership decision-making skills. Through the game, students make a series of strategic decisions in a simulated business environment, providing a unique platform to observe the consequences of their decisions and reflect on their decision-making processes.

The research employs a comparative approach and quantitative methods to investigate the impact of FLIGBY on leadership skills and decision-making. The theoretical framework is based on the Technology Acceptance Model (TAM), which helps understand the game's impact on student behavior. The research addresses five key questions, analyzing demographic impacts, correlations between leadership skills and game outcomes, and the explanatory power of the TAM framework regarding various user perceptions and experiences during gameplay. The study includes three distinct participant groups: EDLT group students, Hungarian higher education students, and international higher education students. Data was collected through questionnaires and performance indicators obtained from the game database.

*Correlations between demographic factors and leadership skills.* The study found that demographic factors such as age, gender, and educational background generally do not significantly affect leadership skills and game outcomes across different educational settings. An exception is the significant impact of nationality on corporate atmosphere, profitability, and certain leadership skills (diplomacy, future orientation, prioritization), where notable differences were observed between Hungarian and international participants.

*Correlations between leadership skills and game outcomes.* Correlation analyses revealed weak or non-significant relationships between the 29 leadership skills and FLIGBY game outcomes across all participant groups. However, certain skills, such as Delegation, Intuitive thinking, and Stakeholder management, showed significant correlations with specific game outcomes in the EDLT group, though some correlations were unexpectedly negative, indicating complex interactions between skills and performance in the simulated environment.

*Correlations between key FLIGBY skills and decision-making skills.* The relationship between four key skills (Strategic thinking, Feedback skills, Recognizing individual strengths, Balancing skills) and decision-making skills varies by group. Significant positive correlations exist in the Hungarian higher education and international contexts, indicating that advanced decision-making skills positively influence other key skills. However, this relationship is weak and negative in the EDLT group, suggesting contextual differences in skill development.

*Correlations between decision-making skills and game outcomes.* Time-pressured decision-making skills weakly but positively influence game outcomes across all groups. Significant positive correlations are observed with game outcome categories, such as Sum Flow and the "Spirit of the Wine" Award, highlighting the role of decision-making efficiency in achieving higher performance in the game.

*Correlations Between the TAM Framework and User Acceptance.* The analysis confirms that perceived usability, usefulness, and positive user experiences significantly enhance attitudes towards FLIGBY and intentions to use it. Strong correlations between perceived usefulness and future participation intentions suggest that students who find the game useful are more likely to engage in similar gamified learning activities.

This study underscores the significant potential of digital serious games in higher education. Leadership training courses typically rely on theoretical lectures that explain the program content, supplemented by group activities. This traditional educational approach does not provide students with a comprehensive understanding of the challenges in leadership and decision-making processes. Therefore, it is essential to offer a learning process where students can face the consequences of their decisions without risk, thus practically understanding the significance of the knowledge acquired during the course. The game outcomes also offer opportunities for individual skill development, which can be utilized in student mentoring and talent management.

Future research should further explore the reasons behind negative correlations between certain skills and game outcomes. Another research direction could involve examining the differences in leadership skills and decision-making across countries and significant global regions. Expanding the range of demographic data could refine the results and improve their generalizability. Additionally, it is recommended to investigate further the potential and impact of digital serious games as innovative educational tools in higher education to better meet educational goals and student needs.

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# Consumer Protection Aspects of the Use of Artificial Intelligence in the Financial Sector

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**Abstract**

The presentation will examine the consumer aspects of digitization (both in the public and private sectors). In our view, the subject can be approached from two angles. On the one hand, it should be approached from the point of view of the digitization of the public sector, which can be understood as the digitalization of the work of the consumer protection authority. In this context, we will review the types of public administration activities where the potential for the use of AI can be explored, identify good practices and assess directions for improvement. The other side is the private sector — in the scope of our study — the digitization of the financial intermediation system, and more specifically, whether and how consumer protection aspects arise with respect to the use of AI-based applications and software by banking service providers. In addition to reviewing the literature, the presentation will use an empirical and comparative approach, looking at solutions in the international arena and, in order to find analogies, approaching the solutions in the public financial sector from the perspective of the options available to financial service providers. The paper concludes by drawing conclusions and indicating directions for further development, pointing out the anomalies revealed by the subject.

**Keywords:** digitalization, artificial intelligence, consumer protection, data protection, financial services.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 58–71

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## 1. Introduction and theoretical framework

Public administration (including its organisational structure, functional mechanisms and staffing framework) cannot remain unchanged and cannot be independent of current global trends, which is why it can be said that public administration is constantly changing. One of the greatest challenges of our time is digitalisation in the broadest sense, which has necessitated a transformation of the attitude of public administration towards citizens and its infrastructure in all countries of the world. It must be emphasised that, although the digital revolution in the public sector was inevitable, experience to date — particularly in the Central and Eastern European (CEE) region — does not necessarily indicate that this has been an unqualified success story. The reasons for this include the difficulty of taking organisational and procedural aspects into account at the same time, the slow and costly development of infrastructure, and the general resistance to change (especially in the area of human resources), which is also a classic obstacle to innovation.

For the sake of completeness, however, the authors of the study cannot ignore the undeniable advantages of optimal digitisation of public administration, which are also relevant to our study. Leading foreign literature agrees that the use of proven digital tools can have an attractive effect that can legitimise the use of new technological tools in new sectors that have not yet been affected by digitisation. This effect is reinforced by the fact that standardised platforms and other digital solutions from competitive sectors can be easily transferred to public administration within certain limits and under certain conditions. In fact, this mediating, interactive online value creation is also a well-known phenomenon in the 'traditional' offline economy, which is usually based on a company's technology and infrastructure. On the other hand, it must also be emphasised that technological tools can be used to a large extent to achieve and strengthen the objectives set by national and EU administrative policy (e.g., customer orientation, efficiency, subsidiarity, etc.), particularly in relation to the activities of public authorities and the organisation of public services. In this context, we would like to refer to the indicators of the so-called DESI (Digital Economy and Society Index), which ranks Central and Eastern European countries in the lower third of the scale, particularly in terms of the efficiency of public services. According to this index, Hungary ranks 23rd, Slovakia 24th, Poland 25th and the Czech Republic 18th, with slightly better indicators (European Commission, 2022).

## 2. Types of public administration and the potential of AI

In relation to the fundamental activities of public administration, the relevant organisational legal doctrine distinguishes between activities of a sovereign nature, activities arising from organisational or property power, and so-called non-sovereign activities (Fazekas, 2015, pp. 71–92; Maurer, Waldhoff, 2020). Due to the limitations of this chapter, only the fundamental activities relevant to AI (e.g. strategy development, organisation of internal processes, customer information and factual administration) and the scope of application of the associated AI technologies will be analysed.

As a starting point, it should be noted that policy-making is more likely to be understood as part of government activity, even though planning itself has a concrete legal basis in administrative law and management activity is to be understood within an institution (and thus not from the perspective of public authority). There are AI-based tools that can support these activities (e.g., the digitisation of impact assessments, the use of chatbots, the use of machine vision or speech understanding), but in our study we will not focus on these, but rather on technologies that can be used in the interaction between customers (citizens) and the administration. With regard to content management, two main questions fundamentally determine the reality of AI application. On the one hand, a distinction must be made between administrative procedures initiated ex officio and those initiated at the request of the customer, as these procedures are carried out by administrations according to different logics, both in terms of recording (see initiation of the procedure) and in terms of clarifying the facts (see preparation of the decision). At this point, it can be noted that in Hungary — especially in the area of financial administration — there are technologies that are suitable for both types of procedures, but these are sector-specific solutions that all struggle with 'teething problems'.

The Hungarian Treasury uses the Téba application (Budai 2016), an OPA-based IT framework system for automating certain normative family allowance procedures for which applications can be submitted, but the application has the disadvantage that its explanatory (justification) function is currently not being used sufficiently. The National Tax and Customs Administration uses several AI-based programmes, including Eskort, an expert system to support official VAT controls, which was introduced by the tax authority in 1999. Its strength lies in its useful explanatory function, but its disadvantage is that it can only draw single-stage conclusions (Fejes, Futó, 2021, p. 44).

Another fundamental question in connection with sovereign activities is the discretionary power of the administration: in this context, it makes sense to distinguish between cases where decisions must be made in addition to normative regulation and those that require the exercise of discretionary power. The former refers to the enactment of so-called legally binding acts, in which the authority can only make a single legal decision based on facts and regulations, and this method of applying the law is easily modelled, so that it can also be supported by artificial intelligence (Fejes, Futó, 2021, p. 44). A discretionary decision essentially refers to an application of the law in which the authority can choose between

several lawful decisions at its own discretion due to the relaxation of the legal system (e.g., determining the exact amount of the fine between the minimum and maximum amounts, choosing the method of enforcement, etc.). Due to its nature, modelling this decision-making pattern requires a combination of machine learning and expert systems, as well as the processing and analysis of particularly large amounts of data.

Related to this problem is the 'production' of substantive decisions using artificial intelligence, which is in its infancy in Hungarian law. The reasons for this may include the lack of a horizontal perspective and the inadequacy of the infrastructure in its present state, but some in the literature argue that the obligation of the public administration to give reasons for its decisions prevents automation. In addition to the fact that this approach is suitable for reassuring the legislator, the authors of this study dispute this idea for two reasons: firstly, as indicated in connection with the NAV Eskort, it is IT-soluble to develop an explanatory function, and secondly, the forms applied intensively in the public administration can easily be used to digitize the justification, so there is no reason to turn away from planning further developments on this basis.

In our research, we had the opportunity to examine the issues and challenges of applying artificial intelligence (AI) in collaboration with a large Hungarian bank. The topic is extremely relevant, as although the technology itself is not revolutionary new, its development has taken a qualitative and quantitative leap in recent years, and today it is rapidly shaping the operation of many industries, including the financial sector. The examination of the issue was further boosted by the European Union's adoption of the 2024/1689 EU Regulation on Artificial Intelligence, the AI Act in 2024, which came into force the same year. Market players who do not want to fall behind their competitors are investing significant resources in AI innovation, and they are primarily concerned with what the biggest risks and issues are during the application of the technology.

AI sheds new light on data management and risk management, potentially creating the possibility of automated decision-making, while also creating new challenges in data protection, data security, ethical standards, and other legal compliance. While finding the balance between innovation and legal regulation is a key expectation towards legislators, market and state actors applying the law face significant challenges in adapting to the already established legal expectations. Our research focused on three key areas: non-discrimination, liability issues, and copyright problems. In this article, after a brief general introduction to the AI Act, we will present these three problems.

## 3. What is the AI Act?

In March 2024, the European Union's decision-maker adopted the 2024/1698 EU Regulation on Artificial Intelligence, commonly known as the AI Act. The regulation is revolutionary not only because it aims to comprehensively regulate the use of artificial intelligence for the first time in the world but also because it is pioneering in terms of its regulatory scope. The novelty of the AI Act is that it links different AI technologies to

risk levels. This is essentially a tiered regulation from the lowest risk solution to completely prohibited applications. The idea is that tools with different usage purposes carry different risks. The AI Act distinguishes four categories:

**a. Minimal Risk** (General Purpose AI Models): These include applications that do not significantly affect people's rights or safety. These systems only need to meet general transparency and information requirements. Typical applications of these technologies are administrative applications within organizations.

**b. Limited Risk**: Limited risk AI systems are applications that may somewhat influence users' decisions or rights but not significantly. These include, for example, chatbots or AI-based customer service systems that facilitate communication but do not directly influence users' decisions or pose significant risks. For such systems, the regulation focuses on transparency and informing users. This category is crucial in the field of customer information and relevant in decision-preparation functions.

**c. High Risk**: High-risk AI systems are applications that can significantly impact people's rights, safety, and quality of life. These include AI systems used in healthcare diagnostics, financial decision-making, or legal fields. These systems are subject to strict compliance requirements and controls, such as data protection regulations, detailed documentation, regular audits, and risk assessments.

**d. Unacceptable Risk** (Prohibited AI Practices): Unacceptable risk AI systems are applications that endanger people's fundamental rights and safety and cannot be used under any circumstances according to the AI Act, as they are incompatible with fundamental rights and values. These include, for example, social scoring systems that rate people's behavior or performance and thus can be potentially discriminatory or raise ethical issues.

Based on these, it is clear that the first task of AI system users is to classify the system's risk level. The main rules of this audit are defined by the AI Act, specifying which organizations can perform it. A critical question for AI systems used in the financial sector is to what extent are they considered high-risk. In the financial sector, stricter legal requirements apply to designated critical system elements compared to other actors in the sector. According to the AI Act, it is justified to classify AI used by critical infrastructure as high-risk. This does not automatically mean classification — it is obvious that a distinction must be made between a banking chatbot and an algorithm that automatically evaluates loan applications. It is also important to note that not every sub-area of a bank is necessarily considered critical infrastructure, but it is still good to prepare for the possibility that a higher number of software used within banks may be classified as high-risk compared to other market players.

If a system is classified as high-risk, the provider has several tasks related to it. The most important of these are:

**a. Risk Management**: First, a risk management system must be established and operated. Its task includes estimating the likelihood of damage and appropriately categorizing risks for high-risk systems.

**b. Data Management**: Providers must ensure that the systems can work with high-quality and appropriately inclusive data sets.

**c. Technical Documentation**: Proper management of this aims to reduce the effects of the 'black box effect'. The term 'black box effect' is used when an AI system provides useful information to the user, but the system's decision-making process is not transparent and traceable.

**d. User Information**: Preparing and making this available helps users understand the AI system's operation.

## 4. What Counts as AI?

In the context of the application of the AI Act, the question of what constitutes artificial intelligence according to the legislation is of paramount importance.

It is essential to examine what is understood by the term AI system/model under the AI Act and how to distinguish an AI system from a traditional (or classical) automated decision-making process. In the latter case, the expectation is merely that identical input events will always produce identical output results. The entire decision-making process is known and traceable. In contrast, for AI models/systems defined by the AI Act, the decision-making process is not as straightforward, and a 'black box' effect may occur during the operation between input and output — where an AI system provides useful information to the user, but the decision-making process of the system is not necessarily fully transparent and traceable.

The regulation uses the following definition for an AI system: 'a machine-based system designed to operate at various levels of autonomy, which, after being introduced, can demonstrate adaptability and infer how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments'.

Since only systems that meet this definition fall under the scope of the AI Act, it is worth examining its substantive elements in detail.

**1. Machine-Based System**: The first conceptual element, that the AI system/model is machine-based, is obviously necessary to describe its operation but is insufficient to distinguish an AI system from other IT products. According to the Preamble of the regulation, 'the term 'machine-based' refers to the fact that AI systems run on machines'.

**2. Operation at Various Levels of Autonomy**: This is a particularly important element of the definition, as it clearly refers to the unique characteristics of AI systems compared to any other IT system. It is crucial that the presence of this capability is a sufficient condition for the technical solution to be considered AI, but the presence of the capability is not a requirement during the model's operational phase for it to fall under the scope of the legislation. Often, this capability is precisely what we limit as a risk-reducing and protective mechanism.

**3. Inference Capability**: The Preamble states: 'The inference capability refers to the process of generating outputs — such as predictions, content, recommendations, or decisions — that can influence physical and virtual environments, as well as the ability of AI systems to derive models or algorithms — or both — from inputs or data. The inference

capacity of an AI system goes beyond basic data processing by enabling learning, reasoning, or modeling'. In practice, the inference capability of AI systems/models means that they can modify their operation by independently analyzing and evaluating the impact of their previous steps or decisions. In other words, to achieve a specific goal, they can plan the next optimal step by processing the data they have collected or generated and responding to it. In contrast, classical models/systems that are not yet considered AI cannot perform such independent evaluations.

**4. Adaptability and Environmental Influence**: The definition uses adaptability as a non-mandatory substantive element. If a system has the capability of adaptability, it reinforces that it is an AI system, but its absence does not necessarily mean it is not an AI system. The same applies to the last conceptual element, that the system's 'outputs' can influence the physical or virtual environment. According to the Preamble, adaptability refers to the self-learning capabilities of the AI system that allow it to change during use.

It is also important to note that there are AI systems that, although they meet the definition, are excluded from the scope of the AI Act. There are obvious exceptions, such as AI systems used entirely outside the European Union and not affecting EU citizens at all during their application. Another excluded group includes AI systems for military, defense, and national security purposes, which are also not subject to the legislation, considering that these typically fall under national rather than EU jurisdiction.

For typical operators, particularly financial institutions, two additional types of exceptions may be more important. The rules of the regulation do not apply to AI systems developed and deployed exclusively for scientific research and development purposes, and more importantly, they do not apply to any research, testing, and development activities related to AI systems or models before they are placed on the market or put into service.

Thus, during the research and development phase, the strict rules of the AI Act do not need to be met, but the legislation itself stipulates that these activities must also be conducted in accordance with all relevant EU laws, and this exception does not apply to testing under real-world conditions.

## 5. Discrimination and AI

The prohibition of discrimination is a constitutionally protected fundamental right. Numerous international documents (e.g., the Charter of Fundamental Rights of the European Union) declare this right, and our internal law also treats it prominently: the general provision of the Fundamental Law's Article XV is concretized by Act CXXV of 2003 on equal treatment, but the topic has a vast literature, and many court decisions have been made on discrimination. It is therefore understandable what is generally contrary to the requirement of equal treatment and the prohibition of discrimination. However, the rise of artificial intelligence has created new circumstances in the fight against discrimination. The following two examples highlight why it is a problem if artificial intelligence is not adequately prepared for the equal treatment we always expect from decision-makers.

The *COMPAS case* centers around the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) risk assessment system, used in the United States to calculate a recidivism probability indicator for the future recidivism risk of offenders using predictive analytics. This system is intended to assist courts with specific decision-making suggestions. The COMPAS system can predict three indicators for the person concerned: the risk of pre-trial release, the likelihood of recidivism, and the likelihood of violent recidivism. The training of this software was based on the results of questionnaires filled out by persons in pre-trial detention and the criminal record database. Although this AI solution does not explicitly contain data referring to racial factors, it was revealed during practical use that its internal decision-making mechanism significantly considers the ethnic background of the accused. After it was discovered that COMPAS, based on the input training data, was more likely to label black defendants as high-risk than whites, the system's use was widely criticized and attacked. As a result, the use of the version attacked for discrimination was banned. However, a partially modified version of the software is still used in the American criminal justice system (guarantee elements were built into the algorithm's operation that better diversifies the result, and a significant step forward is that the current software no longer attributes 'decisive' significance to the perpetrator's skin color) (Larson, Mattu, Kirchner and Angwin, 2016).

In the *Amazon case*, the discrimination problems of Amazon's AI-based recruitment software stemmed from the fact that the system learned from the resume data of the previous ten years, which overrepresented successful male career paths. As a result, the software favored male candidates and discriminated against women by giving them lower scores. Amazon eventually abandoned the use of the software because it could not guarantee gender bias-free operation (Dastin, 2018).

The above cases also highlight the problems of algorithmic bias, meaning that incorrect steps can occur during the steps necessary to produce the algorithm (and afterward), leading to a 'biased algorithm'. These have sparked widespread debate about the transparency and fairness of algorithms' operating logic in the legal system. It is clear that the situation must be addressed, as problems similar to the above are unacceptable if the application of AI systems becomes widespread — as these systems can operate independently of geographical boundaries, and the affected group can be vast. Furthermore, since post-facto legal remedies may not help in cases of mass impact, there is a need for technical, organizational, and logical controls built into the process. The AI Act approaches the problem from a legal perspective. In addition to reiterating the prohibition of discrimination at a fundamental level, the AI Act defines a specific new procedure, the fundamental rights impact assessment, which must be carried out during IT development, i.e., preventively. This partly serves to ensure that AI tools that violate any fundamental rights (including the prohibition of discrimination) do not come into use. However, it is clear that there are solutions outside of legal tools that prudent AI operators are obliged to use.

From the above examples, it is clear that the potential bias of AI software can easily be caused by the training data. However, it is difficult to foresee this situation, as the amount

of training data makes it impossible to review it manually in advance. Although it is possible to examine the balance of the training data set using statistical methods, this may mean artificially modifying the data content of public records considered authentic. It is also clear that developers do not intentionally train software with discriminatory data, so the 'black box' problem inherent in algorithms is present, meaning it is not always possible to foresee what conclusions the software will draw. Furthermore, the training data have historical, geographical, economic, political, and religious aspects that can influence the AI system's conclusions. Based on these, the prudent AI operator is obliged to take the following steps:

**a. Data Examination and Cleaning**: The data sets must be carefully reviewed and cleaned of historical prejudices and biases as much as possible. This is one of the most challenging steps.

**b. Control Mechanisms**: During the development of AI systems, control mechanisms must be built in, based on which the software cannot make certain types of decisions under any circumstances.

**c. Transparency and Explainability**: The decisions of AI systems must be transparent and explainable. Customers must be given the opportunity to understand why and on what basis the software made a decision, but the AI system operator does not have to reveal business secrets in the information.

**d. Human Supervision**: This is a control mechanism proportional to the operational risk. The decisions of AI systems must be supervised according to the system's risk classification, and people must have the opportunity to override the AI system's decisions if necessary.

**e. Ethical Guidelines and Training**: Operators must develop ethical guidelines and provide regular training for employees on the use of AI systems and ethical considerations.

## 6. Liability Issues

Discussing the liability issues of AI systems is particularly important because these technologies have an increasing impact on our lives and various areas of society, including the economy, healthcare, and the legal system. Clarifying liability helps prevent abuses, ensures lawful and ethical application, and promotes the maintenance of public trust. Furthermore, establishing appropriate regulatory frameworks allows for the exploitation of the technology's benefits while minimizing potential harms and injustices resulting from faulty or discriminatory AI decision-making. Despite the significant importance of the topic, it can be seen that legislation has not necessarily caught up with reality. According to current Hungarian regulations, AI (i.e., the algorithm itself) is considered a copyrighted work and is not subject to any special liability provisions. Since it is not a thing (despite proposals supporting this in domestic literature), product liability rules cannot be applied to it. Neither the Hungarian Copyright Act nor other legislation contains specific provisions for artificial intelligence.

The current, less regulated situation is, however, changing. An EU legislative process is underway for a directive that will specifically regulate these cases. The legislative process of the AI Liability Directive (EU, 2022) on non-contractual liability rules is not progressing too quickly — the Commission's proposal has not yet been submitted to the Parliament — but since it is likely to be the future of legal regulation, AI system operators and/or users should familiarize themselves with these rules and consider them in their procedures. It is important to highlight that the proposed AI Liability Directive is a directive, unlike the previously presented, directly applicable AI Act, so national legislators will have somewhat more leeway in implementing the legislation, but this is unlikely to affect the structure and essential elements of the new regulation. The proposed directive aims to harmonize non-contractual civil liability rules for damages caused by AI systems (EU, 2022).

**Causal Presumption**: The directive would not define the concept of AI but would refer to the general AI concept in the AI Act. This is true for several key concepts used by the directive (e.g., 'high-risk AI system' or 'user') — it does not define them independently but refers to the definitions in the AI Act. This legislative solution seems fortunate, as it ensures uniform terminology in this area and at the EU level. The new rules would apply to damages caused by AI systems, regardless of whether they are classified as high-risk under the AI Act. The AI Liability Directive applies to non-contractual civil liability rules, meaning rules that provide for compensation claims regardless of whether there is a contractual relationship between the injured party and the responsible person. The rules would ensure that any type of injured party (individual or business) receives compensation if they suffer damage due to the fault or omission of a service provider, developer, or AI user, which is considered damage under national laws (e.g., health, property, privacy, reputation, etc.). The directive would not affect existing rules laid down in other EU legislation, meaning it should be applied in a complementary manner in areas where there are no specific rules. The most significant innovation of the directive is the introduction of a causal presumption. The legislation would create a causal presumption that would make it easier for injured parties to successfully claim compensation for damages caused by AI systems. The draft establishes a rebuttable causal presumption, according to which a causal link between the AI system's fault and the damage is presumed if a breach of duty of care under EU or national law is proven. For high-risk AI systems, the presumption is automatically applicable, while for lower-risk systems, it only applies if the court finds that proving the causal link would be excessively difficult. The directive aims to reduce the burden of proof due to the complexity of AI systems, while the defendant can rebut the presumption by proving that their fault did not cause the damage. This approach also supports AI innovation by not completely reversing the burden of proof.

**Evidence Disclosure Obligation**: The other significant innovation is the obligation to disclose evidence. The large number of people involved in the development and operation of high-risk AI systems makes it difficult for injured plaintiffs to identify the responsible person and prove their compensation claim. The directive would therefore empower national courts to order the disclosure of evidence related to AI systems, helping victims

identify responsible persons. Companies would be required to disclose specific documentation and log data according to court decisions. Requests must be addressed to parties with obligations under the AI Act, and the plaintiff must make proportionate efforts to obtain the evidence. Courts must consider the legitimate interests of the parties and the protection of trade secrets when disclosing evidence. If the defendant fails to comply with the court-ordered disclosure of evidence, the court may presume that the evidence would have served to prove the breach of duty of care, but the defendant can rebut this. The changes in AI liability rules are a significant step towards the safe and ethical application of technology. The new directive would not only make it easier for injured parties to claim compensation but also ensure that developers and operators of high-risk AI systems are held accountable for any damages caused. This would not only strengthen the protection of victims but also increase trust in AI systems, which is essential for future innovations and the social acceptance of technology.

## 7. Intellectual Property Issues

Artificial intelligence-based models/systems raise numerous new questions from a copyright perspective. The rise of AI presents particular challenges for legislators, AI users, and the authors whose works may be used by these systems.

At the very beginning of our reasoning, it should be highlighted that most copyright issues are raised by those large language models that use web-scraped corpora for training, as well as generative AI. According to the definition generated by ChatGPT, the most well-known and widely used generative AI, for this concept for this article: '*Generative artificial intelligence (AI) is a technology capable of creating new and original content, such as texts, images, music, or videos. This technology learns based on previous data and creatively combines the acquired knowledge to create new patterns and forms. Generative AI differs from traditional AI, which is usually optimized for performing a specific task, as generative models are also capable of producing creative content. However, its use raises ethical questions, particularly in terms of copyright and data usage*'.

From the above definition, it is not only apparent that AI seemingly has self-criticism, but it also clearly indicates what the main problem with their use might be. Generative AI can create its own output product by processing a vast amount of data beforehand. Among the processed data, there can easily be works protected by copyright. Since the learning data of the AI system is incorporated into the final product in a way that is not entirely traceable (due to the so-called 'black-box' effect mentioned previously), it is evident that there is a significant risk of copyright infringement.

The learning process of the system has also been included in the Hungarian Copyright Act with the stipulation that text and data mining performed for the training of AI systems is considered free use, but the rights holder can object to it. However, it should be noted that it is not clear how the rights holder would be informed of such use and to what extent it can be guaranteed that their objection will prevent the infringement in time. Since the

exact operation of AI systems is considered a serious business secret, it does not seem realistic that it would be public during development/training which learning data is being used.

It should also be noted that the problem is not merely theoretical: in the case of generative AI systems, it sometimes turns out that copyrighted data has been used as training data. This means that current systems can be induced to reveal the training data (ChatGPT Case). In other words, it is quite possible to extract works protected by intellectual property rights, to which the user would not have access or the right to use. For example, the New York Times sued Microsoft for such a case. According to the New York Times, articles were used to make ChatGPT smarter without prior permission from the authors. As a result, ChatGPT could generate 'verbatim excerpts' from New York Times articles, making them accessible to those who did not pay for the content (Gerken, 2023).

Another major question regarding generative AI systems is the classification of the resulting product. It seems relatively clear that a product created by artificial intelligence would be considered a work protected by copyright if it were created by a human author. However, the prevailing legal opinion is that since only a human can be an author, a work generated by AI cannot become a copyrighted work and thus cannot receive copyright protection.

Although there is no known judicial decision from Hungary yet, there are such decisions from abroad that support this. This is particularly interesting for AI users because their resulting product, without copyright protection, can be freely used by anyone else. The result may be different, however, if a person significantly participates in the creative process or reworks the primary product generated by AI, but there is no established legal practice in this case either.

In any case, it can be stated that the fact that the AI system itself does not become a copyright holder through generation does not mean that the resulting product is not otherwise protected by copyright. As mentioned above, there may be cases where the 'generated' result is actually someone else's protected product (e.g., image, brand, etc.). Therefore, for those who wish to use the result created by generative AI, it is primarily recommended to examine whether the received result is protected. This investigation is currently essential in most cases because, given the current state of technology, it cannot be guaranteed that the received result is flawless. For example, it is worth searching the internet to see if the result is already available somewhere exactly as the AI generated it for us, and it is advisable to modify it until it becomes unique.

Not only the use of the artificial intelligence-based system but also its creation raises questions. The created software itself is certainly considered a copyrighted work, and the Szjt. contains special rules for computer programs.

In the context of creation, however, particular attention must be paid to copyright issues. Regarding the 'training' of generative AI, it was mentioned above that it is crucial how and with what data the software under development is trained. Software development is a specialized field: codes and software components can also be considered significant business secrets. The AI Act itself mentions in its Preamble that the developed and operating AI system/model must comply with Union and other copyright laws. Such Union and

international rules exist, and there is a legal background and decades of judicial practice for the protection of traditional (i.e., non-AI) software. Since there are currently no known significant legal cases specifically addressing AI copyright creation, it is expected that courts and other legal bodies will use these rules by analogy in emerging disputes in the near future.

## 8. Conclusions

IT solutions (also) used in AI-based public administrations have shown varying degrees of effectiveness in different developed countries. Looking at examples from abroad, it can be highlighted that both machine learning and the use of expert systems are not alien at international level, with the Anglo-Saxon countries in particular leading the way in this field. Machine learning is the basis for the OPSI and BIT technologies, among others, which have been in existence since 2017, while examples of successful use of expert systems can be found in the UK (ESI), Australia (IVAG), New Zealand (CSLC) and the US (e-HASP2).

In addition to the need to keep up with technological advances, it is also evident that the challenges of recent years (e.g., pandemics, war, restrictions on fundamental rights, etc.) have forced public administrations to proactively exploit these existing infrastructures. An example of this in the Hungarian documentary administration is the effort to reinforce the so-called customer call kiosks in the district offices with artificial intelligence, which, at least according to plans, will in the near future enable the online initiation and issuance of documents of a decision nature (e.g., identity card, proof of address, driving license, passport, etc.) without the involvement of human beings.

The other aspiration that pervades the domestic related legislation is to use artificial intelligence as (one of) the means to shorten the administrative time. To illustrate this, one can cite the automatic decision making institutionalized by the former Administrative Procedure Act and further developed by the Act CL of 2016 on the Code of General Administrative Procedure (hereinafter: CGAP). The basic idea is that a decision is taken or communicated within 24 hours of the initiation of the procedure, provided that the facts are clear and the necessary information is available to the authority. It should be mentioned that the sectoral legislation was originally modelled on ex officio procedures for certain traffic offences, but was later extended to procedures on request and to other sectors (e.g., certain family allowances, the issue of an inauthentic title deed, etc.). The scope of this chapter does not allow for a comprehensive evaluation of this legal instrument established by the CGAP, so we would just like to add that — according to the conceptual coordinate system of the GDPR regulation — this cannot be considered as a real automated decision, since under the current regulation, the human factor is required to intervene approvingly to reach the actual decision (Wachter *et al*., 2018). Similarly, this legal instrument cannot be considered as a pure application of artificial intelligence, even though the nature of the legislative act (i.e., the issuing of a legally binding act) would allow for the application of full automatism.

Finally, we would like to emphasize, in addition to the classical public authority activities, there is also the possibility of using AI in the context of public service organization (once the

guaranteed framework is in place). Examples of possible sectors include the organization of public transport (which could be based on the operating mechanisms of Uber's existing platform) and the linking of so-called basic registers with administrative planning (e.g., birth registers could be used to draw automated conclusions from the number of children born in a municipality in order to plan the number of places in nurseries and kindergartens).

As a conclusion, the benefits of digitalization of public administration (in this context, the use of artificial intelligence) in terms of increasing efficiency or reducing administrative costs are undisputed, but it should also be stressed that bringing the administrative location closer to the citizen has not resulted in the decentralization of tasks and competences. On the contrary, the digitalization of public administration has reinforced the principle of centralization, so that the cautious rise of AI in Hungary can be identified with the process of centralization.

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# The Influence of Universities in the Activity of Local Public Administration from Romania

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**Abstract**

This paper explores the influence of universities in Romania on the activities of local public administration, emphasizing the alignment between administrative activities and their objectives. The study is grounded in the premise that collaboration between local authorities and academic institutions can enhance the achievement of sustainable development goals. The research investigates the extent to which universities contribute to shaping the objectives and activities of local administration. The study employs a mixed-methods approach, integrating the analysis of official public documents with administering questionnaires to local authorities in cities with major university

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 72–93

centers across Romania. The anticipated findings are expected to reveal varying levels of university involvement, highlighting the role of academic expertise in policy formulation and the degree to which local administrations leverage the knowledge and resources of nearby academic institutions. This research underscores the potential for stronger university-local administration partnerships to drive more effective and sustainable governance.

**Keywords:** academic institutions, collaboration, partnership, sustainable development, objectives.

## 1. Introduction

Public administration's activities are associated with achieving its objectives, with each activity designed to fulfill a specific goal, such as the efficient delivery of services, the promotion of welfare, the assurance of accountability, or the fostering of sustainable development. Formulating coherent public administration objectives and strategies is vital for enhancing the effectiveness and resilience of local governance in Romania. These strategies facilitate the well-being of communities and improve institutional capacity at various levels, including county and municipal authorities (Tomuz, 2022). Moreover, public authorities' responsibility in guaranteeing citizens' security highlights the necessity for a robust legislative framework and efficient administrative practices to protect citizens' rights and enhance their quality of life (Tudor-Drăghici, 2023). The global pandemic of 2020 highlighted the necessity for institutional resilience, demonstrating that local public administrations must adapt and innovate to manage crisis effectively (Profiroiu and Nastacă 2023). Thus, a coordinated strategy at the county and municipal levels is crucial for achieving sustainable development and enhancing the overall effectiveness of public administration in Romania (Iancu, Vrabie and Ungureanu, 2022). This comprehensive approach is essential for achieving sustainable development and fostering public trust in government institutions.

Also, the role of universities in public policy is particularly evident in the context of the United Nations Sustainable Development Goals (SDGs). Universities have been at the vanguard of integrating sustainability into their curricula, operations, and strategic plans, acknowledging their obligation to contribute to realizing these global objectives. Consequently, Sustainable Development Goal 17, which reads 'Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development', acknowledges the significance of multi-stakeholder partnerships as crucial instruments for mobilizing and disseminating knowledge, expertise, technologies, and financial resources to facilitate the attainment of the sustainable development goals in all countries, particularly developing countries. Furthermore, Goal 17 seeks to encourage and promote effective public, public-private, and civil society partnerships, building on existing partnerships' experience and resourcing strategies (UN, Agenda for Sustainable Development 2030).

The collaborative dimension of public administration plays an instrumental role in promoting sustainable development, which is a crucial aspect in addressing the multifaceted challenges confronting local authorities (Berceanu and Nicolescu, 2024).

Collaboration between public administration and academic institutions (such as universities, research institutes, academies, etc.) for formulating objectives and implementing strategies could help ensure an effective partnership in achieving the SDG 17 Goal.

The competitive global education market powerfully calls for universities to embrace sustainable development. By creating dynamic learning environments, universities can empower students to drive responsible economic growth at local, regional, and international levels. Collaborating with local representatives will shape community perspectives on sustainability, inspiring change and innovation in higher education (Cărăușan, 2024).

This paper examines how universities in Romania impact the development of local public administration. It proposes that universities have long played a crucial role in shaping the field of public administration.

This argument is supported by Honey (1967), who posits that universities and their public administration and affairs programs are expected to assume a leadership role in recognizing and meeting public service responsibilities. Historically, some universities have been explicitly tasked with accelerating regional economic and social development and have significantly influenced the labor market and regional economies (Filho *et al*., 2019). In the modern era, universities have assumed expanded responsibilities, engaging actively in sustainability initiatives, research, teaching, and outreach to contribute to broader societal goals (Sengupta, Blessinger and Yaminet, 2020). In addition, the Mario Draghi Report on the Future of European Competitiveness (2024, p. 28) asserts that universities and other research institutions play a central role in early-stage innovation, generating breakthrough research and cultivating new skill sets for the workforce.

Thus, this paper hypothesizes that local public authorities will enhance collaborative projects with academic institutions and facilitate better attaining of sustainable goals through these projects.

In light of the premises mentioned above, this study seeks to address the following research questions:

1. To what extent do universities contribute to local administration objectives? and
2. Which are the academic institution's intervention fields at the local level?

This paper may interest academics and practitioners as it emphasizes the part played by universities in community development and the importance of stronger university-local public administration collaborations.

## 2. Materials and methods

This paper aims to adopt a descriptive approach complemented by a quantitative analysis. The IMRaD structure has been selected to facilitate the organization of ideas and the consolidation of theoretical arguments that necessitate a more flexible relationship between methods, results, and discussion (Martin, 2014). Accordingly, the present study adopted a mixed-methods research approach, incorporating both qualitative and quantitative data collection and analysis in parallel form (Kemper, Stringfield and Teddlieet, 2003, pp. 283–284).

In order to achieve the objectives of this study, the initial phase will entail an analysis of how the literature describes the concepts and whether they are linked. The bibliometric analysis, utilizing the VosViewer software, will be employed as a research method for the paper. Bibliometric analysis has become an essential tool for university libraries, providing valuable insights into the research landscape and supporting evidence-based decision-making (Vanz, Santin and Pavãoet, 2018).

In the qualitative research phase of the study, the following methods were employed: direct observation and document analysis. These were carried out starting from the following steps:

- The first step, as stipulated by the Romanian Administrative Code, involved identifying the intervention fields at the local level;
- Website research at the municipality level within the counties where major Romanian academic institutions are located; and
- The intervention fields identified in the qualitative research were cross-verified in other counties with academic institutions.

In the quantitative research phase of the study, a questionnaire was used to test the hypothesis concerning the relationship between specific variables. The objective of this phase was to obtain information related to the partnerships that the local authorities have concluded in the period 2020–2024 with academic institutions (universities, research centers, and institutes) in the country and abroad. The questionnaire (see Annex 2) was disseminated online to the 10 local public administration authorities in accordance with the Law. No. 544/2001 regarding the free access to public information.

To achieve greater efficiency in acquiring and processing quantitative data, the local authorities from various cities were linked with the major university centers in Romania (namely Bucharest, Brașov, Iași, Cluj-Napoca, and Timișoara). Furthermore, to observe the interaction patterns between the major university centers and their smaller counterparts in their collaboration with the local authorities, a questionnaire was administered to university centers that were affiliated with the aforementioned major ones, such as Craiova, Constanța, Sibiu, Oradea, Târgu-Mureș, Suceava, Constanța, etc. The geographical distribution of these university centers is illustrated in Figure 1, which also provides a visual representation of the connections between them.

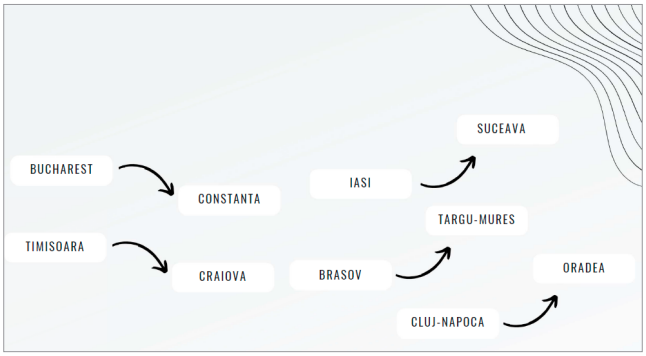


**Figure 1**: Visual representation of the connections between university centers

**Source**: Authors' own work

In accordance with the aforementioned premises and methodology that have been previously outlined, the purpose of this paper is to examine the manner in which collaboration between universities and local public administration authorities manifests in the formulation of local development objectives. These objectives are considered an integral component of the daily activities undertaken by both parties.

## 3. Literature Review

The relationship between academic institutions and local public administration can offer significant benefits, including the sharing of information, increased productivity, more efficient use of resources, and greater legitimacy among multiple actors.

One crucial aspect of this collaboration is the potential for local public administration to draw upon the knowledge and expertise of academic institutions (Pugel *et al*., 2022). Academics can offer invaluable insights and research that can inform policy decisions and enhance the efficacy of local public administration initiatives.

To gain insight into how literature addresses the topic of collaboration between academic institutions and local public administrations, we are conducting a bibliometric analysis that focuses on the objectives, universities, projects, and partnerships in the field of local public administration.

The analysis was conducted using the VosViewer software (version 1.6.20), which is a software tool for creating maps based on network data and for visualizing and exploring these maps and provides visualization and analysis of bibliometric data (Van Eck and Waltman, 2010).

The data employed in this study were obtained from the Web of Science (WoS) online database, which encompasses the scholarly output about local public administration, objectives, strategies, and universities. The period under examination was 2014–2024. A database of 3,211 articles was constructed based on their relevance, as determined by the WoS database, concerning publications in the field of public administration. A map was

created based on text data, utilizing a comprehensive word count and the co-occurrence of terms from ten sources.

As shown in Figure 2, the results consisted of 101 items and 11 clusters. Furthermore, an analysis of Figure 2 on the extant literature on local public administration objectives reveals a pronounced emphasis on the role of technology and innovation in enhancing public services and citizen engagement (Bran-Piedrahita *et al*., 2023).

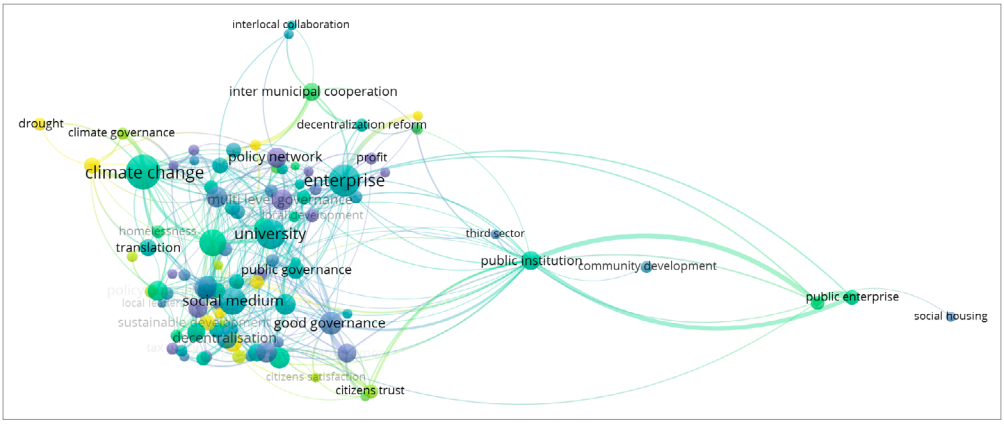


Figure 2: Map on text data

Source: Authors elaboration using VOSviwer

Figure 3 shows that cluster no. four contains the main network relations for civil service, government responsiveness, local government management, local government responsiveness, local leadership, local self-government, social equity, stress, and teaching.

The connections identified in the map highlighted in Figure 3 suggest that universities are influencing the objectives of local public administration in ways related to the civil service, government responsiveness, local government management, local leadership, and social equity.

## 4. Results and discussion

### 4.1. From the qualitative part

Universities are institutions of higher education that fulfill three fundamental functions: research, teaching/learning, and community service. These functions are carried out in conditions of institutional autonomy and academic freedom (UNESCO, 2009).

The final function must be considered in potential collaboration with public administration authorities. In Romania, for instance, universities are expected to play a significant role in forming public policy, although the extent of this impact may vary.

Under the stipulations outlined in Law No. 199/2023 on higher education in Romania, the mission of universities is to generate, certify, and transfer knowledge through active

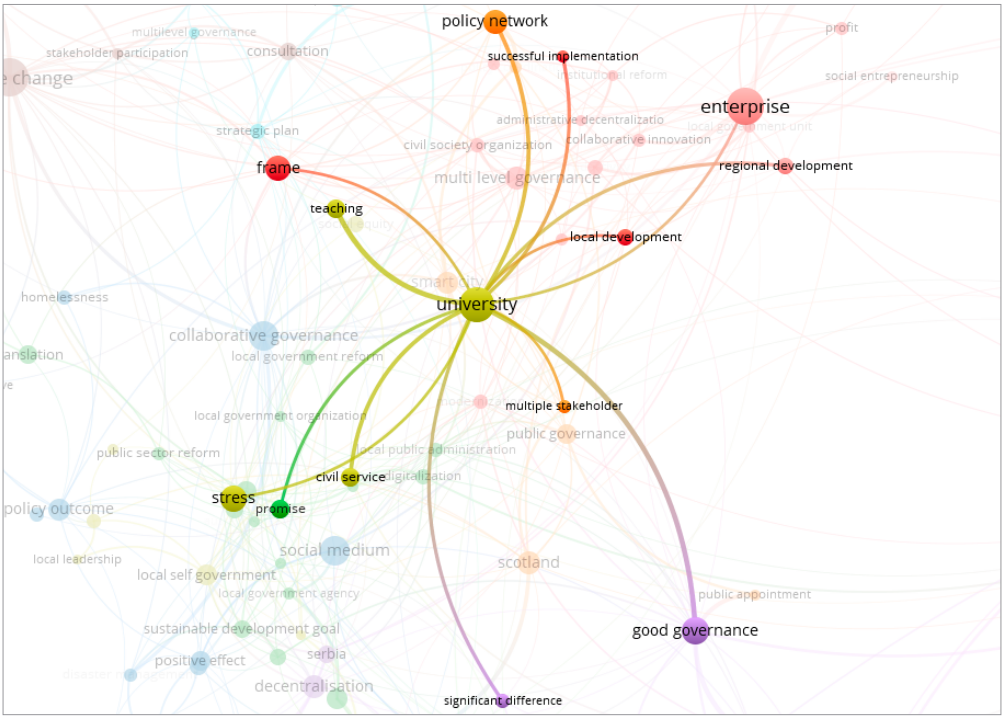


Figure 3: Cluster 4 map of networks

Source: Authors elaboration using VOSviwer

engagement with the community, through joint endeavors that benefit both the higher education institution and the social, economic and cultural environment (article 3, paragraph 1). In addition, Article 3, paragraph 2, letter j, identifies the value of collaboration, which is to be pursued through the development of inter-university partnerships, as well as with public or private research institutes and public or private economic operators.

Additionally, the Romanian Administrative Code (GEO no. 57/2019) stipulates that one of the fundamental principles governing local public administration is the principle of cooperation (article 75, paragraph 1, letter e).

To identify the fields of collaboration for intervention, an analysis of the administrative code provision of the local public administration authorities was conducted (i.e., the local council and the mayor). The mayor's attributions (art. 155, para. 4) were corroborated with those of the local council (GEO no. 57/2019, art. 129, para. 2 and 7), which establish the competencies of these authorities and the necessary framework for the provision of public services of local interest. This analysis allowed the following main areas of collaboration to be highlighted, which could be the object of partnerships between local authorities and universities: social and economic development; environment protection; local services; public and private domain; inter-institutional cooperation; health, culture and youth; urban development; and emergencies.

These findings were incorporated into the questionnaire as a component of the quantitative analysis. Additionally, the responses to the open-ended inquiries, no. two and six offer qualitative and quantitative combined data (see Annex 2).

Concerning open question number six, the outcomes demonstrated significant variation, with references to strategic documents, surveys, and general public satisfaction. Nevertheless, certain respondents emphasize the absence of substantial, concrete outcomes, which makes it difficult for researchers to find them in the municipality's website's content analysis.

Considering the responses to open question number two in the questionnaire and the subsequent analysis of the local authorities' website, a comprehensive summary of the collaborative endeavors undertaken between local authorities and academic institutions has been derived. The summary is presented in Table 1 from Annex 1. It is important to note that the analysis was conducted exclusively on the decisions made by the Local Council/ General Council of Bucharest Municipality, as it is the deliberative local authorities.

A content analysis of the data in Table 1 (see Annex 1) reveals two primary types of agreements formalizing these partnerships: cooperation agreements and partnership agreements. Cooperation agreements are often focused on project-based interactions, typically tied to specific events. These initiatives emphasize inter-institutional cooperation, aiming to achieve mutual objectives through joint financing and implementation. Conversely, partnership agreements encompass broader, long-term commitments, such as Brașov's initiatives with Transylvania University to enhance research, education, and professional development.

Furthermore, we observe cultural needs, such as cultural collaborations like the 'Cinemaraton Meetings' in Brașov or the '60th Anniversary of Higher Education in Suceava', which underscore the role of academia in enriching community identity and fostering local cultural narratives to long-term sustainability goals. Partnerships addressing environmental challenges are particularly noteworthy, such as the 'NetZeRoCities' initiative in Bucharest.

Education remains a cornerstone of these collaborations, encompassing student internships, professional training, and curriculum development. For instance, Brașov's partnership with the University of Transylvania aims to enhance teaching quality, while Bucharest's agreements promote student career guidance programs.

In addition, the findings indicate a preference among local public authorities to engage in collaborative partnerships with academic institutions and universities within their respective cities. However, this preference is not absolute, as evidenced by the observation of limited instances where partnerships with universities from other academic centers are pursued. A notable example of this phenomenon is the Partnership Agreement between the Municipality of Brașov and the 'Ion Mincu' University of Architecture and Urban Planning in Bucharest, which was concluded in response to a specific objective.

### 4.2. From the quantitative part

In this part of the study, the responses to a questionnaire on Law no. 544/2001 on free access to public information, which was sent to ten local public authorities, were examined. The results revealed that some authorities were reluctant to respond, as illustrated by Oradea Municipality, which did not respond to the request despite having an obligation to do so according to the regulations. The Târgu-Mureș Municipality authority stated that it had not partnered with universities or academic institutions within the country or abroad during 2020–2024. The Timișoara Municipality refrained from explaining, citing the absence of a legal obligation compelling public authorities and institutions to collate and disclose statements or statistics at the behest of citizens.

Among the respondents, the Municipality of Bucharest submitted two questions, completed by the General Directorate for the Management of Externally Financed Projects and the Directorate for Culture, Education, and Tourism.

Subsequently, the figures will be presented, incorporating the centralized responses from local public administration authorities. These responses will then be interpreted.

As illustrated in Figure 4, municipalities such as Bucharest, Brașov, and Cluj-Napoca are particularly prominent. This distribution enables a multifaceted perspective on partnerships across diverse geographical regions.

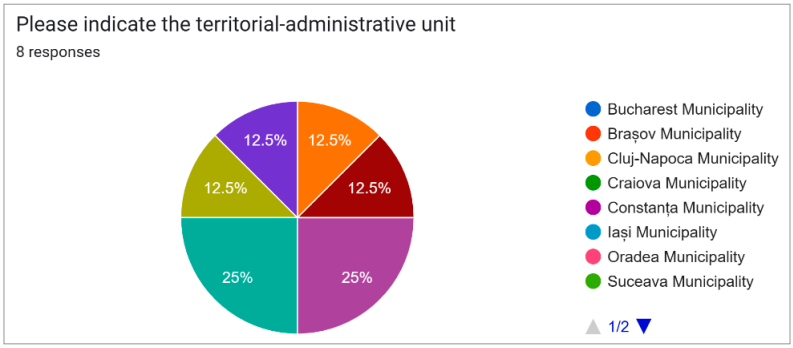


**Figure 4**: Distribution of responses to the local authorities

**Source**: Authors' own work

An analysis of the data from Figure 5, indicates that the primary funding sources comprise local budgets, European funds, and private sponsorships. Local authorities prioritize funding from their public budgets over potential European funds. Furthermore, the responses indicate a notable diversity in resource allocation, suggesting that municipalities utilize multiple funding channels.

As illustrated in Figure 6, a considerable proportion of partnerships fall within the range of 1–5, with budgets ranging from under 50,000 RON to over 1,000,000 RON. This observation indicates that certain municipalities engage in high-value partnerships, albeit to a limited extent.

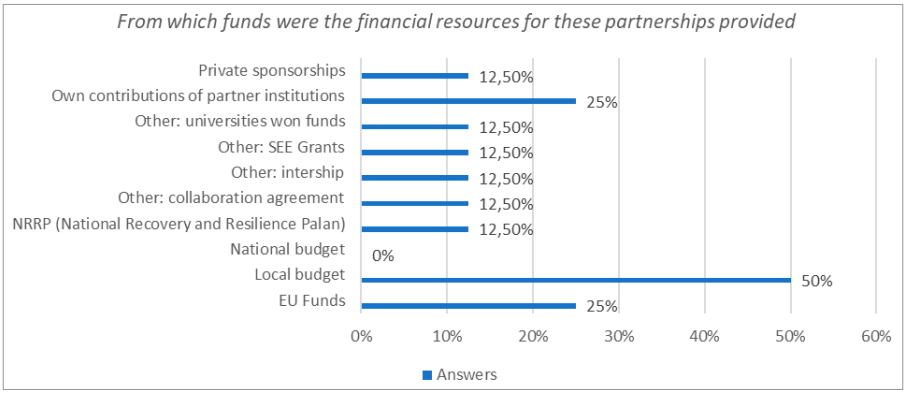


**Figure 5:** Funds for the implementation of partnerships

**Source:** Authors' own work

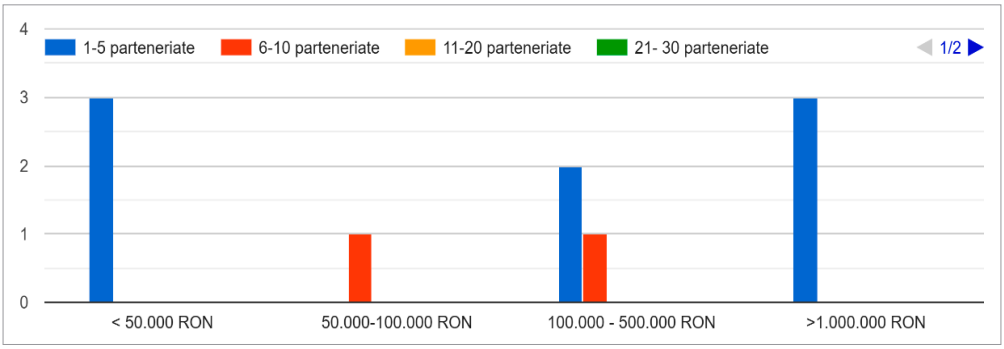


**Figure 6:** Partnership Values and number

**Source:** Authors' own work

Regarding the involvement of personnel at the local public administration level, as illustrated in Figure 7, most partnerships consist of three to five or more individuals, suggesting moderate to high organizational commitment.

Figure 8 illustrates the perceived influence of the partnerships. An analysis of the data reveals that most ratings fall within the three and four range on a scale of one to four. This observation suggests that the influence levels are perceived to be moderate to high, indicating that most municipalities recognize the value of these collaborations with academic institutions.

Regarding future partnership interest in the next four years, Figure 9 shows a high degree of interest (scores of three or four) in continuing partnerships over the next four years.

As indicated by Figure 10, local public authorities are interested in concluding partnerships with academic institutions in urban development, education, environmental protection, and social and economic development. It is plausible that these objectives represent the primary local objectives of the local authorities for the forthcoming period.

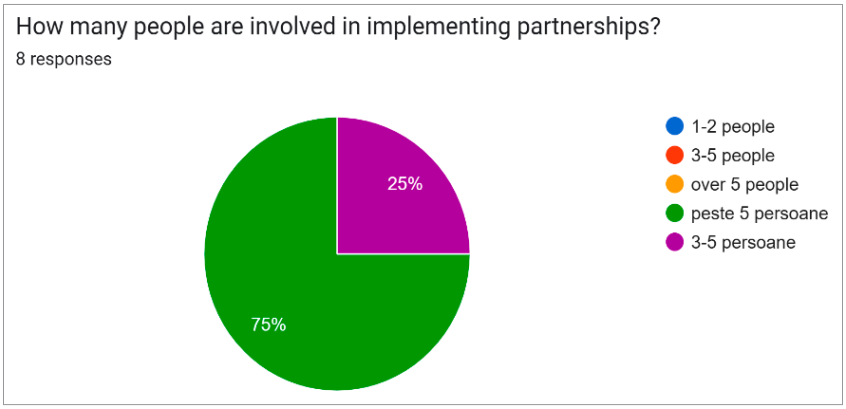


**Figure 7:** Distribution of the number of people involved in implementing the partnership

**Source:** Authors' own work

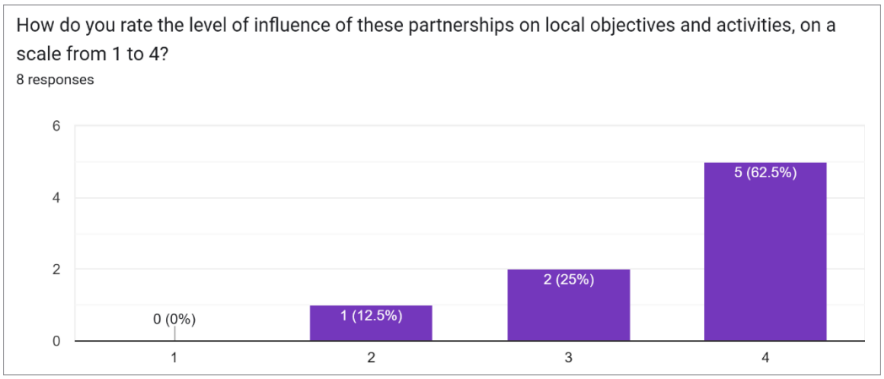


**Figure 8:** Level of influence of partnerships on local authority objectives and activities

**Source:** Authors' own work

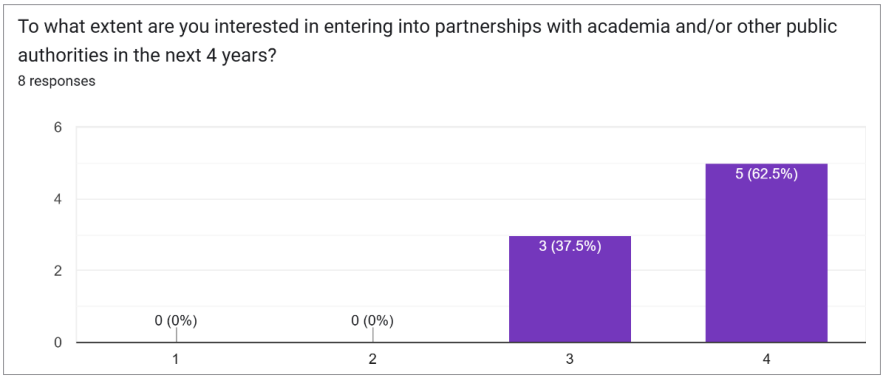


**Figure 9:** Level of interest in future partnerships with academic institutions

**Source:** Authors' own work

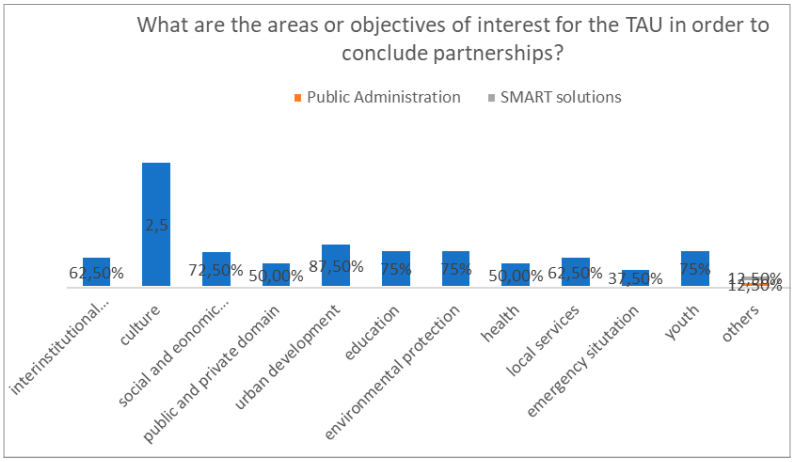


**Figure 10:** Areas or objectives of interest to conclude partnerships

**Source:** Authors' own work

In response to the initial research question, which examined the extent to which universities contribute to local administration objectives, the results obtained from the qualitative and quantitative components of the questionnaire were analyzed. The findings indicated that this contribution is confined to specific types of partnerships and predominantly occurs within the scope of universities operating within the respective locality. Collaborations with other university centers are infrequent and restricted to implementing concrete projects, such as those undertaken by the Municipality of Brașov with the 'Ion Mincu' University of Architecture in Bucharest. This observation is further substantiated by the moderate appreciation of partnerships' influence on achieving local objectives expressed by public administration authorities. In response to the second research question, it is observed that a thematic diversification within the partnerships is present, thereby highlighting academic institutions' capacity for adaptability in aligning with the shifting priorities of local governments. The main areas of intervention are environmental protection, urban development, and social and economic development.

Given the findings from the second research question, it can be concluded that the research hypothesis was confirmed. Facilitating collaborative endeavors with academic institutions is instrumental in achieving sustainable development goals. This finding is further substantiated by a qualitative analysis of official documents, which reveals that nearly every agreement and collaboration protocol concluded by the decision of the Local Council/ General of the Municipality of Bucharest incorporates a component of sustainable development. This component contributes to achieving sustainable development goals in general and specifically supports the realization of SDG 17, 'Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development'.

## 5. Conclusion

This study aimed to examine the role of universities in influencing the activities of local administrative authorities in Romania, where these activities are directly related to the objectives of local authorities. Observations revealed a degree of collaboration between the two entities, with the partnerships benefiting the local authorities. These benefits included academic expertise, financing research programs and activities, and the financial resources the local authorities provided. Despite a legal framework that facilitates collaboration between local public administration and academic institutions, the degree of university involvement exerts minimal influence on community policy development. The contribution of universities is predominantly evaluated based on the fulfillment of the partnership agreement rather than on the broader impact on policy development.

It is essential to acknowledge this research's limitations, which are characterized by the ambiguity and incompleteness of the questionnaire responses, the absence of quantifiable outcomes, and the qualitative nature of the findings. Additionally, the documentation exhibited variability, and locating official documents on the authorities' website proved challenging.

Consequently, given the previously mentioned limitations of the research, it was impossible to determine how local public administrations use the academic expertise of universities within their respective regions. This issue will be addressed in future research, which we intend to extend to all six districts of Bucharest Municipality, which are governed by district mayors and local councils.

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Annex 1

Table 1. Analysis at the municipality level of academic collaborations (authors' own work)

| Municipality | Official document | Type of collaboration | Area of collaboration | Objectives | Outcomes expected |
|---|---|---|---|---|---|
| *Bucharest* | Decision no. 59/2004 on the cooperation between the Municipality of Bucharest Partnership with the University of Agronomic Sciences and Veterinary Medicine of Bucharest (USAMV) concluded on the occasion of the events 'European Horticulture Congress – EHC 2024 – European Horticulture Congress' and 'Bucharest Horticulture Days', in Bucharest, between 9-16 May 2024 | Cooperation agreement | Interinstitutional cooperation | Mutual support of the parties for the financing and joint realization of events | Promoting education for sustainable development;<br>Promoting the image of the city and its cultural, artistic and tourist products |
| | Decision no. 172/2004 on the cooperation between the Municipality of Bucharest and the 'Simion Stoilow' Institute of Mathematics of the Romanian Academy for the joint financing and organization of the international event 'Franco-Romanian Colloquium on Applied Mathematics' – XVI Edition, Bucharest, 26–30 August 2024 | Cooperation agreement | Interinstitutional cooperation | Mutual support of the parties for the financing and joint realization of international events | Promoting the cultural image and cultural values of the city of Bucharest through all communication channels;<br>Mentioning the advertising materials produced within the promotional campaign and the visual identity elements of the quality of the Municipality of Bucharest as co-organizer/partner of the event |
| | Decision No. 256/2004<br>on the approval of the Protocol of collaboration between the Municipality of Bucharest, the Competence Center for Climate-Neutral Smart Cities and the National University of Science and Technology Politehnica Bucharest within the initiative 'NetZeRoCities – National Competence Center and solutions for the development of climate-neutral and smart cities' | Cooperation agreement | Environmental protection | Creating the necessary framework for the sustainable development of smart, climate-neutral cities, but also supporting Romanian cities in achieving the climate neutrality target set by the Paris Agreement and the EU Mission for Cities and Climate | Collaboration to identify, submit, and implement research, development, innovation, and digitalization projects through funding programs from reimbursable and non-reimbursable funds based on a bilateral pre-analysis |
| | Decision no. 560/2022 on the conclusion of a framework partnership agreement between the Municipality of Bucharest and the Universities located within the Municipality of Bucharest | Partnership agreement framework | Social and economic development;<br>education;<br>youth;<br>internship | Developing research and development activities in the specific fields of the Academy/University by carrying out research studies in partnership. Promoting training and/or career guidance programs through which students can complete training and internships within the City Hall. Providing consulting services by the University in fields of interest. Participating in partnerships to implement projects with non-reimbursable financing in the specific fields of the Academy/University | Project consultancy; training courses for employees of the Bucharest City Hall; internship programs for students |

| Municipality | Official document | Type of collaboration | Area of collaboration | Objectives | Outcomes expected |
|---|---|---|---|---|---|
| *Brașov* | Decision No. 922 regarding the approval of the partnership between the Municipality of Brașov and the University of Bucharest through the Research Center in Systemic Ecology and Sustainability | Partnership agreement | Environmental protection, social and economic development | The University of Bucharest is implementing the research project entitled LIFEWATCH, funded by the POC (Competitiveness Operational Program), aiming to develop research infrastructures at an international level | Integrated services for modelling the impact of environmental change on ecosystem processes and the services they provide; integrated services for modelling the effect on ecosystems and multi-factor interactions, as well as management and response options for implementing various policies (in the fields of agriculture, forestry, biodiversity, and even health) |
| | Decision no. 125/2023 on the approval of the collaboration between the Brașov City Hall and the Transylvania University of Brașov to organize and carry out the cultural project 'Cinemaraton Meetings', at the Astra Cinema, between March 12 – March 20, 2023 | Collaboration agreement | Culture | The City Hall of Brașov shall make the Astra Cinema building available free of charge between March 12–20, 2023, through the Heritage Administration and Commercial Urban Planning Service, based on a protocol, both upon handover and upon receipt | The organization and implementation in Brașov at the Astra Cinema of the cultural project 'Cinemaraton Meetings' between March 12–20, 2023, which will consist of 10 film screenings that will take place in the presence of the directors and actors involved in their creation |
| | Decision no. 492/2022 regarding the approval of the Partnership Agreement between the Municipality of Brașov and Transylvania University Brașov for the improvement of teaching and professional training of students and the development of research - development - innovation activity; | Partnership agreement | Education | Receiving students for internship/field study activity within the Brașov City Hall and placing them in real work situations; supervision and validation of the activity by both the university teaching staff and the responsible person from the Brașov City Hall. | Improving the teaching and professional training of students; developing research – development – innovation activity; intensifying activity in alternative training systems |
| | Decision No. 362/2022 on the approval of the Partnership Agreement between the Municipality of Brașov, the County School Inspectorate and the 'Hame University of Applied Sciences' | Partnership agreement | Education | Development of educational projects and programs, namely the 'Brașov City Continuing Education Program for Directors and Teachers' | Participants can collaboratively identify development needs in their context and justify and communicate pedagogical, professional or institutional development. They can also evaluate and disseminate the results of development work |
| | Decision No. 727/ 2021 regarding the approval of the Partnership Agreement between the Municipality of Brașov and the 'Ion Mincu' University of Architecture and Urban Planning, Bucharest | Partnership agreement | Education | Facilitating by the Municipality of Brașov the offer of university-level educational services made available by the University of Architecture and Urbanism 'Ion Mincu', Bucharest (UAUIM), consisting of continuous training courses intended for employees of local public administration and employees of public institutions under the authority of the Local Council of Brașov Municipality, activities carried out with the involvement of students - workshop type or professional practice of students of the Faculty of Urbanism | Consolidating the educational offer at the level of the Metropolitan Area of Brașov Municipality |
| | Decision No. 252/2020 on the approval of the conclusion of a collaboration protocol between the Municipality of Brașov and the 'Henri Coandă' Air Force Academy in Brașov; | Collaboration agreement | Environmental protection | Inter-institutional cooperation to research and find solutions for improving urban air quality by collecting and monitoring complementary data to the surface network through a modular system for monitoring relevant atmospheric parameters with aerial means | Data on air quality and meteorological conditions were collected in the agreed format and frequency; annual synthesis studies on air quality and meteorological conditions in the Brașov agglomeration were based on data collected by airborne and surface sensors |

| Municipality | Official document | Type of collaboration | Area of collaboration | Objectives | Outcomes expected |
|---|---|---|---|---|---|
| *Cluj-Napoca* | Decision no. 256/2024, regarding the approval of the continuation of the public interest project Cluj Innovation and Experiment Fund, approved by Decision no. 666/2022, implemented by the C-EDU Education Cluster Association, for the period 2024-2025 | Collaboration agreement | Youth; Education | Creating a program that encourages local social and entrepreneurial innovation with potential local and regional impact for youth; encouraging support for social innovation | the implementation of the public interest project Cluj Innovation and Experiment Fund implemented through the C-EDU Education Cluster Association |
| *Craiova* | The answers to question no. 2 of the questionnaire mentioned the existence of partnerships concluded with the University of Craiova and the 'Spiru Haret' University, Craiova branch, regarding student internships. Verifying the information in the Local Official Gazette did not lead to identifying the documents according to what was stated in the questionnaire. | | | | |
| *Constanța* | Decision no. 28/2021 on the conclusion of a collaboration protocol concluded between the Municipality of Constanța and Ovidius University of Constanța | Collaboration agreement | Environmental protection, public and private domain | Valorization and conservation of dendrological material in parks | Handing over and valorizing 200 dried or cut trees from the public domain in 2 years and transforming them into art objects |
| *Iași* | Decision No. 102/2023 on the approval of the partnership agreement concluded between the Municipality of Iași and the 'Alexandru Ioan Cuza' University of Iași, aiming to implement the GREEN Educational Laboratory project by developing the ERASMUS Forest | Partnership agreement | Education; environmental protection | Implementing the GREEN Educational Laboratory project by arranging the ERASMUS Forest | Not available |
| | Decision no. 126/2023 on the approval of a partnership agreement between the Municipality of Iasi, the 'Virgil Madgearu' Economic College Iasi and the Al. I. Cuza University Iasi – Faculty of Orthodox Theology | Partnership agreement | Public and private domain | Unrestricted use, by the Faculty of Orthodox Theology, with the 'Virgil Madgearu' Economic College Iasi, of educational spaces in the public property of the Municipality of Iasi | Not available |
| | Decision No. 397/2023 on the approval of a partnership agreement between the Municipality of Iasi, the National College of Iasi, and the 'Al. I. Cuza' University of Iasi – Faculty of Philosophy and Social and Political Sciences | Partnership agreement | Public and private domain | Free use by the Faculty of Philosophy and Social and Political Sciences, in common with the Iasi National College, of 12 teaching spaces (B1–B12) located in building B of the high school, which are on the public property of the Municipality of Iasi | Not available |
| *Iași* | Decision no. 90/2022 on the approval of a partnership agreement between the Municipality of Iasi, the National College of Iasi and the Al. I. Cuza University of Iasi – Faculty of Philosophy and Social and Political Sciences | Partnership agreement | Public and private domain | The free use, by the Faculty of Philosophy and Social and Political Sciences in common with the Iasi National College, of some educational spaces located within the high school and in the public property of the Iasi Municipality | Not available |
| *Oradea* | No answer to the questionnaire. | | | | |

| Municipality | Official document | Type of collaboration | Area of collaboration | Objectives | Outcomes expected |
|---|---|---|---|---|---|
| *Suceava* | Decision No. 183/2023 approving the association between the Municipality of Suceava and the 'Ștefan cel Mare' University of Suceava as well as the necessary financing for the organization of the project '60th Anniversary of Higher Education in Suceava', which will take place between 22-25.06.2023 | Association contract | Culture | The contribution to the association of the municipality of Suceava with 50,000 lei | Not available |
| | Decision no. 283/2023 on the approval of the participation of the Municipality of Suceava in the project 'Performance in vocational training through partnership with the economic environment for the development of the complete dual education route at USV – USV DUAL' as well as the approval of the contribution of the Municipality of Suceava in the project | Partnership agreement | Interinstitutional cooperation | Creating a complete professional route for higher technical education;<br>The municipality's contribution of 360,000 lei | Development and endowment of at least 10 regional consortia and 10 integrated professional campuses |
| *Târgu Mureș* | The Cultural, Sports, Youth, and Housing Activities Service of Târgu Mureș City Hall mentioned that no partnerships were concluded with academic institutions during 2020–2024. | | | | |
| *Timișoara* | The answer received was that public authorities are not obliged to prepare statements or statistics at citizens' requests. | | | | |

Annex 2

Request for information of public interest according to Law no. 544/2001, necessary for academic research

This request is to obtain information of public interest regarding the partnerships that the Territorial Administrative Unit (TAU) concluded during 2020-2024 with academic institutions (universities, research centers, and institutes) in the country and abroad. The information obtained will contribute to academic research, which will be materialized in a scientific article on the role of academic institutions in supporting local authorities in establishing and implementing local strategies.

To achieve the research objectives, please support us by providing answers to the following questions:

***1. Please indicate the territorial-administrative unit:***

☐ Bucharest Municipality

☐ Brașov Municipality

☐ Cluj-Napoca Municipality

☐ Craiova Municipality

☐ Constanta Municipality

☐ Iasi Municipality

☐ Oradea Municipality

☐ Suceava Municipality

☐ Municipality of Târgu Mureș

☐ Timisoara Municipality

***2. What are the partnerships concluded by UAT with academic institutions (universities, research centers, and institutes) in the country or abroad during 2020-2024?***

_____

***3. From which funds were the financial resources for these partnerships provided (multiple answers):***

☐ European funds

☐ NRRP (National Recovery and Resilience Plan)

☐ Local budget

☐ National budget

☐ Private sponsorships

☐ Own contributions of partner institutions

☐ Other (please specify) _____

***4. What is the approximate value of the partnerships? Also, specify their number.***

| Value/No. of partnerships | 1-5 | 6-10 p.m. | 11-20 | 21- 30 | 31-50 | over 50 |
|---|---|---|---|---|---|---|
| < 50,000 RON | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 50,000 - 100,000 RON | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 100,000 - 500,000 RON | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| 500,000 - 1,000,000 RON | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |
| > 1,000,000 RON | ☐ | ☐ | ☐ | ☐ | ☐ | ☐ |

***5. How many people are involved in implementing partnerships?***

☐ 1-2 people

☐ 3-5 people

☐ over 5 people

***6. What concrete results have been achieved due to these partnerships (e.g., strategic documents, surveys, reports, etc.)? Please mention them explicitly.***

***7. How do you rate the level of influence of these partnerships on local objectives and activities on a scale from 1 to 4?***

| 1 – Not at all | 2 – A little | 3 – Moderate | 4 – High |
|---|---|---|---|
| | | | |

***8. To what extent are you interested in partnerships with academia and/or other public authorities in the next 4 years?***

| 1 – Not at all | 2 – A little | 3 – Interested | 4 – Very interested |
|---|---|---|---|
| | | | |

***9. What are the areas or objectives of interest for the TAU in deciding on partnerships? (multiple answers)***

☐ interinstitutional cooperation;

☐ culture;

☐ urban development;

☐ social and economic development;

☐ public and private domain;

☐ education;

☐ environmental protection;

☐ health;

☐ local services;

☐ emergency situations;

☐ youth;

☐ Other: .... (please specify)

We assure you that the information you provide will be treated with maximum confidentiality and will be used exclusively for academic research. This will contribute to the consolidation of knowledge regarding the role of academic institutions in supporting local public administrations.

We appreciate your openness and support in obtaining this information. Please contact us if you need any clarification.

# An inclusive Perspective on the Evolution of Ethics and Ethical Schools of Thought from Values to a 'Hub' of Sciences

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**Abstract**

This paper examines the historical evolution of ethical thought from the Classical Era (600 BC) to the Modern Age (1980 AD), analyzing major philosophical transitions across European, Asian, African, American, and Middle Eastern traditions. Ethics originated in virtue-based frameworks in Ancient Greece, Rome, India, and China before becoming theologically oriented during the Middle Ages under Christian, Islamic, and Rabbinic traditions. The Early Modern Era saw a secular shift, with Kantian deontology, utilitarianism, and social contract theories reshaping moral philosophy. The modern era led to specialization and fragmentation and introduced Marxist ethics, existentialism, pragmatism, feminist ethics, and analytic philosophy. Non-European ethical thought evolved through postcolonial ethics, African socialism, Buddhist modernism, and Indigenous moral traditions. The 20th century saw ethics engaging with human rights, environmental concerns, and globalization. Eurocentrism remained dominant in academic discourse, but postcolonial and liberation ethics challenged Western moral hegemony. By 1980, ethics had expanded into political, technological, economic, and intersectional dimensions, setting the stage for contemporary moral inquiries.

**Keywords:** Ethics, Moral Philosophy, Virtue Ethics, Deontology, Utilitarianism, Existentialism, Postcolonial Ethics, Feminist Ethics, Environmental Ethics, Pragmatism, Social Contract, Analytic Philosophy, Liberation Ethics, African Philosophy, Buddhist Ethics, Indigenous Knowledge, Global Justice, Bioethics, Human Rights, Decolonial Thought.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 94–122

## 1. Introduction

The evolution of ethics follows a natural path that evolves together with the intellectual abilities of humankind. Following the establishment of the first human settlements, their culture is mainly driven by mythology, religion, and tradition-based prescriptions. Humankind developed customs and traditions that were not necessarily based on rationality but on fears and the forces of nature until the classical era. Ethics does not necessarily exist as an established school of thought given the habitual ways of thinking at the time. As we move from instinctive habits and preservers of tribal customs, superstitions and religions into a more well-developed society, each continent develops its ethical schools of thought. Ethics comes as a response to the gaps that law, economics, and politics cannot fill, which religion does not necessarily answer rationally. As small communities become more complex and specialized, ethics responds more and more vigorously to those societal gaps. Progress throughout the Classical and Middle Ages eras pushed the boundaries of this school of thought as society became more complex and inequality increased. At the same time, economics, politics, and law are limited in solving such issues.

While similar literature reviews exist, they are European-centric and include little to none of the rich ethical developments in Africa, Asia, Australia, and the Americas. I am looking at the history of ethical schools of thought from the early periods of the Classical Era and building upon a more inclusive and globalized view of the evolution of ethical schools of thought. Thus, the review of the literature is split into four chapters, covering the main historical periods: the Classical era that spanned from 600 B.C. until around 476 A.D., the Middle Ages, spanning from 476 A.D. until around 1450 A.D., the Early Modern, covering the period until 1750 A.D. and the Modern Era going until 1980. We will see the evolution of the ethical schools of thought, specialization, and branching throughout those periods.

## 2. Ethics in the Classical Era (600 B.C. – A.D. 476)

The classical era is defined by a transition from mythological, religious, and tradition-based ethical prescriptions toward a rational ideation of the nature of the world and humanity. Ethical schools of thought arguably started long before the Classical Era, in Egypt, through the ethical school grounded in cosmic and social harmony called 'Ma'at'. The Ma'at structures justice, shaping law, governance, and morality (Allen, 2005; Assmann, 2002). As mentioned above, ethics was deeply intertwined with cosmic balance and social harmony during this period, where pharaohs were the leading guardians of Ma'at and Egyptian priest-scribes were the primary recorders of wisdom in literature. In their philosophy, ethical failures, corruption, and injustice were strictly related to both cosmic and social disorder. Ethics is seen as both an individualistic and a collective duty with significant collective repercussions. At the same time, through their religious beliefs that one's morality is judged in the afterlife through the weighing of the heart ritual, a linkage between the individual and social order and values is set. The principles of Ma'at, through truth, justice, and

order, link for the first-time law and morality (Assmann, 2002), given that Egyptian law is seen as an extension of those principles, similar to how the Greeks, later on, built on ethical principles. The Egyptian principles later influenced the African and European ethical systems, emphasizing reciprocity, duty, and harmony. We can also look at 'The Instruction of Ptahhotep' (Ptahhotep, 1999) which treatises ethics, humility, and social behavior at a macro-level, and 'The Book of the Dead' (Andrews, 1985) which discusses and guides individual moral behavior in light of the religious beliefs linked to the afterlife and the individuals' duty.

While the Egyptian concepts of Ma'at originated as early as 2400 B.C. and remained centered in a symbiotic relationship between religion and rationality, following 800 B.C., we can see similar trends across India. After 800 B.C. we see a shift from ritualistic Vedic sacrifices to an introspective mindset focused on inner self-exploration and ethics. Radhakrishnan (1923, 1927) and Olivelle (1998) follow the transition through the Upanishadic ethical thought that introduces 'Dharma' as a concept of duty and 'Moksha' as a concept for liberation; the two key ethical goals of all living beings. Through encouraging self-realization as a moral endeavor, we see similar trends in India, linking personal ethics to cosmic unity. Ethics shifts in Indian culture from a priestly controlled habit to an individual duty and moral responsibility towards themselves and society. The Upanishadic current also sits at the basis of the future development of Hindu, Buddhist, and Jain ethics. I argue that the synthesis of all pre-400 BC teachings is brought together by 'The Bhagavad Gita' (Mitchell, 2002), which brings together the ethical concepts and the ideas of duty and devotion as an ultimate role of ethics through self-reflection and metaphysical inquiry. Jainism comes not long after through key figures such as Mahavira (599–527 B.C.), setting a similar ethical revolution stressing non-violence, truth, and ascetic practices as the center of the liberation of one's soul. Jainism further influences traditions of non-violence within and beyond India, materializing most prominently within Buddhism.

During the years 1000 and 600 B.C. Persia also sees a transition through Zoroastrian ethics that introduces the concept of moral dualism, where good and evil are in a constant battle. Human beings are seen as moral agents with the responsibility to choose between truth ('Asha') and falsehood ('Druj') (Boyce, 1979; Choksy, 2002). This ethical framework will be one of the major influences in all major religions (Judaism, Christianity, and Islam) primarily through the ideas of moral responsibility, divine justice, and the afterlife. Zoroastrianism was also the first fully developed monotheistic ethical system, predating Abrahamic religions, where the idea of moral struggle and final judgment were central. It strongly inspires Persian imperial law and governance throughout the Classical Era.

A similar shift in thought to the Indian peninsula is present within China, with the Confucian school of thought appearing at some point between 551 and 479 B.C. Confucius (2007) shifted ethics in the region from an aristocracy and hereditary view to a personal moral cultivation, through the two pillars of ethics described in the region: Ren — benevolence and Li — ritual propriety. Ethical governance has been emphasized as a key duty, shaping Chinese politics, education, and economics for over 2000 years, given

that many of his teachings are still present in the mindset and the rule of conduct and law nowadays. Confucius might have been one of the biggest influencers of East Asian ethics throughout China and all neighboring countries, like Korea, Japan, and Vietnam. Confucianism is countered by the teachings of Laozi (circa 6th century B.C.), who puts forward an alternative approach that emphasizes the alignment with the natural order (the Tao) and advocates for simplicity, spontaneity, and non-action ('Wu Wei'). Laozi offers a counterbalance to the structured ethical demands of Confucius by promoting harmony with nature and the cosmos throughout one's life.

In the same period, we see the development of Buddhism and Buddhist ethics throughout India, China, Japan, and Tibet through the teachings of Gautama Buddha around 563 B.C. and 483 B.C. (Daw Mya Tin, 1990; Keown, 2020). Ethics, through Buddhism, set the ground theory for overcoming suffering through the Eightfold Path and the ideas of non-violence and compassion, which continue to sit at the center of all Asian ethical trends.

In China, another wave rejected Confucian moralism and strictly opposed the Tao philosophy through the Legalist Ethics shaped by the Chinese Qin Dynasty's governance, which led to the centralization of power (400–300 B.C.). Legalism rejects Confucian moralism in favor of strict laws and state control, where ethics is not based on virtue but rather on rigid enforcement of the law (Graham, 1989). This disparity between law and ethical thought is also seen across other nations, as debated later.

Following Confucius' teachings and the foundation of Buddhism, Greece goes through a similar process, however, for the first time, we have a complete shift from a myth-based morality to a rational self-examination process, through the work of Socrates. The introduction of ethics through questioning, known nowadays as the Socratic method, lays the ground for the Greek ethical revolution driven by Aristotle and Plato later on. The foundation of Plato and Aristotle's moral theories is the establishment of rational inquiry as a central function of ethics. Human conduct is studied profoundly by the Sophists, notably through Protagoras of Abdera (circa 490–420 B.C.) and Gorgias of Leontini (circa 483–375 B.C.), the 'fathers' of subjectivity, skepticism, and egoism. Protagoras positions man at the center of all things as 'the measure of all', implying that the concept of good is inherently subjective and varies from individual to individual. In contrast, Gorgias embraces skepticism and egoism, arguing that truth and goodness are subjective mental constructs and that moral values are entirely personal. Consequently, another person's well-being and morality cannot be the ultimate guiding principles for one's actions (Vlastos, 1991). Socrates challenges this relativism (mainly Gorgias), by proposing one of the first ethical frameworks where virtue is a form of knowledge that can be taught and learned. According to Socrates (Vlastos, 1991), those who possess true knowledge will not willingly choose to do evil and that wrongdoings only arise from ignorance. He further argues that self-knowledge is the key to true freedom and that individuals must recognize and govern their inner desires to attain further wisdom. In Socratic ethics, the highest goal in life is the pursuit of virtue, and pain is a valuable instrument for achieving higher moral excellence. He acknowledges that

pleasure is a tangible good, but he emphasizes that wise people will seek deeper fulfillment through a life of virtue. Socrates' theory comes as a direct response against Aristippus of Cyrene's theory, a student of Socrates, who sets the base for sensual hedonism. He supports the idea that intrinsic good is pleasure and that immediate physical pleasures are stronger and more desirable than mental ones, emphasizing that present sensations are prevalent over future considerations.

During this period, Plato (428–348 B.C.) and Aristotle (384–322 B.C.) also arise as two of the most prominent ethical voices throughout the Classical Age. Plato first expanded the Socratic inquiry by establishing a metaphysical framework for ethics. He introduces the idea that ethical truths are grounded in eternal, unchanging forms or ideals through his work in 'The Republic' and 'Phaedo and Symposium'. Through his work (Plato, 2007), he establishes a dualistic view separating the real of ideal forms from the material forms, influencing all subsequent ethical and metaphysical developments throughout Greece. Social sound and individual good, as well as their relationship, are described around the four cardinal virtues of the state: wisdom, fortune, courage, temperance, and justice. In his views, justice is the higher virtue, and it includes all others, arguing that every state member should be just. An ideal ruler would exist for an ideal state; a person who is a philosopher, a lover of wisdom, combining intellectual insight with practical intelligence. Plato also defined the ideas of a mortal body and an immortal soul, defining a good man as someone in whom knowledge, emotion, and desire work in perfect harmony, where no part of the soul tyrannizes over the rest, while each part exercises its activities. The Aristotelian virtue ethics, which matures Socrates' teachings, shapes ethics as a school focused on habitual virtue and practical wisdom, introducing teleology (Aristotle and Crisp, 2005; MacIntyre, 1981) the principle that every action aims towards the higher good of an individual and society. He also separates the sciences, arguing that social good is above the individual good and that only when the individuals making up the society strive towards a better society through action, does society attain a higher societal experience. This will sit at the basis of utilitarianism in the following eras. His doctrine also focuses on the idea that there must be an equilibrium for any virtue to balance the two extremes: excess and defects. Aristotle will hereafter influence most of the Islamic and Christian moral thought together with the Stoics.

During the same period, we also see the further development of Aristippus' theory through Epicurus (341–270 B.C.) who further refines hedonism through his school of thought, Epicureanism. Unlike Aristippus, Epicurus distinguishes between different types of pleasures and emphasizes the pursuit of mental tranquility and the absence of physical pain as the path to true happiness (Epicurus and O'Connor, 1993; Epicurus, 1972; Konstan, 2016). He advocates for simple living, intellectual contemplation, and cultivating friendships: the essential components of a pleasant life. He also opposes overindulgence, believing that any excess desire can lead to distress; arguing that the most pleasant life is one characterized by sober reasoning, searching for the causes of things, and banishing opinions in favor of science (Epicurus, 1972; Epicurus and O'Connor, 1993; Alcan, 2018). The

cynicism and epicureanism reject conventional societal values and promote a life of virtue in accordance with nature through asceticism and radical simplicity.

Unlike the similar developments of ethical schools of thought throughout Europe and most parts of Asia, African, American, and Australian schools of thought developed in a somewhat opposite direction throughout the Classical Age prior to the year 300 B.C. While all those ethical schools of thought develop through oral traditions, proverbs, and storytelling, unlike the Eurasian schools of thought that mainly develop through written text, they also seem to diverge in messaging. African ethics focus on communal values, interdependence, and balance with nature, where the primary emphasis is put on Ubuntu ('I am because we are') (Wirendu, 1996; Menkiti, 1984). The key aspects of African ethics are centered around environmental and spiritual balance, justice and reconciliation, and respect for tradition and communal morality. Ethical wisdom is also embedded into folklore and storytelling instead of codified laws or philosophical texts. Australian ethical tradition, named Dreamtime ethics, derived from Dreamtime ('Tjukurrpa') also goes in a similar direction, focusing on the laws of nature and spiritual life, kinship, balance with the land, and a continuation of tradition. In their philosophy, law and morality are also inseparable from spirituality and cosmology, laying the foundation for land ethics and indigenous environmentalism (Rose, 2000; Stanner, 1979). Turning towards the Americas and their indigenous ethical traditions, one can notice that their focus is also directed toward spiritual interconnectedness, respect for nature, and communal responsibility. While different tribes had unique traditions, common themes of reciprocity, stewardship of the land, and balance, remained in their moral teachings. The indigenous moral codes are still found in modern environmental ethics and activism. (Deloria, 2003; Cajete, 2000).

The period up to 300 B.C. is generally described by a global trend of setting the standards of ethical schools of thought through the shift from cosmic and supernatural towards a general framework set up around duty, self-realization, virtue, and reasoning. Both non-European and European currents respond to political, social, and philosophical gaps within society, looking inward to answer basic questions that the civilization, at the time, needed. We also see a shift in the mindset that drives individual and social civic duty, which is more prominent within the Greek and Roman cultures and prevalent in India and East Asia. Similarly, we see a trend in two directions across the ethical schools of thought, with a group of philosophers going towards a more ordered and strict set of guidelines and rules (Aristotle, Plato, Confucius) which were met with resistance from an opposing mindset (Aristippus, Epicurus, Laozi). The period after 300 B.C. until the end of the Classical Age in 476 A.D. sees a development of the schools of thought that started before this time. This age is defined by major philosophical and ethical transformations, often in response to political expansion, religious movements, and cultural exchanges.

Hellenistic ethics sees significant shifts in Greek philosophy following Alexander the Great's conquests, expanding beyond political ethics and focusing more on personal happiness and self-sufficiency. Ethics shift towards individual well-being, resilience, and detachment from external events, influencing Roman philosophy, early Christian ethics, and

Islamic thought. Stoicism was founded by Zeno of Citium (334–262 BC), emphasizing rational self-control. Stoicism offers a rigorous system where virtue is the only true good and emphasizes living in harmony with nature through rational control of one's emotions (Hadot, 1998; Long, 1986). Stoicism and Epicureanism shaped Roman law and governance. Greek and Roman ethics further advanced in focusing on rationality, self-control, and duty on one side through the Stoics, and on pleasure and moderation through the Epicureans. At the same time, cynicism continues to be a current that rejects all materialistic needs and focuses on radical independence. Following 150 B.C., the Roman Republic absorbed Greek ethical ideas. It merged them with legalism and civic duty, in which ethics became practical and tied to the government as it shifted focus within the empire towards justice and responsibility. Against the basic thought throughout the Greek philosophy of morality that ethics and law should be two separate topics of conversation, the Romans embraced the merger of the two. Cicero (106–43 B.C.) develops the basic framework of duty-based ethics in politics, adapting and integrating early Greek philosophy into the social and political life of the empire (Long, 1986; Long, 1996; Cicero, 1998). Seneca (4 B.C. – 65 A.D.) and Marcus Aurelius (121–180 A.D.) further develop Stoic ethics in a practical and accessible manner, focusing on self-discipline, virtue, and moral leadership (Griffin, 1976; Long, 1996; Kenny, 2010; Annas, 1993; Irwin, 1989). Their synthesis helped solidify many ethical frameworks that would dominate Western thought for centuries to come. Early Christianity also took shape between the 1st and 4th Century A.D. as it merges Jewish, Greco-Roman, and Stoic ethics into a new framework based on love, humility, and social justice, influencing Western moral thought and challenging Roman legalism with moral universalism (Maclntyre, 1981).

At the same time, in Persia, Zoroastrian ethical thought continued to develop under the Parthian and Sassanian Empires, where the dualist moral structure became legally formalized, influencing Persian governance and later the whole Islamic ethical system. From 300 B.C. to 400 A.D., the idea of moral struggle, judgment, and divine justice was shaped while being embedded in kingship and law (Boyce, 1979).

In Asia, we see an expansion of the Buddhist Mahayana ethical framework as it expands into China, Central Asia, and Japan, introducing compassion-based ethics, through the ideal of the Bodhisattva that emphasizes selfless moral action. From 100 B.C. to 400 A.D., ethical thought throughout China, Tibet, and Japan has been strongly shaped by the framework, as it integrates into Confucian and Daoist traditions. The ideas of altruism, compassion, wisdom, selflessness, and overcoming suffering merge from the three schools of thought (Keown, 2020). Little change can be seen throughout Africa, Australia, and the Americas. In Africa, ethics remains community-based and oral, focused on the idea of Ubuntu, slowly starting to influence the African political system. It remains focused on interdependence, justice, reconciliation, forgiveness, and environmental and social responsibility (Wiredu, 1997). In Australia we see the beginning of a transition from spiritual ethics towards land, kingship, and cosmic balance, however, Dreamtime continues to be intertwined with law and morality, guiding Indigenous law and governance. Respect for

nature, the sanctity of the land, and ethical responsibility remain the primary focus of their philosophy. Americas also see a slow transition as their philosophy matures and develops into ethical systems based on reciprocity and respect for nature, but remains the same at its base.

### 3. Ethics in the Middle Ages (A.D. 476 – A.D. 1450)

While the Classical Era is generally described as an attempt to move the ethical school of thought from myth into rationality, the Middle Ages saw a return towards religion and an attempt by religion to subjugate philosophy and science. Socrates, Plato, Aristotle, the Stoics, and Epicureans sought to establish rational and universal ethics, with ethical thought centered on virtue and reason self-cultivation. At the same time, the Stoics introduce definitions and the rationale behind universal brotherhood, duty, and emotional control in Greece and Rome. We see the Romans and Persians through Cicero and Zoroastrian rules, tying ethics to legal and political philosophy in an attempt to uphold justice, civil duty, and fairness as a central function of ethical discourse and societal rules. Strong ethical frameworks are developed through Hindu, Buddhism, Confucian, and Zoroastrian traditions in Africa, Mesopotamia, Persia, India, China, and the Americas. Those regions still tie ethics to cosmic balance, divine justice, and hierarchical social structures, blending spirituality with moral philosophy. Nonetheless, ethics have become increasingly philosophical and rational, while religion and legal traditions still play a significant role, allowing debate and reasoning. Ethics is generally described as a period of diversity shaped by different cultural and political structures.

During the Middle Ages, as discussed below, ethics became increasingly dominated by religious ethics through Christian, Islamic, Jewish, Hindu, and Buddhist traditions. The philosophical schools of thought become highly theological, driven by moral philosophies serving religious frameworks. Christian Scholasticism integrated faith with Aristotelian philosophy, while Islamic philosophers preserved Greek ethics and blended them with Quranic teachings. We see a strong push in structuring ethics through divine commandments through the legal and political system in Canon Law (Christianity), Sharia Law (Islam), Halakha (Jewish Law), and medieval kings justifying their rule using divine authority, making ethical thought politically dependent on religion. Some secular ethics emerged in the forms of Averroism, Humanism, and Legalism, especially in Renaissance Humanism, which slowly revived Greek and Roman ethical thought, and in Chinese Neo-Confucianism. Nonetheless, this period is characterized by a heavy intertwinement between ethics and religious doctrine, where rational ethics does not necessarily disappear but is subjugated by religious teaching. Towards the end of the period, we see an attempt to break free from it through the secular ethical traditions that re-emerge.

Europe was generally dominated by Christian scholasticism during the Medieval Ages when scholasticism sought to reconcile Christian theology with classical philosophy (mainly Aristotelian). It emphasizes rigorous dialectical reasoning in an attempt to

understand and explain religious doctrines (Kretzmann and Stump, 1993; Davies, 2014). Scholasticism generally establishes the foundation for systematic theology and influences educational structures in all medieval universities. It does pave the way for the Renaissance by preserving and interpreting classical knowledge. Authors such as Anselm of Canterbury (1033–1109) make ontological arguments for God's existence, others like Peter Abelard (1079–1142) advance the method of doubt and inquiry in theology, while the works of Thomas Aquinas (1225–1274) integrate Aristotelian philosophy with Christian doctrine (Davies, 2014; Kretzmann and Stump, 1993). Faith and reasoning are the core of the schools of thought, where harmonizing religious beliefs with rational thought is a priority. Natural law, through the understanding of moral principles inherent in human nature, remains a key focus during this period, along with the ethics of virtue, which continue to evolve through the emphasis on character development in alignment with divine will. Towards the end of the Middle Ages, Humanism emerged in Europe as a cultural and intellectual movement that brought the focus back to classical learning and the potential of human achievements. While it did have religious elements, most aspects of humanism focused on secular subjects like literature, art, and moral philosophy (Copson, 2019). Francesco Petrarca (1304–1374) referred to as the 'Father of Humanism' promoted the study of classical literature and moral philosophy during this period, contributing to the revival of classical studies together with Giovanni Boccaccio (1313–1375). They both emphasize the study of humanities, individualism, and the focus on human potential and achievements, as well as secularism, encouraging a focus on worldly subjects alongside religious ones (Copson, 2019). Humanism lays the groundwork for modern emphasis on human rights and individualism, which are later discussed through the emphasis on human dignity, rights, and agency (Hankins, 2023).

The Middle East and North Africa go through similar processes as Islamic scholars integrate the Quranic teachings with Greek philosophy, leading to advancements in various fields, including ethics. The Islamic Golden Age ethical thought that lasted from the 8$^{th}$ until the 14$^{th}$ century influenced both Islamic and Western philosophical traditions during the transmission of knowledge to Europe in the late parts of the Middle Ages. Virtue ethics remains a key focus through the emphasis on personal development and the importance of a moral character. Rationalism, through the advocacy of the use of reason in understanding ethical principles, also sits at the core of the Golden Age in the Islamic world. However, seeking harmony between faith and rational inquiry through the integration of philosophy and religion dominates the region, as well as through authors like Al-Farabi (872–950), who explore the relationship between religion and philosophy. Avicenna (Ibn Sina) (980–1037) focuses on developing a comprehensive ethical system in his work, and Averroes' (Ibn Rushd) (1126–1198) extensive work on the influence of Aristotle on Islamic and Christian thought paves the ground for Humanism (Adamson, 2015; Goodman, 2003). The Averroism philosophy is one of the leading secular ethical philosophies of the period, with Averroes (Ibn Rushd) focusing heavily on commentaries on Aristotle. His interpretations are introduced to Western Europe, influencing the University of Paris mainly

in the 13th century. It plays a pivotal role in developing secular thought within medieval Christian scholasticism, challenging prevailing theological doctrines (Fouad and Pasnau, 2021; Hasse, 2016). His work mainly focuses on the assertion of the 'unity of the intellect' arguing on the existence of a universally shared intellect among humans, which is seen as controversial and often associated with heterodox or atheistic views during the late Middle Ages. His work is supported heavily within Europe through Siger of Brabant (1240–1284) and Boetius of Dacia (13th century), the former teaching Aristotle's work and the latter exploring the relationship between faith and reason. Overall, Averroism focuses on rationalism, going back to the basics of reason and logic as the primary source of knowledge, philosophical interpretation, advocating for the use of philosophy to further understand religious texts, and finally the proposition of the unity of the intellect, proposing the possibility of all humans sharing an ordinary universal intellect. One of the most controversial theories of Averroism was also the double truth theory which argues that philosophy and religion can reach different but valid truths (Hasse, 2016).

Jewish philosophers also saw a rise in literature, engaged with Islamic and Christian thought, leading to the development of ethical literature. Their contribution was mainly in preserving and expanding philosophical and ethical discourse within the Jewish tradition, influencing surrounding cultures in Europe and the Middle East between the 9th and 15th centuries. The Jewish Medieval ethics schools of thought focused on divine command ethics, rational ethics, piety, and spirituality. They focused on the adherence to God's will as the basis for morality, utilizing reason to understand and apply ethical principles and the cultivation of devout and ethical inner life to elevate spiritual experience (Kellner, 2020; Robinson, 2009). Authors such as Saadia Gaon (882–942) paved the way through the reconciliation of reason and revelation for Bahya ibn Paquda (1050–1120) and Maimonides (1138–1204) who focused on inner spirituality, ethics, and the integration of Aristotelian philosophy with Jewish theology (Kellner, 2020; Robinson, 2009).

Against the general trends within Europe and the Middle East, we see a democratization of religious practices in India, making spirituality accessible to all, regardless of caste or gender through the Hindu Bhakti movement. The movement emphasizes personal devotion to deities, moving away from ritualistic practices to an individualized spirituality. While still focusing on merging religious belief with ethical rationality, it pushes for equality and the rejection of caste distinction in spiritual matters, and inner purity, focusing on sincerity and general devotion to a personal God as the path to salvation. Significant figures such as Ramanuja (1017–1137), Kabir (1440–1518), and Mirabai (1498–1547) support and promote universal paths to love devotion, and diversity within Hinduism (Angiras, 2019).

China also saw a move towards more rational moral cultivation by rejecting mysticism in neo-Confucianism between the 9th and 14th centuries. Neo-Confucianism arose as a response to Buddhism and Daoism, seeking to revitalize Confucian thought by incorporating metaphysical elements into Confucian ethics. Through this process, it has become the dominant intellectual and ethical tradition in China, influencing Korea, Japan, and Vietnam by shaping societal norms, governance, education, and civil services. It had

a significant effect on the integration of ethics in civil services, as it will influence later bureaucratic traditions (Angle, 2009; Angle, 2017). Zhu Xi (1130–1200) developed the basis of the metaphysical system for Confucianism, while Wang Yangming (1472–1529) built upon the idea that knowledge and action must be unified, cultivating the basics of moral education in East Asia and the ideas of cultivating and harmonizing Li (underlying reason and order of nature as reflected in human affairs) and Qi (the material aspect of the universe that interacts with Li); the principle and respectively the vital force of life. Neo-Confucianism also paves the way for self-cultivation, the idea that moral development through education and reflection is key to a balanced life.

Ethical thought in Africa remains relatively stable, as Ubuntu remains at the base of ethical systems within the southern part. Collective morality and community well-being remain a key focus as the ethical system matures. Ethics continues to be transmitted orally rather than through written texts. Restorative justice has remained an emphasis in shaping African legal traditions until modern days (Wirendu, 2022). Similarly, ethics remains based on harmony with the cosmos, duty, and reciprocity in the Americas, the Mayan, and Aztec ethical schools of thought. Aztec philosophy emphasizes the interconnected nature of all things, shaping legal codes and influencing contemporary indigenous movements for ecological balance (Carrasco, 1999). Australian schools of thought also mainly retain oral traditions passed through storytelling and focus on Dreamtime ethics, continuing to shape Indigenous legal and ethical thought (Rose, 2000).

Looking at this period, some positive aspects contribute to the further development of ethical schools of thought through the development of universal moral codes. Religious traditions establish a widely accepted set of moral principles (justice, honesty, and compassion), where Christianity focuses on love, forgiveness, and humility, while Islam stresses compassion, duty, and accountability. At the same time, Hinduism and Buddhism continue to promote non-violence and inner transformation. Ethics was institutionalized during this period, as religious institutions created legal and moral systems through Canon Law, Sharia, and the Confucian bureaucracy. The systems provide structure and a basis for enforcing ethical norms. Muslim scholars and Christian monasteries preserved and advanced some of the Greek and Roman philosophies that later fueled the Renaissance's ethical awakening.

At the same time, the period was blighted by the heavy challenges that religion posed to ethical development. We see heavy suppression of ethical debate, as ethical discussions are silenced if they do not contribute to or contradict religious doctrines. At the same time, ethics became dogmatic due to the heavy reliance of medieval ethics on divine authority, unlike the Classical Era's focus on debate and rational ethics. Heresy trials and inquisitions punished all those who deviated from religious morality, with thinkers like Giordano Bruno burnt at the stake in 1600, and others like Galileo who were persecuted due to orthodoxy. It is also important to mention that the Averroism school of thought sparked controversy in Christian Europe leading to the Condemnation of 1277 which rejected radical interpretations of Aristotle (Thijssen, 2023). While the period did not stop ethical

development, it heavily impaired it and shifted the debate from rational to religiously structured ethics. We see a heavy decline in purely rational ethical inquiry, and intellectual freedoms are heavily restricted. Those effects were more strongly felt within Europe than elsewhere in the Islamic and Asian world; however, these changes occurred in the Renaissance and Humanism era after 1450.

## 4. Ethics in the Early Modern Era (A.D. 1450 – A.D. 1750)

Ethics goes through a significant shift throughout the Early Modern Era. While the Middle Ages were primarily dominated by religion, with ethics being primarily theocentric and morality being dictated by divine command, during the Early Modern Era, we saw a gradual secularization. Ethics gradually detaches from religious authority. The blending of faith with reason seen in Christian Scholasticism, Islamic, and Jewish ethical systems is gradually rejected through Rationalism and Empiricism, which sought ethics outside of divine command through the works of Descartes, Bacon, and Spinoza. While intertwined with morality in the Middle Ages, the legal system sees a significant change towards natural rights ethics and political ethics through the works of Locke and Hobbes, moving beyond theology. The Early modern era shifted towards a human-centered, secular moral system. The philosophical approach to ethics changes from a theocentric system, rooted in divine law, to an anthropocentric system, emphasizing reason and experience. Scholasticism, Natural law, and Religious Ethics were replaced by Empiricism, Rationalism, and secular morality. Nonetheless, while the role of religion was central and inseparable during the Middle Ages, it remains present but a lot weaker during the Early Modern Era. The perception of human nature changes from the idea of corruption by sin, where humans need divine guidance, to a self-determining and rational view, where morality is either an intrinsic responsibility of the individuals or an extrinsic responsibility of the state. The relationship between law and morality also changes from a religious-dominated law system to a rise of social contract, human rights, and legal positivism.

The Early Modern Era can be divided into two parts: Renaissance and Reformation (1450–1600) where ethical schools of thought and science, in general, see a transition from medieval religious ethics to individualism, natural law, and early humanist ideas; and the Enlightenment and Rationalism (1600–1750) where we see the rise of scientific reasoning, political ethics, and secular moral theories. Ethics undergo a significant overhaul and branch into various sciences: politics, economics, epistemology, philosophy, psychology, and medicine.

In Europe, during the first phase, we will cover Renaissance Humanism as ethics of classical learning, virtue, and civic engagement matures, protestant reformation ethics as personal moral autonomy, faith, and vocation evolve within the protestant religion, and finally the School of Salamanca that looks at natural law, just war theory and economic justice. Renaissance Humanism is characterized by a rejection of medieval Scholasticism in favor of classical philosophy, emphasizing civic virtue, individual potential, and moral education.

Figures like Desiderius Erasmus (1466–1536) advocate for moral reform through education, while others like Thomas More (1478–1535) propose ethical ideals such as his Utopia (Nauert, 1995; Hankins, 2023; Kristeller, 1980). Ethics shifts back towards human dignity and civic responsibility as a field focusing on virtue and responsibility. During the same period, the Protestant Reformation came into effect as Martin Luther (1483–1546), John Calvin (1509–1564), and others worked on the rejection of Catholic moral authority, shifting towards personal conscience, hard work, personal morality, and faith. Ethics in religion has become more individualistic and less hierarchical, encouraging economic self-discipline through other work, such as Weber's Protestant work ethic (McGrath, 2012; Weber, 2001; Ozment, 2020). Personal responsibility in moral decision-making, vocation, and ethics of work are laid out for further development.

The second phase within Europe is where ethics really branches out in what I call the beginning of the Golden Age of Modern Ethics. Francis Bacon paves the way to empirical ethics as he writes on the importance of observation-based morality, rejecting the Scholastic traditions altogether. A few years later, René Descartes consolidated rationalist ethics through his theory that truth is what can be apprehended through reason. Thomas Hobbes developed Hobbesian ethics, where morality is seen as a social contract. Baruch Spinoza elevates the field through rational determinism, where ethics is seen as a self-preservation theory. Finally, John Locke developed the Lockean ethical theory around natural rights and political morality. Last but not least, the basics of deontology are set through the early Kantian foundations in the 1750s through the moral duty-based approach framework. We can generally group most, if not all, the work during this period in: Naturalism — where ethical ideas arise from natural law; and Intuitionism — where ethical ideas and obligations are intuitive.

Francis Bacon (1561–1626), the founder of scientific ethics and secular morality in the Early Modern Era, set the foundation of the future of empirical schools of thought through his work 'Novum Organum' (Bacon and Davey, 1912). His work on inductive reasoning in ethics, and empirical morality, changing the focus from 'what is ideal' to 'what works', sits at the base of ethics based on evidence, experimentation, and practical utility. His work rejects all Scholastic metaphysics, focusing on scientific observation (Zagorin, 1999; Gaukroger, 2001). Congruently, René Descartes (1596–1650) laid his groundwork through 'Discourse on Method' (Descartes, 2018) about 17 years after Bacon's foundational work was published. He challenges dogmatic moral systems, paving the way for deontological ethics, focusing on the ideas of moral certainty and rationalism, and mind-body dualism in ethics (Cottingham, 1988; Williams, 2014; Gaukroger, 2002). Following his work, ethics moves towards rational moral principles, where truth is seen as something that can be apprehended by reason and not metaphysics and the supernatural. About 14 years later, Thomas Hobbes proposed the need for a strong state to ensure peace in 'Leviathan' (Hobbes, 1651), shifting from virtue-based morality to social contract theory. His work no longer sees morality as intrinsic goodness but rather, as a political necessity, influencing modern political and legal philosophy hereafter. His work establishes the foundation

of contractual and legal positivism (Skinner, 1996; Sreedhar, 2013). Hobbesian Ethics defines ethics as arising from fear of chaos and a need for morality to be treated as a social contract, arguing that ethical rules need to be enforced by a powerful government to ensure state sovereignty and ethical reasoning. Soon after, Baruch Spinoza (1632–1677) published Ethics (Spinoza, 2005) arguing that truth is its criterion, rejecting parts of Bacon's theory on dualism and the mind-body separation, and moral absolutism. Ethics, in his work, become a naturalistic system, emphasizing self-preservation. He later influenced pantheistic ethics, Enlightenment thought, and secular morality by advancing a deterministic view of human behavior. His rational determinism, arguing that ethical actions follow from natural necessity together with his ethics of self-preservation, where human virtue is an action that stems from reason and necessity, will further pave the way to modern psychology through his psychological egoism theory (Nadler, 2022; Della Rocca, 1996). John Locke (1632–1704) came soon after as the second most influential philosopher who built on social contractualism, mainly through his work in 'Two Treatises of Government' (Locke, 1965). He sets the foundation for modern liberalism and human rights, heavily influencing the U.S. Declaration of Independence. In his philosophy, ethics is grounded in natural rights and property rights, and his political morality becomes central to Enlightenment thought. In his Natural Rights Ethics, life, liberty, and property are inalienable rights and ethical authority must be derived from the people in his consent-based governance (Tuck, 1979; Waldron, 2002). Finally, Christian Wolff (1679–1754) sets the foundations for early Kantian and Deontological ethics in his work 'Philosophia Practica Universalis' (Hettche and Dyck, 2024). He transitions ethics from consequences towards moral duties where moral principles are universally binding. This sets the ground for Kant's later work on deontology, creating a moral system independent of divine command (Schneewind, 1998). Ethics is seen as logically consistent through moral duty and universal principles, while also being self-imposed and not externally imposed through individuals' freedom and rational morality (Guyer, 2016; Hettche and Dyck, 2024).

Outside of Europe, we can also track some significant changes. Nonetheless, while European philosophical developments during this period are well-documented, there is comparatively less readily available information on non-European ethical evolutions. We can easily attribute this to several factors:

Colonial Disruption: European colonization often disrupted indigenous cultures, leading to the loss and suppression of native philosophical traditions.

Oral Traditions: Many African and Indigenous American societies continued to rely on oral transmission of knowledge, which was less likely to be documented by contemporary scholars and got easily lost through colonial disruptions.

Eurocentric historiography: Historically, most scholarships have focused on European perspectives, often neglecting non-European intellectual histories.

In China and Korea, neo-Confucian ethics mature through further moral cultivation, harmony, and an elevation of political ethics. Confucianism saw a revival through the Ming and Qing dynasties, which experienced a resurgence, reinforcing ethics centered on

family, hierarchy, and social harmony. Figures like Wang Yangming (1472–1529) continue to argue that moral knowledge is innate and emphasizes intuition over rigid learning, further maturing Confucian thought (Angle, 2009; Ivanhoe, 2002). Others, like Dai Zhen (1724–1777), go against the Song Dynasty, arguing for a return to empirical ethics and practical morality, challenging the idea that ethics should focus on practical concerns rather than abstract principles (Huang, 1999; Angle, 2009). We see a shift from rigid moral education to personal insight through Yangming's emphasis on the direct experience of morality, which later influenced Chinese philosophy and Zen Buddhism in Japan. At the same time, we see a revival of empirical ethics, as Zhen challenges traditional Neo-Confucian ideas, paving the way for modern Chinese ethical thought.

In the second part of the Early Modern Era, in Asia, we see the apparition of Zen Ethics as Buddhist Ethics in Japan matures through the concepts of ethics of mindfulness and action. Hakuin Ekaku (1686–1769), one of the most prominent Zen masters, emphasized moral clarity through meditation, transitioning the doctrinal Buddhism ethical thought to direct experience and meditative discipline. His work created a pragmatic approach to ethics, based on non-attachment and mindfulness, where ethics is practical and not theorized (Zen pragmatism) (Wright, 2009; Bodiford, 1993). Mindfulness and ethics are combined through the concept that the right action will always come from clear perception. Neo-Confucianism continues within Japan through figures like Yamazaki Ansai (1619–1682) who integrated neo-Confucianism with the Shinto beliefs, founding the Suika Shinto school of thought (Tucker, 1978). He heavily contributes to moral cultivation, emphasizing reverence and the importance of fulfilling one's social role, as well as ontological unity, proposing that cosmic principles guiding the universe are identical to human ethical principles and advocating for harmony between humanity and the cosmos. His teachings shaped the moral education of the samurai class and influenced Japanese thought during the Edo period while also fostering a unique blend of Shinto and Confucian ethics, enriching Japanese cultural and religious practices (Tucker, 1978).

Hindu Bhakti continues to focus on personal devotion, unity, and social inclusivity. In India, the Sufi movement has also matured. Both the Bhakti and Sufi movements emphasize personal spirituality over ritualistic practices and promote ethics of love, equality, and direct connection with the divine.

In the Middle East, we see similar trends to those in India, with Islamic Sufi Ethics focusing further on personal devotion, unity, and social inclusivity. Scholars in the Islamic Empires, the Ottoman, and Safavid, continue integrating Islamic jurisprudence with governance, emphasizing justice and moral leadership. Despite political changes, the Middle East maintained a rich tradition of ethical philosophy; however, it remains tightly intertwined with the Islamic religion. Figures like Mulla Sadra (1571–1640) who led the Iranian cultural renaissance in the 17th century pushed towards transcendent theosophy, emphasizing the unity of existence and the importance of self-purification (Rizvi, 2009). While in Europe we see a break from religion, here we see an integration of philosophy and mysticism through the merger of rational philosophy with Sufi mysticism, advocating for an

experiential understanding of ethics. We see a revival of philosophy and a revitalization of Islamic thought influencing subsequent thinkers in the Muslim world. Mulla's teachings have become integral to the curricula of religious seminaries, shaping ethical and philosophical discourse through educational reform (Rizvi, 2009; Nasr, 2006; Leaman, 2004).

On the other hand, in the Americas and Africa, we see slow changes in the direction of collective responsibility and ecological balance. This is partly due to the regions' massive political and colonial influences. African Ubuntu Ethics and Justice continue to focus on the ethics of community, reconciliation, and leadership. During the 17th century, African leaders started campaigning against the Atlantic slave trade. During 1684, Lourenço da Silva de Mendouça, a royal from Angola's Ndongo Kingdom, petitioned the Vatican, Portugal, Italy, and Spain to end the enslavement of Africans, presenting his case to Pope Innocent XI, a century before European abolitionists like William Wilberforce emerged (Nafafé, 2022; Drescher, 2009; Rossi, 2023; Rossi, 2024). African societies implemented laws that prohibited certain forms of slavery before European contact. These actions were informed by cultural representations and normative traditions that varied from society to society. Overall, African philosophies continue to utilize proverbs, folktales, and songs to convey moral lessons and social values and continue to be community-centric, emphasizing values such as communalism, respect for elders, and harmony with nature (Mbiti, 1990; Wirendu, 1996). Social cohesion remains a key aspect of their philosophy, as African groups try to maintain unity and order within communities while ensuring the transmission of cultural and ethical values across generations.

Similarly, in Latin America, ethical thought evolved as Spanish colonial debates on Indigenous rights started appearing. Native American societies continue to develop ethical frameworks centered on communal responsibility and harmony with nature, values that underpin resistance to European colonization and the imposition of foreign moral systems. The blending of Indigenous, African, and European religious practices leads to new ethical perspectives, emphasizing resilience and cultural preservation. The Aztecs continue their ethical codices by emphasizing virtues like humility, respect, and responsibility through speeches and teachings. They continue in their holistic worldviews, integrating ethics with cosmology, viewing moral behavior as essential to maintaining cosmic balance. Latin America is generally dominated by an attempt at cultural resilience to sustain ethical frameworks that guide social behavior and community governance while resisting colonization, providing the moral foundations for resisting colonial oppression and preserving indigenous identities (León-Portilla, 1963; Hultkrantz, 1997; Brown, 1982).

The period of 1450–1750 saw significant changes in how ethics existed worldwide. Of course, important changes have occurred, such as the branching and specialization of ethical schools of thought within other fields of science. Political Ethics became a focus through Machiavelli, Hobbes, Locke, and Montesquieu. Economic Ethics saw its early inception through the ethics of capitalism and early mercantilist morality. Scientific and Epistemological Ethics were established by Bacon, Descartes, and Spinoza. Finally, Deontology and Consequentialist ethics were founded through Kantian morality. The

Early Modern Era, marked by the beginning of the Golden Age of Ethics, saw the rise of individual morality, where ethics moved away from collective religious dogma to personal conscience and rational thought. The separation of church and morality driven by Spinoza and Locke, as well as the expansion into new disciplines are imperative events that push the field further into the modern era. Ethics could no longer exist under the subjugation of divine revelation and is now slowly being integrated to inform political philosophy, scientific reasoning, and economic progress. At the same time, this period is marked by a loss of moral unity, with ethics no longer anchored in religion, and moral relativism emerging. The rise of political power over ethics is also detrimental to the field, with some thinkers like Hobbes justifying authoritarianism as a necessary tool for social order. Ethics also becomes more about practical governance, rather than moral absolutes, as we start to see the dilution of the field.

### 5. Ethics in the Modern Era (A.D. 1750 – A.D. 1980)

The rupture that redefined moral philosophy during the Early Modern Era continues and becomes more prominent during the Modern Era. The challenges of divine command theories and the expenditure of ethical inquiry into politics, economics, and science that set the foundation for modern secular ethics have now come to fruition.

In Europe, the Enlightenment period starts with Immanuel Kant's (1724–1804) contributions to deontological ethics. Kant introduces a duty-based ethical framework, emphasizing that actions are morally right if they adhere to universal maxims, irrespective of consequences. He proposes categorical imperativism through the idea that one should act only according to maxims that can be universalized, serving as a foundational principle for moral action (Kant, 1997; Wood, 2007). Kant's ethics profoundly influences modern moral philosophy, laying the groundwork for contemporary discussions on duty, rights, and moral law that Rawls and Arendt, among others, will later pick up. He might be one of the first philosophers in modern times to point out that individuals must be treated as an end and never a means, through his focus on human dignity.

At the same time, Jeremy Bentham (1748–1832) paved the way for Utilitarianism which was developed and matured by John Stuart Mill (1806–1873) in his qualitative utilitarianism theory (Bentham, 1789; Mill, 1863; Crisp, 1998). Bentham introduces the idea that the morality of actions is determined by their consequences, explicitly aiming to maximize happiness and minimize suffering (Bentham, 1789). At the same time, Benham developed a method to quantify pleasure and pain to guide moral decision-making (Bentham, 1789). Using the principle of utility and hedonic calculus developed by Bentham, Mill expands on his ideas distinguishing between higher and lower pleasures and emphasizing individual liberty, creating the theory of qualitative Utilitarianism (Mill, 1863; Crisp, 1998). His theory became the dominant ethical theory, influencing legislation, economic policies, and social reform in the 19th century. His work also sits at the basis of cost-benefit analysis. His work has been, however, criticized for neglecting individual rights, leading to potential

justifications of harm to minorities. Mill and Harriet Taylor Mill (1807–1858) also contributed to feminist ethics and gender equality as they argued that gender inequality was morally indefensible and that it was a moral imperative to advocate for women's education, suffrage, and property rights (Mill, 1988; Okin, 2013; Shanley, 1993).

Jean-Jacques Rousseau (1712–1778) also continued the work on social contract theory and political philosophy started earlier, introducing the concept of the 'general will' emphasizing collective sovereignty and the idea that legitimate political authority arises from social contracts agreed upon by all citizens (Rousseau, 1968; Bertram, 2004). Rousseau's ideas influenced the development of democratic principles and inspired political movements, especially through the French Revolution. His emphasis on individual freedom and equality contributes to later human rights movements.

During the same period, we can also see the rise of feminist philosophy, through the works of Mary Wollstonecraft (1759–1797) in 'A Vindication of the Rights of Women' (Wollstonecraft, 1792; Botting, 2015). She argues that women's education and equality are necessary, challenging traditional gender roles and advocating for women to be treated as rational beings. Her work lays the groundwork for feminist movements, promoting the idea that women's rights are human rights and influencing subsequent advocacy for gender equality.

Auguste Comte (1798–1857) comes with his contributions in the form of Positivism and Altruism through his foundational work which asserts that knowledge should be derived from empirical observation and scientific method while coining the term 'altruism' to describe a moral obligation to live for others, opposing individualistic and egoistic ethics theories prevalent at the time (Comte, 1890; Moran, 2021).

The Golden Age of Ethics continues with the works of Adam Smith (1723–1790), the father of Classical Economics and one of the most prominent writers of moral philosophy. In his 'Theory of Moral Sentiments' (Smith, 1759), he explores human morality, introducing the concept of an impartial spectator as an internal guide to ethical behavior, and then lays the foundations of classical economics, introducing the idea of the 'invisible hand' where individuals pursuing self-interest inadvertently contribute to societal good, through his work in 'The Wealth of Nations' (Smith, 1776). His integration of ethics and economics influenced the development of capitalist societies, even though his emphasis on the moral dimensions of economic activities is somewhat lost in the process. His moral sentiments and ethical capitalism theory do inspire later on the development of business ethics and corporate responsibility; however, his principles of ethical capitalism do not follow in economic theory.

During the same period, we see the development of Marxist Ethics, through Karl Marx (1818–1883) and Friedrich Engels (1820–1895) who proposed that material conditions and economic relations shape societal structures and moral values through their theory of historical materialism. At the same time, they critique capitalism, arguing that capitalist systems inherently lead to exploitation and alienation, necessitating a proletarian revolution to establish a classless society (Marx and Engels, 2015; Tucker, 1978; Singer, 2018).

Marxism influences various social and political movements leading to the establishment of socialist and communist regimes in the early 20th century.

Friedrich Nietzsche (1844–1900) also puts forward his theory of nihilism as a critique of morality and puts forward the theory of will to power, challenging traditional Christian morality and universal ethical standards. He raises questions about Christianity and modern ethics that promote 'slave morality' through passivity and weakness, whereas, in his vision, true morality comes from the 'will to power'. This is done most notably through his statement that 'God is Dead', attempting to rewrite ethics in a post-religious world. His work in 'The Übermensch' (Cybulska, 2015) raises the ideal that humans create their moral values rather than following societal norms, influencing existentialist ethics through Sartre and Camus and postmodern thought.

In the first half of the 20th century, Jean-Paul Sartre (1905–1980) and Simone de Beauvoir (1908–1986) paved the way to Existentialism and Existentialist Ethics, emphasizing individual freedom, choice, and responsibility, asserting that humans create their own values through their actions. They challenge traditional ethical frameworks, influencing literature, psychology, and political movements advocating personal and social freedom (Sartre, 2020; de Beauvoir, 2011). Simultaneously, Albert Camus comes forward with his absurdism, which pushes the theory of freedom and responsibility further. According to their theories, humans are radically free, but this freedom comes with moral responsibility. While all challenge the status quo, Camus presents a unique perspective on the meaning of life, challenging all existing notions on the topic further. Congruently, we also have the rise of Pragmatism, through the works of Charles Sanders Peirce (1939–1914), William James (1842–1910), and John Dewey (1859–1952), who proposed that the truth of beliefs is determined by their practical consequences and utility, combining Consequentialism with Utilitarianism. Truth is not seen as an absolute but rather as something that can be tested through experience and consequences, making ethics experimental and arguing that what works for society becomes moral (Peirce, 1878; James, 2017; Misak, 2016). Their work shapes American democracy, education, and political ethics while shaping modern psychology, law, and social science.

Social Darwinism is another framework that gains from ethical thought during the beginning of the 20th century as Herbert Spencer (1820–1903) applies Darwinian evolutionary theory to sociology and ethics, coming to the phrase 'survival of the fittest' (Spencer, 1864; Hawkins, 1997). Naturalism sees a further evolution through his work, as he proposes that ethical principles could be derived from natural laws and the evolutionary process coined by Darwin. It also helps justify social policies by rationalizing the process through which capitalism, imperialism, and social inequality are presented as 'natural' outcomes. His theory influences policies that resisted social welfare interventions, under the belief that aiding the 'unfit' would hinder societal progress, being heavily critiqued for promoting deterministic and reductionist views of human society (Bannister, 1979; Hawkins, 1997).

Towards the middle of the 20th century, the basics of analytical philosophy and ethics through logic and language in morality were established by Ludwig Wittgenstein

(1889–1951), G.E. Moore (1873–1958), and John Rawls (1921–2002). Wittgenstein argued that moral claims are expressions of emotions, not factual truths (Wittgenstein, 1921), while Moore argued that 'goodness' cannot be reduced to natural properties like pleasure or evolution (Principia Ethica, 1903), redefining moral philosophy by focusing on language, logic, and justice rather than religious or metaphysical claims. Rawls came after with his principle of justice, developing a justice-based ethics centered on fairness and equality, which became the foundational work for modern political and legal ethics.

Environmental Ethics, through the theories of ethics of nature and ecology mainly coined by Aldo Leopold (1887–1948) and Arne Naess (1912–2009), also appears as a new field of research and interest. Leopold argues that morality must include ecological responsibility, not just human interests (Leopold, 1949) through his land ethics theory, while Naess develops the deep ecology thinking, emphasizing that humans are part of a larger ecosystem and that they are not superior at all (Naess, 1973). Both help pioneer modern environmental philosophy, influence conservation policies and develop climate ethics and sustainability discourse.

Postcolonial ethics appears as well through the work of Frantz Fanon (1925–1961) and Edward Said (1935–2003), who critique colonial morality that comes through the Western ethics that often justify imperial domination (Fanon, 2004; Said, 1978; Mbembe, 2021). Postcolonial thinkers like Fanon and Said started exposing its violence and bias, arguing for self-determination, cultural identity, and political freedom (Mbembe, 2021). This work paves the way for reshaping ethical discussion on race, identity, and imperial history, becoming central to social justice movements and contemporary decolonization efforts.

In Africa, the Ubuntu philosophy persists, emphasizing communalism, interconnectedness, and the belief that an individual's humanity is inextricably linked to the community's well-being. Ubuntu influences anti-colonial movements and post-independence nation-building efforts, permitting reconciliation and social cohesion (Ramose, 1999; Metz, 2007; Gabe, 2012). Their focus continues to be on the direction of restorative justice over punitive justice. African leaders and communities played an increasingly significant role in resisting the slave trade and advocating for abolition, through various publications like Olaudah Equiano's autobiography published in 1789 (Equiano, 2003) detailing the horrors of slavery and campaigning for its abolition. The efforts contributed to the global abolitionist movements, leading to the decline of the transatlantic slave trade and the emancipation of enslaved people (Lovejoy, 2005, Lovejoy, 2011). Similarly, figures like Edward Blyden (1832–1912), named the father of Pan-Africanism, rejected the general European moral superiority and advocated for African self-rule and cultural pride, further inspiring anti-colonial movements (Blyden, 1994; Adi, 2018). Ethiopianism is also coined in African countries as a religious and political movement among Africans and the African diaspora that emphasizes African autonomy and re-interprets Christianity through an African lens (Shepperson, 1953). In post-colonial Africa, figures like Julius Nyerere (1922–1999) and Kwame Nkrumah (1909–1972) reignited ethical thought within African territories. African socialism based on cooperation, communalism, and social justice coupled with a

rebirth of Ubuntu philosophy helped shape and influence governance in the area; laying the foundations for modern discussion on African ethics and restorative justice (Ramose, 1999; Wiredu, 2005).

We see similar trends within Indigenous ethics in the Americas, where we see a promotion of the ethics of resistance as Indigenous communities challenged colonial expansions. Their ethical framework matured through ethics of land and stewardship, as nature and land continue to be seen as sacred (Kimmerer, 2015; Deloria, 2003). The Mapuche people resisted Spanish and later Chilean encroachments in Chile, maintaining their cultural identity and ethical systems. A Native American spiritual and political movement named the Ghost Dance Movement started in the United States, aiming to restore ancestral lands and ways of life. The Ghost Dance Movement, while tragically culminating in the Wounded Knee Massacre, underscored indigenous resistance to assimilation and dispossession. On the other hand, the Mapuche's resilience highlighted the importance of indigenous sovereignty and cultural preservation. Their movements continue to shape environmental ethics nowadays. Figures in the mid-20$^{th}$ century like Gustavo Gutiérrez (1928–) and Paul Freire (1921–1997) shaped Latin American political movements and Catholic social ethics, inspiring modern social justice movements worldwide. Their work on liberation theology focuses on the ideas that ethics must prioritize the poor and marginalized, and education and ethics where true moral development comes from critical consciousness and resisting oppression pushes forward Latin American ethical thought.

Throughout Asia, we see another revival of Confucian theory in the works of Kang Youwei (1858–1927) and Liang Qichao (1873–1929) who contributed to the reformist Confucianism, advocating for the adoption of Confucian principles to modernize Chinese society and counter Western imperialism (Chang, 1987; Zarrow, 2012; Elman, 2009). Their efforts led to the Hundred Days' Reform of 1898, aiming to transform China's political and educational system. On the other hand, Japan sees a blending of Western technological advancements with traditional Bushido ethics, emphasizing loyalty, honor, and duty as their ethical framework, facilitating its emergence as a major world power and influencing its imperial ambitions (Jansen, 2002).

In India, we see a Neo-Vedanta wave through the works of Swami Vivekananda (1863–1902) who reinterpreted Hindu philosophy, emphasizing universalism, self-realization, and social service (Vivekananda; 2015). At the same time, Rabindranath Tagore (1861–1941) promoted a new wave of humanism that put humans at the center of his approach to ethics, integrating Eastern and Western philosophical traditions. At the same time, the Brahmo Samaj movement is also founded by Raja Ram Mohan Roy who seeks to reform Hinduism by abolishing various practices like sati and promoting monotheism, rationalism, and social reform. The movement, together with Neo-Vedanta, plays a crucial role that leads to significant social and religious reforms. Their teachings inspired the Indian Renaissance, contributing to India's struggle for independence.

The European perspective remains central in the historical ethical literature, as the period continues to be affected by colonial dominance. During this period, European

colonial powers controlled much of the world's territories, marginalizing indigenous knowledge systems and promoting European intellectual traditions. Documentation and dissemination were mainly done through European languages. European scholarly work and institutions controlled major publishing avenues, leading to the widespread dissemination of European-centric ideas. Academic hegemony was also an issue during those times, as European philosophical frameworks were often considered universal, overshadowing non-European philosophies, which were frequently misrepresented or undervalued in academic discourse (Wiredu, 2005; Alatas, 2014). At the same time, during the early 19th and 20th centuries, the civilizing mission ideology became very prominent in European nations, as they started to believe that it was their duty to 'civilize' non-European societies, justifying the suppression of local traditions and promoting European frameworks as superior. This is further discussed in the Contemporary Era, where heavy efforts to decolonize philosophy and recognize the richness of non-European ethical traditions were observed.

The pace of branching out into other sciences speeds up during the Modern Era, as ethics continues to dilute itself in sub-groups and other sciences (mainly social sciences, politics, and economics). Ethics does see a shift towards specialization into the fields of socialism, early feminism, existentialism, and pragmatism in the late 19th and early 20th centuries, and its branches further into political, legal, and educational systems. Moving into the 20th century ethics, we see a complete rupture of the fields of studies, into very niche groups like analytic philosophy, deontology, virtue ethics, environmental studies, human rights, etc. Industrialization, capitalism, and colonialism led to major ethical debates and a continuation of the Golden Age of Ethical Development. The role of religion further diminishes, and ethics become secular and specialized. Humans are no longer seen as rational moral beings but as self-determining, shaped by social, economic, and existential forces. Low and Morality moves from natural rights and social contract theories to justice-based ethics, political philosophy, and postcolonial critiques. We can say that ethics became more democratic during this period, moving away from universal absolutes to recognize diverse moral systems. It embraces material realities through Marxism, Existentialism, and Feminism, arguing that ethics must be rooted in human experience, not abstract principles. At the same time, we see an expansion of moral consideration through environmental ethics and social justice that broadens ethical responsibility beyond traditional human-centered concerns. On the other hand, ethics loses the universal moral truths as it leads to moral relativism, where no ethical system can claim authority. There is an explosion of ethical theories that make it harder to find consensus, especially on global issues. Similarly, postmodern critics argue that power structures co-opted ethics, as Western ethics still dominate despite decolonization movements.

## 6. Conclusions

A history of ethical thinking from the Classical period (600 B.C. – 476 A.D.) to the present day (the 1980s) is a story of the gradual specialization of ethical thinking based on shifting philosophical orientations, changing social and political situations, and cross-cultural interactions. This historical trajectory presents a gradual transition from a general metaphysical reflection on virtue and morality to distinct ethical disciplines in political ethics, business ethics, decolonial ethics, environmental ethics, and human rights. Ethics has grown in response to each era's theoretical and material issues, from religion or cosmology-based ethical systems to secular, human-centered, and context-specific moral theories.

The Classical period (600 B.C. – 476 A.D.) witnessed the foundation of ethical systems in Greek, Roman, Indian, Chinese, African, and Indigenous cultures, which are still significant today. Greeks started ethical reasoning based on rationality (Socrates, Plato, Aristotle), but the Romans established virtue ethics in politics. Meanwhile, Confucianism and Taoism in China, Buddhism in India, and African and Indigenous oral traditions focused on ethics to achieve harmony in society and between man and the universe. During this time, ethics was mainly a question of virtue, ends, and the integration of ethical reasoning with political and spiritual life.

The Middle Ages (476–1450) shifted the focus to theological ethics as Christianity, Islam, and Rabbinical Judaism emerged as the predominant intellectual traditions in Europe and the Middle East. Ethical thinking was mainly theocentric, that is, it was based on divine law, moral absolutism, and the relationship between faith and reason (for example, the reconciliation of Aristotelian thought and Christian doctrine by Aquinas). However, it was a time when Islamic scholars (Al-Farabi, Avicenna, Averroes) contributed to the continuation and development of Greek philosophy and, in turn, influenced the subsequent development of European philosophy. Nevertheless, ethical inquiry was still mostly constrained within the confines of religious doctrine, which stunted the development of secular philosophical thought.

The Early Modern period from 1450 to 1750 was a slow process of the secularization of ethics inspired by humanism, rationalism, and science. The social contract theories of Hobbes, Locke, and Rousseau displaced morality from divine law to human governance and rights. Ethical systems such as virtue ethics by Bentham and Mill, and deontology by Kant, contested virtue ethics by proposing general moral systems based on reason and consequences instead of divine or teleological principles. Ethics was divided into economics (Adam Smith) and political philosophy and, together with science, made the first division of moral philosophy into specific branches of study.

The modern period (1750–1980) was characterized by an ethical proliferation where moral inquiry was specialized, contextual, and often politically motivated. Ethical thought was gradually taken away from religious metaphysics as existentialist thinkers (Nietzsche, Sartre, Camus) problematized the basis of ethical systems and emphasized human freedom and moral subjectivity. Ethical reasoning was revolutionized by Marxist ethics, which introduced economic materialism and class struggle as an ethical category, thereby

revolutionizing moral reasoning on questions of justice, labor, and inequality. However, the pragmatism of Peirce, James, and Dewey castigated rigorous moral principles as irrational and argued for moral provability in light of probable outcomes.

The non-European world also experienced significant ethical changes, which often occurred in response to imperialism, colonialism, and socio-political movements. African socialism of Nkrumah and Nyerere, postcolonial ethics of Fanon and Said, Buddhist modernism, Latin American liberation theology of Gutiérrez and Freire, and Indigenous resistance ethics began to take shape in the late 19th and early 20th centuries. These traditions challenged Western moral dominance and presented alternative systems of ethics based on people's cooperation, environmentalism, and decolonization. The inclusion of these voices shows the expansion of the ethical discourse to the whole world, but the structural inequalities in academia have discredited them.

By the mid-to-late 20th century, ethical inquiry was further diversified to meet the demands of industrialization, technological advancement, civil rights movements, feminism, and environmental crises. The feminist ethics of Beauvoir and Gilligan, the environmental ethics of Leopold and Naess, and the postcolonial ethics of Wiredu and Mbembe were some of the key aspects emerging in the discourse. This period also featured the rise of analytic moral philosophy (Rawls, Wittgenstein) that aimed to redefine moral language and justice in the context of contemporary social structures.

When Early Modern and Modern Eras are compared, it can be seen that ethical inquiry moved from universalist, rationalist frameworks to pluralistic, specialized disciplines that mirror the growing complexity of the world that was becoming more connected and globalized. The modern Era is presented as a fragmentation of moral philosophy, a move away from a single ethical truth to many, competing frameworks of ethics that apply to particular political, economic, and cultural issues. This shift provided more moral uncertainty and an opportunity for ethics to become more adaptable, inclusive, and applicable to real-life situations.

However, one of the major problems was the dominance of European ethical thought in academic institutions, which prevented non-European traditions from being recognized, including Indigenous, African, and Asian ethical systems. The ethical discourse was eclipsed by Eurocentric bias stemming from colonial leftovers, translation difficulties between different cultures, and the preference given to the written as against the oral tradition. However, by the end of the twentieth century, decolonial movements, comparative ethics, and globalization began to undo these biases. They resulted in a more inclusive and more globalized vision of ethical thought.

Ethical discourse still thrives in our current world as it seeks to solve new ethical issues brought on by new technologies, artificial intelligence, climate change, and global human rights issues. The question is: Will the future of ethics see even more specialization and fragmentation, or will it be a revival of new, integrative ethical systems synchronizing diverse global ethics? The answer will depend on how philosophy, science, and social movements will cooperate in defining the next phase of human moral inquiry.

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# Gender Differences in Employees' Motivation for Advancement in Romanian Higher Education

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**Abstract**

The current pilot study analyzes the motivating factors of higher education employees regarding career advancement. Through a mixed instrument applied to current Babeș-Bolyai staff, we identify the impact of indirect discrimination on motivation and personal preferences contributing to their career choices. In the first part of the paper, we identified how discrimination is perceived in the workplace, by adapting two existing scales (The Modern Sexism Scale and The Beliefs in Sexism Shift Scale). The second part of the instrument consists of a set of open questions regarding background, aspirations, and obstacles, that allowed us to analyze the different needs each gender has. Recognizing the motivators behind one's desire for advancement can help in establishing new gender-sensitive policies and strategies to further reduce the vertical gender segregation that is still encountered in Romania and other European countries that are in a similar situation.

**Keywords:** higher education, gender discrimination, career motivation.

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## 1. Introduction

The notion of indirect discrimination is often ignored, especially in the higher education environment, nevertheless, it can have a major impact on women's careers. More concretely, indirect discrimination appears in situations that at first glance seem to give the same opportunities to men and women, but do not take into account the fact that they may start at different levels (Khaitan, 2017). For example, in Romania's higher education, through a systematic review, it was discovered that several of the criteria required to advance in grade, are in fact discriminating, as women have a harder time meeting them because of the task's distribution in the department (Gâscă and Macarie, 2023).

The consequence of this leads to the discrepancy in numbers we have today, with more men than women being in a position of power, no matter if we refer to the private or public domain. According to the European Gender Equality Index, the mean across all regions shows that half the number of women compared to men occupy such positions, with countries like Romania at the bottom, having only 9% female ministers and 20% females in parliament (European Institute for Gender Equality, 2023). Looking at the higher education environment, the situation is similar. Out of 48 countries that are part of the European University Association, the number of women rectors only reached 18.28% in 2022 (European University Association, 2022).

Nevertheless, in several countries, vertical segregation is not recognized to be the result of discrimination, and instead, it is considered a matter of personal preferences, with women not wanting to be in leading roles. Even countries that represent an etalon of equality for the rest of Europe, like Denmark, encounter a similar mindset (Nielsen, 2014; Nielsen, 2016), leading to issues of discrimination being dismissed and misogynism masked under the "Danish humor" (Skewes *et al*., 2019; Guschke *et al*., 2022).

This pilot study aims to analyze the differences in motivating factors among men and women employed in teaching or researching positions in Romania. Through a mix of scales and open questions, the study analyzes the impact obstacles encountered during one's career have on motivation to advance in grade and how different genders can have different objectives and motives for advancing.

The next section focuses on understating motivational theories, plus the connection between segregation, discrimination, and personal aspirations. The third section of the paper presents the methodology employed in this study, together with the demographic information of the participants. Finally, the main findings are presented in the last part of the paper.

## 2. Theoretical background

### 2.1. Motivational Theory and Gender

The theory on work motivation is vast, with several theories explaining employees' dedication to the company, productivity, and satisfaction in the workplace. In this section, we will focus on analyzing the main theories on motivation, as they are presented in the

literature. We recognize this is not a complete review of all existing theories, as such a task would be outside of this paper's scope. Nevertheless, understanding the main elements of motivation is a valuable insight for our further sections. Therefore, the three most popular theories, and the ones we will analyze through a gender lens are the ones of Maslow, Alderfer, and Herzberg.

Maslow theory is one of the first theories on motivation, dating back to 1940 and 1950 (Acquah *et al*., 2021). According to the pyramid scheme he developed, human needs can be divided into five categories, starting from physiological needs and safety, then moving to belongingness, self-esteem, and lastly self-actualization. In addition, one level needs to be fulfilled before moving to the next one (Maslow, 1943).

However, back in 1940 when the theory was developed, feminist movements were just in the first wave, meaning that women didn't have many rights, and most of them were not properly integrated into the workplace (Baxandall and Gordon, 2005). In this context, although there have been some saying that the theory applies equally to both genders (Coy and Kovacs-Long, 2005), several other researchers prove how Maslow's pyramid fails to recognize the difference in needs for men and women (Yurdakul and Arar, 2023; Cullen and Gotell, 2002). Furthermore, several of the studies that employ this theoretical model, do not even take into account the gender dimension (Rojas *et al*., 2023; Emmanuel, 2020; Pârjoleanu, 2020).

The ERG theory belonging to Alderfer groups human needs into three categories: existence, relatedness, and growth (Acquah, et al., 2021). The theory, developed at the end of the '90s, is considered an improvement of Maslow's theory, used especially to explain the connection between motivation and work performance (Caulton, 2012). In addition, compared to Maslow's theory, using the ERG method, several studies identified that there is a correlation between motivational factors and gender (Song *et al*., 2007; Chen *et al*., 2023; Thangal *et al*., 2021).

Lastly, Herzberg's model says that there are two sets of important factors, the motivating ones that cause satisfaction, and hygiene factors, which if they are not met, will create dissatisfaction. According to the two-factor theory, among the elements that create job satisfaction are the possibility to grow, responsibilities, and recognition, while salary and working conditions are important, but will not lead to job satisfaction (Alshmemri *et al*., 2014). The theory is important, as it has been discovered that women have lower expectations of factors connected to working conditions (Malik, 2011) and therefore are more easily satisfied than male colleagues on elements grouped under hygiene factors (Dhanapal *et al*., 2013). The motivating factors are also extremely important to be viewed through a gendered lens, as women's definition of success is more often correlated with external factors (Beyer, 1999; Macarie and Moldovan, 2013).

### 2.2. The link between segregation, discrimination, and preferences

As stated in the introduction of the paper, nowadays vertical and horizontal gender segregation is seen as a result of preferences, because in many institutions and organizations,

it is considered that all practices and policies in place promote gender equality. However, by not recognizing that we are dealing with gender-blind policies, precisely policies that do not take into account the different situations each gender deals with, it only promotes a system where stereotypes and indirect forms of discrimination are still present (Shukla *et al*., 2022; Lewis *et al*., 2017).

Concretely, the international literature shows how at the level of parliament and public administration, women tend to be assigned to departments that are considered more feminine. This happens in countries like Turkey (Ucaray-Mangitli and Yildirim, 2023), which is ranked 63th on the Gender Inequality Index from the United Nations (United Nations Development Program, 2023), but it also occurred in Denmark, a country placed first in the same index (Baekgaard and Kjaer, 2012). This can be a result of gender stereotypes, portraying women as caring for others, sensitive, patient, gentle, and helpful (Tabassum and Nayak, 2021). It is not just considered that generally, women act according to these stereotypes, but we can say it is expected. For example, women in STEM academia who publicly speak about their work are often cataloged as bossy (McKinnon and O'Connell, 2020), and a different study focused this time on women in television discovered the same results among participants, when women acted outside of the general stereotypes (Bray *et al*., 2020).

Furthermore, women's performances are evaluated on harsher criteria (Elacqua *et al*., 2009; Babic and Hansez, 2021), leading to a lack of confidence in their skills (Taparia and Lenka, 2022). The fact that women are in a minority in higher management positions has a negative impact on the way they are integrated into the organization, due to the lack of precedencies (Pape, 2020), lack of role models (Quimby and De Santis, 2011) and lack of support (Kantola, 2008; Pološki Vokić *et al*., 2019).

Therefore, as women encounter more hardships in their careers than men, their work aspirations can be directly impacted. Furthermore, the work-life balance is another factor that impacts aspirations, as women tend to have more responsibilities involving house chores and children (Fritz and van Knippenberg, 2018; Sundaresan, 2014). The gender norms put more pressure on women to be perfect mothers, leading to them having a harder time managing a work-family balance, and in the future leading to a lower drive for a successful career (Meeussen and Van Laar, 2018). More often, women tend to be judged if they put their careers first and leave household chores to their partners, something that never happens in the case of men (Dean *et al*., 2021).

To sum everything up, vertical gender segregation can be a result of the fact that women simply don't want to go higher on the career ladder, however, the motivation to advance is drastically influenced by the way they are treated both inside the workspace and outside, in their private lives. The practice of women being judged according to stereotypes is discriminatory and organizations should employ gender-sensitive practices to avoid such situations (Clavero and Galligan, 2021).

## 3. Methodology

As stated in the introduction, the main purpose of this pilot study is to identify differences in employees' motivation for advancement in academia. We are not interested in only measuring different categories of factors as most studies employing motivational theories focus on. Instead, we want to analyze how the difference in obstacles that men and women encounter in their careers affect their aspirations and how indirect discrimination influences the way higher positions are seen by each gender.

Therefore, the research questions this study will answer are: how does gender influence the perceived level of discrimination, what differences in career advancement aspirations occur between men and women as a result of indirect discrimination, and what differences are in the way men and women see higher management positions in terms of necessary skills?

### 3.1. Instrument

This pilot study employs a mixed instrument, combining both qualitative and quantitative methodologies. The anonymity of the respondents was guaranteed. For the quantitative part, a 19-item Likert scale was created, to measure the perception of discrimination and the reluctance against actions to combat discrimination. Each affirmation could be noted with a score from 1 to 7, from strongly disagree to strongly agree and some of the items had a reverse score. The data was analyzed using SPSS.

The items were adapted after the Modern Sexism Scale (Swim *et al*., 1995) and the Belief in Sexism Shift Scale (Zehnter *et al*., 2021). The first one was created to measure the more subtle forms of prejudice against women and the impact of gender stereotypes on the way women are treated. In other words, it identifies the level of indirect discrimination present in an organization (Swim and Cohen, 1997). Although the scale was developed in 1995, in America, it is still widely used today to uncover the presence of indirect discrimination even in countries that are considered a model of equality, like Denmark (Skewes *et al*., 2019). Only this year, there were over 60 studies published citing the original Modern Sexism Scale, therefore proving the relevance the items still have.

The Belief in Sexism Shift Scale is a more recent scale, developed as a consequence of the antifeminist wave that started recently. More precisely, it measures to what extent it is believed that nowadays men are the ones discriminated against and the perceived fairness of women's empowerment strategies (Zehnter *et al*., 2021). It is an important measure to have in view, as international studies discovered that many times when women are in a minority, issues of discrimination are not perceived, therefore people can argue that there is also no need for gender equality practices (Khan *et al*., 2018; Sthephens and Levine, 2011).

The qualitative part of the instrument consists of a set of open questions grouped into three categories, to allow us to get detailed information regarding the respondent's background, aspirations, and obstacles. Through the use of content analysis (Harwood and Garry, 2003), as a first step, we were interested in searching for patterns in women's and

men's careers separately and then later comparing those patterns to identify factors that can influence motivation for each gender.

### 3.2. Participants

This pilot study was conducted on members of the Faculty of Political, Administrative, and Communication Sciences, from Babeș-Bolyai University in Cluj-Napoca. The instrument was distributed to all academic and research staff, through the employee group email in July 2024. The faculty is divided into five different departments, and the full distribution per position can be found in Figure 1. The data was collected from each department's website, and the gender was established based on the name and picture of each person. There is one more department in the faculty, the one of Journalism, but on their website, no details about the academic staff are provided.

| Position /Department | Research Assistant | | University Assistant | | University Lecturer | | Associate Professor | | Professor | | Contractor | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | W | M | W | M | W | M | W | M | W | M | W | M |
| Public Administration | 0 | 0 | 2 | 1 | 4 | 8 | 4 | 8 | 2 | 2 | 1 | 0 |
| Communication and Publicity | 0 | 0 | 0 | 0 | 12 | 5 | 3 | 0 | 2 | 5 | 0 | 0 |
| Political Sciences | 0 | 0 | 1 | 1 | 7 | 6 | 0 | 1 | 0 | 4 | 1 | 1 |
| Public Health | 8 | 4 | 1 | 0 | 0 | 0 | 3 | 3 | 0 | 2 | 1 | 0 |
| Total | 8 | 4 | 4 | 2 | 23 | 19 | 11 | 12 | 4 | 13 | 3 | 1 |

**Figure 1**: Distribution of employees per position and gender

**Source:** Authors – Data gathered from departments' websites

From the four departments that have public data on their websites regarding research and teaching employees, the ratio of men and women is almost equal. However, according to the glass ceiling theory, women encounter a barrier in their advancement to a higher position (Macarie and Moldovan, 2011, pp. 101–102; Powell and Butterfield, 2015), which can also be seen here. There are more women than men in lower positions like research assistant, university assistant, or lecturer, with the ratio changing if we look at associate professor and professor positions. Furthermore, out of the five departments, only one is run by a woman, and both the dean and vice-dean positions are occupied by men.

From the total number of employees, only 18 responded to our inquiry, with an almost equal representation of the two genders and covering all didactic grades, from PhD students employed as research assistants to full professors. In the higher education system, respondents' employment starts from less than a year, up to 23 years, however, some of them also have over 20 years of experience in other public functions. Only two persons declared they have a management function, both of them men.

| *Gender* | *Position* | *Years in other public fields* |
|---|---|---|
| Female…..…. 10 | Research Assistant……. 3 | 0 years ……... 6 |
| Male…..... 8 | University Assistant…... 1 | 1 – 5 years ……. 4 |
| Other…..…… 0 | University Lecturer…… 8 | 6 – 15 years …… 2 |
| No response… 0 | Associate Professor…… 5 | 16 – 25 years ….. 4 |
| | University Professor…... 1 | 26 – 35 years ….. 2 |
| *Age* | | |
| 22-30…… 3 | *Years in higher education* | *Years in private fields* |
| 30-35…… 3 | 1 - 5 years……. 3 | 0 years ……... 7 |
| 36-40…… 3 | 6 - 10 years…... 2 | 1 – 3 years ……. 7 |
| 40-45…… 6 | 11 - 15 years…. 4 | 4 – 10 years …… 2 |
| 46-50…… 2 | 16 – 20 years…. 7 | 11 – 20 years ….. 2 |
| 51-55…… 1 | 21 – 25 years…. 2 | |

Figure 2: Demographic details of respondents

## 4. Reality vs. perception of discrimination

### 4.1. Attitudes on discrimination

Based on the 19-item questionnaire, it resulted that discrimination against women is recognized, but to a small extent ($M = 5.33, SD = 0.87$). The Cronbach's Alpha had a score of *0.898* for all items, indicating a strong reliability. According to what literature identified until now, women tend to be more aware of issues of discrimination than men (Lindsey *et al*., 2015), and this applies to our sample too, with a statistically significant difference between their perceptions ($t = 2.382, p = 0.030$).

Furthermore, 6 of the items in our list referred to elements of women being treated differently, and the rest of the 13 items assessed to what extent people think that men are discriminated against because of gender equality measures. As more men than women consider that the two genders are equal, they obtained lower scores on both scales (after reverse scoring of the items). The reliability for the scales taken separately, was good in both cases,

| | Sex | First 6 items | Last 13 items | Total |
|---|---|---|---|---|
| Female | Mean | 5.3 | 5.9 | 5.72 |
| | Std. deviation | 1.09 | 0.49 | 0.45 |
| Male | Mean | 4.59 | 4.98 | 4.85 |
| | Std. deviation | 1.06 | 1.15 | 1.037 |
| Total | Mean | 4.98 | 5.49 | 5.33 |
| | Std. deviation | 1.11 | 0.95 | 0.87 |

Figure 3: Mean and Std. Deviation

| Sig. | t | Sig. (2-tailed) | Mean diff. |
|---|---|---|---|
| 0.66 | 2.382 | 0.030 | 0.87 |

Figure 4: t-Test Results

with alpha scores of *0.85 and 0.89*. The two sets of questions are positively correlated, but not in a significant relation ($r = 0.46$, $p = 0.056$).

### 4.2. Differences in workload and obstacles

According to the literature, in academia, women tend to get more teaching hours and more administrative tasks, therefore having less time for research activities (Albulescu and Herrera-Saldana, 2016; Ichim, 2020). However, in our sample, at first look, both men and women spend similar amounts of their working time on such tasks, and women spend more time on research. Still, it is important to mention that 2 out of the three research assistants who took part in the study are female PhD students, whose main task is research, therefore influencing the final results.

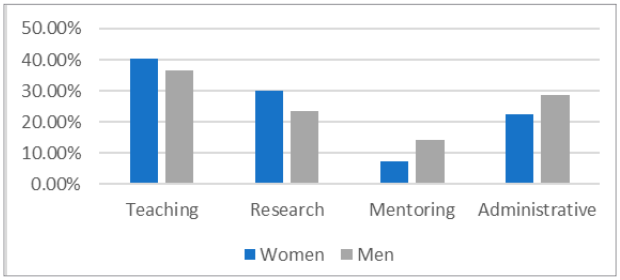


Figure 5: Average means of tasks' distribution

In addition, in regard to the workload they have to deal with, more women than men complained they cannot achieve all their tasks in the 40-hour work week and often end up working extra hours or during weekends to be able to complete all urgent matters. As a possible consequence, all men find the flexibility offered by the university as a great advantage, however, there were a few women that raised the danger flexibility creates. Even though in the case of mothers it can help with a better time distribution for family responsibilities, at the same time, not having clear working times can lead to work responsibilities slipping into personal time. Especially as universities nowadays are more competitive and there is a feeling of urgency in all activities (Bădoi, 2019).

Furthermore, in terms of free days, women were the ones who again pointed out that even though according to the legislation everyone is entitled to 50 days per year, in reality, even during summer vacations some urgent deadlines appear. In the end, none of the women questioned found they have a good work-life balance, compared with more than half of the men who are pleased with the equilibrium they have. Two women in particular

mentioned they could not achieve the best results in their work without their supportive partners who were fully involved in the domestic chores at home.

As stated by all participants in the study, the university and the faculty do not have any formal mechanism in place to help the employees achieve a proper work-life balance. Therefore, it remains solely the task of each person to use the flexibility provided to their advantage and to better deal with any urgent work matters that can appear in their free time. One method of doing so is through delegation to other colleagues, but women might be at a disadvantage in this practice, and it could be one of the reasons why many of them complained of receiving tasks "from Friday to Monday" from their superiors.

Another aspect that the literature identified and that seems to apply in this case, is the fact that women have part of less mentors in their careers (Nielsen and Madsen, 2018; Bilimoria, et al., 2006), which then impacts the support they can get, the access to knowledge or opportunities, and models to which to aspire (Gâscă and Macarie, 2023). In our study there were both men and women who said they did not have mentors at the beginning of their careers, however, women considered the lack of mentorships as a bigger hardship in their development. An explanation can be the theory of "brotherly trust" by Judith Lorber (1994, p. 231), which even though it was developed last century, explains how men tend to have an easier time connecting with other men in the organization. Therefore, the lack of mentors can have a smaller impact if there are other forms of informal connections.

In fact, except for one participant, all other male respondents have pointed out how either formal or informal mentors have helped them adapt to university values, establish new connections, and even form their career path. They not only acted as models to aspire to but became close colleagues who offered support and feedback. The situation in the case of women mentoring differs based on the time they started their career, with those with more than 15 years of experience having less support from superiors at the beginning of their career. However, they managed to form their own support groups with other females in similar positions but consider that it was harder to complete certain tasks or "made mistakes with a long-term impact that they did not realize at the moment." On a positive note, almost all women said they had access to some form of informal support and guidance in their careers in the past 15 years, which influenced their development as teachers and researchers.

## 5. Career aspirations

### 5.1. Ideal position for men and women

Starting with the current task distribution presented in the previous section, we asked each participant how much time they would like to spend on the four categories in an ideal setting. Both men and women expressed they would enjoy having more time for research and having fewer administrative tasks, however, on average women would like to spend

20% more working hours than currently doing research and would spend almost double the time compared to men's ideal allocation.

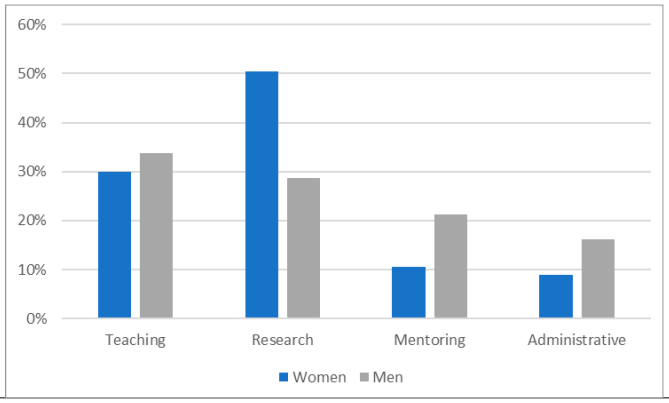


Figure 6: Ideal distribution of tasks

What is interesting in our discovery, and contrary to what the literature says, is that ideally, men would spend more time on administrative tasks. However, in our group of respondents, two out of the eight men have management functions, and they answered that 50% percent of their working time should be dedicated to administrative responsibilities. Apart from them, three more men complained either that there are too many redundant administrative chores, or that they would like to have a better freedom in choosing their responsibilities. Others stated they are happy with their current position.

On the other hand, all women participating in the study complained about the way work is distributed in the faculty. The main changes they would like to occur are referring to the number of hours, precisely wanting to work fewer hours. However, in connection to what we discovered previously, that women spend more of their free time finishing working responsibilities, what they ask is for tasks to be limited to the 40-hour working week. They point out that positions in the departments should be rethought, with a "focus on long-term HR politics".

One repetitive idea that could be encountered in almost all participants' answers when talking about an ideal position referred to remuneration. The payments should be in accordance with the workload and especially in terms of research, there should be more funds invested in it. However, while men focus more on article publication and participation in international conferences, women tend to point out factors that influence research, like acquisition of materials, partnerships with other universities and research centers, or implication in international projects.

Although both men and women in lower positions wish in an equal measure to advance in grade and also to obtain the habilitation title, there are differences in what motivates them to be in the academic world. Men focus on the idea of prestige for working in an esteemed institution but also bring up the love of teaching and working with students,

together with the impact they can have in the community. This is contrary to what the literature identified until now, but correlates with our findings, concretely that men are pleased with the teaching hours they have and would not give up on them. Women, on the other hand, even though they mention working with students too, bring up more factors that impact their decision, like the interest and autonomy in research, and also the colleagues' collective they are working with. Even the type of rewards they are most satisfied with tend to be in the sphere of research and public recognition of their results. Furthermore, women reiterated the importance of having an equilibrium between their work and personal lives.

### 5.2. Skills necessary to lead

In terms of how higher management positions (dean, rector, etc.) are seen there are some similarities in women's and men's visions. Something that was encountered in almost all the answers is that a leader should have high emotional intelligence and a high level of empathy. Those are important to better manage the faculty and university employees, to better understand their needs, but to also know how to properly delegate and keep them accountable.

However, if men only pointed out the considerable amount of work that comes with such positions, women also identified a political side that's attached to higher management roles. Therefore, according to women, to successfully attain such a role, a person needs political skills, like negotiations and the power to influence others. Furthermore, they need to have a portfolio of past works "that brought prestige to the candidate" and have a strong network of connections, both at national and international levels.

Lastly, several women pointed out that higher management positions mean dedicating a big portion of time to administrative tasks, and instead, they would prefer to focus on research. Maybe this can be an explanation why when asked about the ideal allocation of tasks, men are ok with having more administrative tasks, but women on the other hand do not.

## 6. Conclusions

This pilot study proved, following other international results, that women are more aware of issues of discrimination present in the organization, therefore understanding in a bigger proportion why gender policies are still important. However, this can be a direct result of the way men and women are treated in higher education. For example, even though both genders have to deal with administrative tasks, women seem to receive more urgent work that needs to be completed in their free time, making it harder for them to achieve a proper work-life balance. The results also showed that women are less interested in higher management positions because they attribute to it a political side that comes with even more administrative tasks. Instead, they would like to be able to dedicate more time to research.

Going further, an analysis of the type of administrative tasks women and men receive could prove useful. Our study identified that more women than men tend to receive redundant tasks, or "secretary level" work, and this can lead in the future to a dislike of administrative tasks in general and therefore a dislike of management positions.

Furthermore, there seem to be differences between women who started their careers 25 years ago and women who entered the work field more recently. In the past it was more common for women to struggle finding any kind of mentorship and the support they would get was from other female colleagues in similar positions. Nowadays, there is more support between colleagues who are at different levels in their careers, either through formal or informal mechanisms. Therefore, further studies can analyze the differences between generations and the impact the new mechanisms have on men's and women's work paths.

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# Private or Public Law Entities? Some Issues Regarding the Legal Status of Professional Chambers of Liberal Professions in Hungary

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**Abstract**

The legal status of professional chambers is a long-standing issue in the Hungarian legal system, which can be summarized as follows: are professional chambers public law or private (civil) law entities? In my paper I aim to examine this issue by analyzing the dogmatic character of chambers and by drawing up the current regulatory framework for chambers in positive law. Moreover, I also examine whether regulation in positive law corresponds with the described theoretical framework on chambers. Furthermore, I also analyze the practical implications of this issue, most notably how it affects the legal regime for judicial review of acts of chambers. Finally, I provide *de lege ferenda* suggestions on how the legal status of chambers could be regulated.

**Keywords:** administrative law; professional chambers; liberal professions; legal status; administrative justice.

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## 1. Introduction

The legal status of professional chambers is a long-standing issue in the Hungarian legal system, which can be summarized as follows: are professional chambers public law or private (civil) law entities? This issue was addressed in the past by the jurisprudence as well as the legislature, but no clear answer has been found. In this paper I examine this issue on two levels. First, I examine whether professional chambers are private or public law entities in theory, based solely on a theoretical and dogmatic approach. After this, I draw up the current legal framework regarding professional chambers, with the aim of establishing whether these bodies are private of public law entities in positive law. Furthermore, I also give an analysis on whether the positive law is consistent with the theoretical approach. Finally, I also provide *de lege ferenda* suggestions regarding how the legal status of professional chambers could be regulated in Hungarian law.

## 2. Professional chambers in general

Firstly, it is important to define the notion of professional chambers. In Hungarian law, professional chambers (‘*kamarák*’) are a sub-category of the category of statutory public bodies (‘*köztestületek*’). Statutory public bodies are basically the Hungarian equivalent of *Personalkörperschaften des öffentlichen Rechts* in German law (Maurer and Waldhoff, 2020, pp. 633–636; Detterbeck, 2021, pp. 40–42.). Chambers in Hungarian law can be defined as associations of persons with legal personality, established by a legislative act, based on the membership relation between persons engaged or interested in the same activity, which enjoy self-governmental status and autonomy but are under the supervision of the state, have public authority, and carry out public tasks in relation to their membership or the activities of their members (Fazekas, 2008a, p. 181).

As I mentioned, a professional chamber is a specific type of statutory public body. The most important distinguishing feature of professional chambers is that they consist of members that practice a particular liberal profession. Liberal professions are vocations pursued by highly skilled and well-trained individuals, who provide professional services to clients on an independent, autonomous basis, with a high degree of individual responsibility, such as attorney-at-laws, doctors, pharmacists, architects and so on. These services are mostly of intellectual nature that may also touch upon the human rights of clients. Furthermore, such services are provided to clients in a relationship based on trust and thus have a personal nature. The output of professional services are often public goods, or they facilitate the acquisition or production of public goods. As a result, the high standard of professional services is not only in the private interest of the client, but also in the public interest (Taupitz, 1991, pp. 38–67). Therefore, the professional conduct (i.e. conduct in the course of providing professional services) of such practitioners must be subject to public control, and in the Hungarian legal system this task is historically entrusted to the self-government bodies of practitioners, the chambers (Strausz and Zachar, 2009, pp. 295–340).

Exercising public control over the professional conduct of practitioners is the most important public task carried out by chambers. The process of public control can be described schematically with the terms of regulation, supervision and sanctioning. Different rules of professional conduct are adopted by the chambers, which have a binding effect on the members, i.e. the practitioners. The chamber monitors whether the professional conduct of members is in line with these rules, and in case it detects that a practitioner is potentially in breach of such a rule, i.e. commits a professional misconduct, initiates a disciplinary or ethical procedure. The procedure is carried out by the competent body of the chamber. In case it establishes that there has been in fact a professional misconduct, it adopts a decision in which sanctions may be imposed on the practitioner. These range from a written warning or a fine to suspension or exclusion from the chamber (Fazekas, 2008a, pp. 47–57). It is also worth mentioning that most, but not all chambers have compulsory membership in Hungary, which means that being a member of the chamber is a prerequisite of practicing that profession (Patyi, 2020, pp. 759–761). The rationale behind this is that public control is only effective if it extends to all professionals of a liberal profession. This also means that the suspension or termination of membership results in a temporary or final exclusion from the practice of profession itself, therefore such decisions touch upon fundamental rights of practitioners and as a result have to be reviewable by courts in a fair trial.[1] Such decisions also fall under the scope of the civil limb of the right to fair trial set out in Article 6 of the European Convention on Human Rights.[2] However, public control is only one of the public tasks carried out by chambers, as they participate in exercising administrative authority as well, such as granting permits to third parties.

One further public task fulfilled by chambers is the advocation and representation of the professional interests of practitioners towards state bodies. This is carried out through consultation with legislature or other rulemaking bodies, lobbying for a particular legal framework or different policies that are in the interest of the members, etc. (Eisenmenger, 2020, pp. 269–281). Acts of Parliament regulating different chambers usually explicitly mention this as a public task, which underlines its importance. It is also notable that the fulfilment of this task often leads to tension between state organs and chambers (Strausz and Zachar, 2010, pp. 227–256).

Public tasks carried out by chambers brings us to the topic of the position of professional chambers in the Hungarian administrative system. In the Hungarian regulation these bodies basically act as intermediaries between the private sector and the 'pure' public sector. This role of intermediation is reflected by the fact that on the one hand chambers convey the expectations of the state and public towards the practitioners of liberal

1 See the Hungarian Constitutional Court Decision 39/1997. (VII. 17.) AB.

2 See judgement of the ECtHR of 23 June 1981, Le Compte, Van Leuven and De Meyere v Belgium, Application nos 6878/75 & 7238/75, paras 44–51 and judgement of the ECtHR of 10 February 1983, Albert & Le Compte v Belgium, Application nos 7299/75 & 7496/76, paras 27–29.

professions by way of exercising public control over them, on the other hand these bodies also convey the professional interests of the practitioners towards state bodies, such as the legislature or executive bodies (Fazekas, 2008b, pp. 412–413). Again, this is similar to the German regulation, in which the intermediary status of chambers is also reflected by the fact that they are the part of the *mittelbare Staatsverwaltung*, roughly translatable as indirect administration (Kluth, 1997, pp. 26–29; Maurer and Waldhoff, 2020, pp. 619–620).

It is also worth mentioning that chambers, like all administrative organs, adopt different acts in the course of their operation. These acts are expressions of will declared by the chamber that have a legal effect or legal relevance, such as ethics decisions or the appointment of a chamber official. These can be put into two groups based on their legal nature. Firstly, there are acts by which chambers exercise public authority, such as acts (decisions) adopted in public administrative authority procedures. In the case of chambers with compulsory membership, decisions adopted in public control procedures are also public authority decisions, since these can potentially result in the exclusion of a practitioner from the profession. Secondly, chambers also adopt internal management acts, in the course of which they do not exercise public authority, such as electing chamber officials or meeting budget decisions (Fazekas, 2017b, pp. 119–120). It is important to make a distinction between these two types of acts, as they have a different legal nature, they have different legal effects and the regime for judicial review thereof may also differ.

## 3. Public or private law entities?

After this brief overview of general issues on professional chambers we can focus on our main topic: are chambers private or public law entities? As mentioned before, I address this issue from two perspectives: theory and positive law.

### 3.1 The theory

The Hungarian academic literature clearly states that statutory public bodies and in particular chambers have both private and public law characteristics, therefore can be best described as 'two-faced' or 'Janus-faced' entities (Fazekas, 2009, pp. 95–97; Kárász and Hoffman, 2022, pp. 177–178). The source of this ambiguity is the above mentioned intermediary status of chambers, by which they partly function as private associations of practitioners representing their interests, and partly as state bodies enforcing public interests towards practitioners (Fazekas, 2009, pp. 96–97). In simplified terms, the existence of a membership and representing their private interests suggests that chambers are private law entities, while enforcing public interests implies that they are public bodies.

While this explanation is correct, it circumvents the central issue of whether professional chambers are *essentially* public law or private law entities, from an organizational perspective? As far as I am concerned, every legal person can be put into the category of public law entity or private law entity based on their *fundamental legal status*, even if they have

mixed characteristics. For instance, even though private foundations or companies can take part in fulfilling public tasks, there is no doubt that *fundamentally,* from an organizational point of view they are private entities.[3] Therefore, from a theoretical and dogmatic approach, the question whether chambers are public law or private law entities can be answered based on the examination of their main characteristics and by establishing which of these are *fundamentally* determinant.

Establishment by state is a clear public law attribute, since this means that the chamber is not established by the will of private individuals, i.e. the practitioners, but by the state through a public authority act (Kluth, 1997, pp. 231–232). The existence of strong state supervision is also a public law characteristic, since it allows state organs to intervene in the operation of chambers. Furthermore, carrying out public tasks and exercising public authority is the reason why state bodies even exist, therefore these are public law characteristics too. This is especially true considering that the scope of public tasks to be carried out by chambers and the means thereof is also determined by the state (Fazekas, 2008b, p. 410). Private law attributes include the existence of a membership, which is typical of private law entities such as associations or companies. However, the legal relation between chambers and their members is not entirely of a private character, as public control over their professional conduct is also based upon membership in the chamber (Fazekas, 2008a, pp. 25–26).[4] Self-governance and autonomy allows chambers to manage their own affairs in line with the will of their members, thus at first sight these may also be considered as private law attributes. That being said, the autonomy of chambers is different from private autonomy both in its quality and extent. The autonomy of chambers grants a certain degree of independence from state organs, and it limits the scope of state interference into their internal issues, thereby this autonomy has a public law nature (Fazekas, 2008a, p. 30). Moreover, this autonomy is relative compared to private autonomy, as chambers are under state supervision, and their existence is entirely dependent on the will of the legislature, as they not anchored in the Hungarian constitution in any way. Finally, the advocation of professional interests is a private law feature, as this presupposes that chambers stand up for the interest of professionals even against state bodies. Accordingly, representation of interests towards the state is mostly carried out by private organizations, such as NGOs or trade unions and not by state organs itself.

As far as I am concerned, this overview proves that professional chambers *fundamentally* have a public law status. These bodies are established by the state, with the aim of taking over public tasks which otherwise should be fulfilled by state organs.[5]

3 On this issue see Detterbeck, 2021, pp. 344–349.

4 Notably, in German law membership is entirely of public law character, see Maurer – Waldhoff, 2020, p. 642.

5 For instance, in 2023 compulsory membership of the Hungarian Medical Chamber has been abolished, since then the public control of practitioners is fulfilled by a board of the Ministry of Interior.

Their existence is solely dependent on the legislature, which defines their competences and powers without any restrictions. No chamber can be founded directly by citizens or private law entities, and the aims and objectives to be achieved by the chamber are 'predefined' by law and not by the members. Naturally, chambers may take on other tasks as a part of their autonomy, but these cannot be pursued to the detriment of the public tasks defined in law. There is no doubt that chambers have private law attributes, most importantly some degree of autonomy and self-governance, which allows chambers to manage their own affairs through their members. As a result of this, they have a unique status similar to local governments or autonomous public institutions such as universities, but this does not make them private law entities. This approach is similar to German law, which makes a clear distinction between *juristische Personen des öffentlichen Rechts* and *juristische Personen des privaten Rechts*, with professional chambers belonging in the former category (Maurer and Waldhoff, 2020, pp. 570–576, 633–643). Therefore, we can conclude that from a theoretical viewpoint chambers are *fundamentally* public law entities that have private law attributes as well.

### 3.2 The positive law

However, it is a separate issue whether the positive law considers professional chambers to be public law entities as well. Therefore, in this chapter I examine whether the current Hungarian legal system regulates chambers as public law or private law entities. This issue is addressed by examining the rules of substantive law and the rules of judicial review separately. Furthermore, I also reflect on whether the positive law takes the above mentioned theoretical-dogmatical considerations into account.

#### 3.2.1 Issues in substantive law

The current regulation of professional chambers in the Hungarian legal system is inadequate, as there are no general public law rules on chambers in substantive administrative law. Currently, the legal framework of professional chambers consists of a two-tier regulation. The first tier can be found in Section 8/A of Act LXV of 2006, which defines the notion of statutory public bodies, and contains a few very basic public law-nature rules on the legal status thereof (Hoffman and Rozsnyai, 2015, pp. 492–493). However, this provision only fulfils the bare minimum when it comes to regulation of these bodies, as it does not entail any substantive public law rules on essential issues of chambers such as organization, public tasks, officials, financial affairs, etc. For instance, it sets out that statutory public bodies have 'powers laid down in acts of Parliament that are necessary to fulfil their public tasks' but does not specify these. This rule is no more than a very vague framework for substantive regulation. Therefore, the second tier of regulation plays a much more important part. This consists of the different acts of Parliament establishing and regulating

each professional chamber (Fazekas, 2008b, pp. 410–411).[6] In fact, most of the issues regarding chambers are only addressed by these 'particular' acts. These acts of Parliament have a public law nature (Fazekas, 2008b, pp. 411), but are very different both in terms of their scope and depth of regulation, not to mention the divergences regarding the content of regulation itself.

This situation begs the question: why is there no general substantive regulation on professional chambers? It is clear that specificities of different chambers should be regulated in separate, 'particular' acts of Parliament, but there are also common issues, which should be regulated broadly in the same manner in case of all chambers.

The legislature must have come to the same conclusion, which lead to the adoption of Section 8/A (5) of Act LXV of 2006. This provision stipulates that the rules of the Civil Code on associations shall apply to statutory public bodies, unless otherwise provided by an act of Parliament. This rule basically sets out the general subsidiary application of the rules on associations in the Civil Code for all statutory public bodies, including professional chambers. Basically, the legislature recognized that the two-tier regulation described above is insufficient, but instead of creating a general substantive public law regulation on chambers, opted for substituting these with substantive private law rules.

The practical implication of this rule is that if an act of a chamber is not addressed by the public law rules either in Act LXV of 2006 or in the particular act of Parliament establishing the chamber, the rules of the Civil Code will apply to that act, which consequently is deemed to be governed by private law. This general subsidiary application means, in essence, that a number of operational and organizational issues of a public law body will be regulated by private law, regardless of whether that issue is of a private law or public law character in theory. Considering that the depth of regulation in acts of Parliament establishing chambers varies, it is also possible that the same issue will be regulated by different branches of law with different chambers.

The application of private law rules to chambers is not inherently incorrect from a dogmatic standpoint, since these bodies have private law characteristics. The problem lies in the *general* subsidiary application, which may result in the application of private law rules on issues that are more closely linked to the public law status of these entities. In the current regulatory framework, the question whether an act of a chamber has a public law or private law nature is not dependent on the theoretical character thereof, but on a completely random factor, i.e., whether the legislature decided to regulate the act in Act LXV of 2006 or in the particular act of Parliament or not. For instance, if an act of Parliament on a chamber does not regulate the election of chamber officials, the rules of the Civil Code on the election of a chairmen of an association will be applicable. However, I would

6 See e.g., Act LXXVIII of 2017 on the professional activities of attorneys-at-law which establishes the Hungarian Bar Association and the regional bar associations or Act XCVII of 2006 on the chambers in healthcare.

argue that since a chamber official may practice public authority by virtue of his or her position, the process of his or her election should be much more strictly regulated compared to a private law association. Another example is the transformation, merger and division of chambers, as acts of Parliament do not address this issue, however it is doubtful that relevant rules of the Civil Code are applicable to chambers that are established not by the will of the members but by the state. These differences go on to demonstrate that chambers are not 'public law mutations of private associations' (Fazekas, 2008b, p. 410), but entities on their own rights.

We can conclude that the theoretical approach is not reflected in positive law.

### 3.2.2 Issues regarding judicial review

This issue in substantive law has serious implications regarding the judicial review of acts of chambers.

In 2018 Act I of 2017 on the Code of Administrative Court Procedure (CACP) entered into effect in Hungary. One of the most important novelties of CACP was the introduction of the notion of 'administrative dispute' in Section 4 (1), which serves as a general rule of access to court (F. Rozsnyai, 2019, pp. 9–11). Pursuant to this provision all activities of administrative bodies that are regulated by administrative law may be subject of an administrative dispute, i.e. judicial review by an administrative court, if they aim to alter the legal situation of a legal entity or have such an effect. Section 4 (7) sets out that all statutory public bodies, including chambers qualify as administrative bodies, which suggests that the aim of the legislature was that acts adopted by chambers should be reviewable by administrative courts. It must be pointed out, however, that according to Section 4 (1) only those acts may give rise to an administrative dispute that are regulated by administrative law. The purpose of this is to separate administrative disputes from civil disputes, thus clarifying the competences of administrative and civil courts.[7] Administrative disputes are adjudicated by administrative courts pursuant to the rules of CACP, while civil disputes are resolved by civil courts pursuant to Act CXXX of 2016 on the Civil Procedure (F. Rozsnyai, 2021, pp. 501–502). Consequently, not all acts adopted by chambers may give rise to an administrative dispute. Acts of chambers that are not regulated by administrative law but by private law do not fall within the scope of an administrative dispute, as a result, these can only be the subject of a civil dispute, i.e. judicial review thereof is carried out by civil courts.

Considering the inconsistencies in the substantive regulation on chambers, this regulatory framework of CACP in itself would have resulted in a fragmented model of judicial review. In this hypothetical model judicial review of acts of chambers that are regulated by administrative law, i.e. either by Act LXV of 2006 or by an act of Parliament establishing

7 See the official explanatory memorandum to Section 4 CACP.

the particular chamber would be carried out by administrative courts as an administrative dispute. This would entail most public authority acts and some internal management acts. In comparison, acts of chambers that are regulated by civil law, i.e. by the Civil Code as generally subsidiary law would be carried out by civil courts as a civil dispute. This would mostly entail internal management acts.

In this model the legal regime of judicial review would have solely depended on a contingency, i.e. whether an act of a chamber was regulated by the (public law) act of Parliament establishing the chamber or not, in which case the Civil Code would apply thereto. Judicial review would have been carried out by administrative courts in the former case, and by civil courts in the latter case. Considering that the legislature is free to decide which issues to regulate in the (public law) act of Parliament establishing the chamber, this would have resulted in the unnecessary fragmentation of judicial review. It is possible to allow different courts to review different acts of chambers, but this distinguishment has to rely on a dogmatic reasoning. In this case the differentiation would not have relied on a theoretical-dogmatic reasoning, but solely on a random decision of the legislature.

As a result of these issues, the legislature decided to adopt another model of judicial review. The most essential element of this adopted model was a newly enacted provision, namely Section 8/A (6) of Act LXV of 2006. This rule declared that any disputes between chambers and their members, between different organs or officials of the chambers, as well as between chambers and their supervisory bodies are to be resolved by administrative courts. This provision basically means that judicial review of all acts of chambers are to be conducted in an administrative court procedure (Fazekas, 2017a, pp. 459–460), regardless of whether the act at issue is governed by the (public law) act of Parliament establishing the chamber or the Civil Code. As a result of this provision, the substantive legal regime governing an act of a chamber is not relevant when deciding the procedural legal regime applicable for judicial review, as all acts of chambers are to be reviewed by administrative courts in an administrative court procedure governed by CACP.[8] However, since 'regulation by administrative law' is a part of the notion of administrative dispute in Section 4 (1) CACP, this could only be achieved by a supplementary rule enacted into Act LXV of 2006.

In practice, this rule mainly concerns internal management acts of chambers that are regulated by the Civil Code. As I mentioned above, judicial review of these acts would be carried out by civil courts in a civil dispute, had it not been for Section 8/A (6) of Act LXV of 2006, since these are regulated by civil law. However, the enactment of Section 8/A (6) means that these acts are to be reviewed by administrative courts in administrative court procedures, with no regard to the fact that they are governed by civil law, since they form a basis for a dispute between the chamber and one of its members. Consequently, the competence of administrative courts to review acts of chambers is based on two co-existing

8 This does not affect legal disputes arising from acts of chambers that are governed by other private law rules, such as private law contracts, which are adjudicated on by civil courts.

rules. Firstly, acts of chambers that are governed by administrative (public) law are reviewable by administrative courts based on the notion of administrative dispute in Section 4 (1) CACP. Secondly, acts of chambers that are governed by civil law are reviewable by administrative courts on the basis of Section 8/A (6) of Act LXV of 2006, which functions as supplementary rule on the competence of administrative courts as defined by Section 5 (2) CACP (Kárász, 2024, p. 87).

Therefore, we can conclude that Section 8/A (6) of Act LXV of 2006 basically functions as a 'catch-all clause' regarding the competence of administrative courts, which in effect means that judicial review of all acts of chambers, even those that are governed by civil law, is conducted in an administrative court procedure.

The role of this 'catch-all clause', as well as its interpretation in individual cases is highly disputed.[9] From a practical standpoint, the 'catch-all clause' is helpful to plaintiffs and courts, since it eliminates the ambiguities caused by the fragmented model of judicial review and clarifies that acts of chambers are reviewable exclusively by administrative courts. However, it is arguable whether such a practical consideration should be a decisive factor when it comes to creating an adequate regulatory framework. From a theoretical-dogmatical viewpoint the legislative intent behind this rule was correct, as professional chambers are public law entities, therefore judicial review of their acts should be carried out by administrative courts. That being said, as I mentioned, positive law in Hungary does not fully recognize this theoretical principle, as the substantive regulation of chambers heavily relies on civil law rules. From this perspective, the 'catch-all clause' is not logically consistent with the general subsidiary application of the Civil Code, as it means that acts of chambers regulated by civil law are to be reviewed by administrative courts as well.

All this goes to show that deficiencies in the substantive regulation of professional chambers cannot be remedied by amendments to procedural law. One typical aspect of Hungarian administrative law is that the general regulation on substantive issues such as status and organization of administrative bodies is highly deficient (Fazekas, 2008a, pp. 105–171, Fazekas and Nagy, 2021, pp. 44–51). This issue became pressing during the codification of CACP, since the existence of substantive rules is a prerequisite of creating procedural rules, as the latter have the purpose of, amongst others, remedying grievances arising from the breach of substantive rules. However, the adoption of CACP was not accompanied by a major reform of substantive administrative law, instead the legislature resorted to including some substantive provisions in CACP itself or to substituting substantive rules with procedural rules.[10] The 'catch-all clause' in Section 8/A (6) of Act LXV of 2006 was enacted as a part of this. The legislature did not create a set of substantive public

9 See e.g., decision BH2022. 310. of the Curia.

10 E.g. there is no general substantive regulation for administrative contracts, instead it is Section 7 (4) CACP that defines the notion thereof, see Nagy, 2022, pp. 145–146.; F. Rozsnyai, 2017, p. 241.

law rules on the legal status of professional chambers, which would determine which acts of chambers are to be reviewed by administrative courts and by civil courts. Instead, the regulation setting out the general subsidiary application of civil law was left intact and a 'catch-all clause' was adopted, referring the judicial review of all acts of chambers to administrative courts, thus remedying the lack of substantive public law rules by enacting a procedural rule.

### 3.3 The possible regulatory frameworks for professional chambers

Considering that professional chambers are public law entities that also have civil law attributes, the legislature has a wide range of choices when it comes to regulating their legal status and judicial review of their acts. The main difference between these models is the extent to which the application of civil law to chambers is allowed. In the following, I draw up three possible regulatory frameworks to be adopted. A distinction has to be made between the legal regime applicable to the status of chambers (i.e. the substantive regulation) and to the judicial review of acts of chambers (i.e. the procedural regulation). Naturally, there is a link between the two legal regimes.

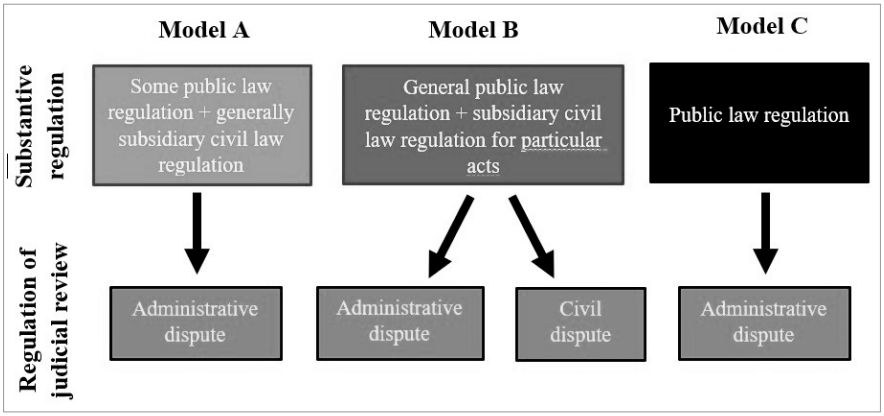


Figure 1: Possible models of regulation on chambers

Model A practically represents the current regulatory framework, which I described above. The general subsidiary application of substantive civil law rules is not consistent with the theoretical public law nature of these bodies. Moreover, this model is also incoherent by its own standards. The fact that civil law rules are generally subsidiarily applicable to chambers implies that the legislature rejects the theoretical concept that chambers are public law entities. Within this logical framework it is not clear why the judicial review of *all* acts of chambers is carried out by administrative courts.

Model B strikes a rational balance between public law and private law in the regulation. This regulatory framework is based on the concept that chambers are public law

bodies and accordingly would include an extensive set of public law rules on the legal status of chambers. That being said, it recognizes the private law features of chambers as well, and as such allows room for the subsidiary application of civil law rules (i.e. the rules of the Civil Code on legal persons and association), but only for specific acts of chambers. Ideally, the act of Parliament on the public law rules of chambers should include an exhaustive list of operational issues or acts, to which civil law rules are applicable in a subsidiary manner, i.e. if there is no applicable public law provision. The main difference between Model A and B is how the scope of acts governed by civil law is defined. While Model A grants the *general* subsidiary application of civil law rules, Model B only allows for the *specific* subsidiary application thereof. For instance, acts adopted in the course of establishing the internal organization of chambers (Fazekas, 2008a, p. 183) or some membership rights are issues that could be partly governed by civil law. In this model judicial review of acts of chambers is a shared competence between administrative courts and civil courts, depending on whether the act at issue is governed by public law or civil law. If an act is governed by civil law, i.e. a statutory rule explicitly sets out subsidiary application thereof, judicial review should be carried out by a civil court, while all other acts of chambers, i.e. acts that are governed by administrative (public law) as a general rule are reviewable by administrative courts.

Model C is the most consistent with the theoretical public law nature of professional chambers, as it relies on the exclusivity of public law rules. Consequently, this model includes an act of Parliament containing an extensive set of general public law rules on the status of chambers. This means that there is no room for any civil law regulation, all acts of chambers are governed by public law rules set out in the act of Parliament on the status of chambers or the particular acts of Parliament establishing different chambers. One significant advantage of this regulation is its dogmatic clarity, furthermore it would also clarify the place of chambers in the public administrative system, as well as their legal status in positive administrative law, i.e., that they are public entities. One possible objection to this model is that regulating all issues in a separate act of Parliament could lead to the duplication of regulation, as to some common operational issues the rules of the Civil Code could be applicable with no problems. This regulation would also ensure clarity regarding the regime of judicial review, since the exclusivity of public law regulation means that all acts of chambers could be subject to judicial review by administrative courts as administrative disputes. As a result, there would be no need for the 'catch-all clause'. One further practical benefit of this model is that no conflicts of competence may arise between administrative and civil courts regarding the review of chambers' acts.

The legislature may opt for either Model B or Model C drawn up above, as both have their advantages and disadvantages. As far as I am concerned, the current problem with the positive regulation of chambers is not that the legislature has chosen an inadequate regulatory model, but that it has not chosen any coherent, well-founded theoretical model at all, instead the regulation seems to be determined by ad-hoc decisions. The current regulatory framework, reflected by Model A cannot even be considered as a 'model' in

the strict sense of the word, as it is logically incoherent and flawed from a dogmatic viewpoint. Considering this, both Model B and Model C would be a major step forward. The adoption of either of these models would mean that the legal status of these organs would finally be clarified in positive administrative law, on the level of substantive law as well as from the perspective of judicial review.

## 4. Conclusion

To summarize, from a theoretical standpoint professional chambers are public law entities with private law attributes. However, this dogmatical principle is not fully reflected by the positive regulation in Hungary, as public law rules are substituted with a wide range of civil law rules with general subsidiary application. Nevertheless, judicial review of acts of chambers is conducted exclusively by administrative courts by way of the 'catch-all clause,'

The source of this problem is that the substantive regulation of professional chambers is insufficient, and as a result the legal status of chambers in unclear. Therefore, the regulation of the substantive status of chambers needs an extensive overhaul. The legislature needs to make a choice between the possible models described above and needs to carry through the necessary changes. A common element of all models is that a set of general public law rules on the status of chambers has to be laid down in an act of Parliament, thus clarifying their place in the system of public administration. The next step is deciding to what extent private law rules should be applicable to acts of chambers, if at all. Provided that the legislature carries out these steps, the issue of the legal regime of judicial review will solve itself, as the legal regime of judicial review is determined by substantive law. Consequently, there would be no need for a 'catch-all clause' if the status of chambers is set out clearly in substantive regulation. This is a perfect example of why procedural rules cannot remedy the shortcomings of substantive regulation and how the clarification of substantive regulation may ease the 'burdens' carried by procedural rules.

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# The Role of Universities in the Italian Regional and Local Innovation Systems

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**Abstract**

This article examines the role of universities in the Italian regional and local innovation systems, even in the light of the National Recovery and Resilience Plan (NRRP) and the evolution of the "Third Mission". Challenges remain, including weak industrial policy, limited private sector investment in R&D, and disparities between northern and southern institutions. The effectiveness of the Universities' role in the innovation system will depend on strategic governance, long-term policy commitment, and enhanced cooperation with businesses and local governments.

**Keywords:** Universities, third mission, innovation systems.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 152–160

## 1. Universities, innovation systems and the Italian National Recovery and Resilience Plan

Universities and higher education institutions play a very important role in every national innovation system (Freeman, 1987; Nelson, 1993; Mowery and Sampat, 2006). Universities participate in the wide network of institutions in the public and private sectors, whose activities and interactions initiate, import and diffuse new technologies. Universities also play a crucial role — not only in industrialized countries — in meeting social challenges such as health, aging, sustainability, climate change, and economic growth.

It should also be remembered that human capital is essential for local innovation (Corò, 2024, p. 21), since it brings up-to-date and specialized skills to local businesses, facilitates the adoption and development of new technologies and innovations in organizations. In this respect, universities are able to adapt their training programs to the specific needs of the local productive system and can therefore contribute to the training of highly qualified professionals.

In addition, research and development activities generate knowledge that can produce strategic results for local innovation. It should not be overlooked that applied research (which is able to cope with specific problems of local industry) and university laboratories offer resources which are not always accessible to individual companies.

Last but not least, technology transfer is of great importance, as it represents the fundamental link between academic research and industrial application (Etzkowitz, 2008).

Licenses and patents allow companies to commercially exploit innovations developed in academia; universities then act as hubs for the creation of innovation networks, promoting collaborative programs, industrial doctorates, internships and research consortia, which allow different actors to be involved.

A university capable of developing all the aspects mentioned so far is certainly in a position to increase its reputation and prestige in order to attract international students and researchers, businesses and investments.

In a nutshell, universities are central players in local innovation systems, acting as a bridge between knowledge production, skills formation and practical application in manufacturing and society. Universities also represent ecosystems that support entrepreneurship (including mentorship and access to networks of business angels and venture capital), promote the creation of skilled jobs, the competitiveness of the local productive system and provide a useful contribution to solving social and environmental challenges in the area.

Precisely because universities represent, together with other institutions and research centers, a connective tissue of experiences and an asset for the benefit of public policies and economic and social growth, Italy's National Recovery and Resilience Plan has allocated €30.88 billion, namely 16% of the total funds, to the "Education and Research" Mission, which is based on a strategy resting on several pillars. This Mission is aimed at improving the quality and expanding the quantity of education and training services, improving teacher recruitment and training processes, expanding skills and strengthening school infrastructures, reforming and expanding doctorates, strengthening research and

disseminating innovative models for basic and applied research conducted in synergy between universities and businesses, supporting innovation and technology transfer processes and strengthening the conditions for supporting research and innovation.

The mission is divided into two main components: the first, with 62% of total investments, concerns the enhancement of the supply of education services; the second, with the remaining 38%, is specifically oriented towards basic research and its transfer to business.

In particular, the investments and reforms of the Mission aim to act on the weaknesses of the university system with regard to underfunding research, the competitiveness and innovative content of national research, the strengthening of the synergistic exchange between universities, research centers and the local area, the North-South gaps (with the constraint of the 40% investment share in the South).

This is an unprecedented huge amount of extraordinary financial resources in Italy, the use of which should support the creation of a new system of collaboration between universities, higher education institutions, research bodies, public and private institutions, and enterprises, capable of creating research, innovation and technology transfer chains. The objective is also to experiment with exchanges between public and private entities and to stimulate the creation of start-ups and spin-offs.

The Italian National Recovery and Resilience Plan therefore not only aims to promote the "recovery and resilience" of the Italian economic system, according to the three major directions of the Next Generation EU (i.e. the ecological transition, the digital transition and the social cohesion), but also seizes the opportunity to foster the emergence of a new model of economic development, towards a knowledge-based economy — in which universities and research, adequately modernized and financed, play a crucial role — that was already proposed as a goal by the Lisbon Agenda more than 20 years ago, but never consistently pursued in Italy.

The resources of the NRRP aim to overcome the delay of the Italian university system and its serious problems (which already emerged clearly during the pandemic period). It is not just a question of increasing the number of graduates and PhDs, of overcoming the territorial divide, of promoting the integration of graduates into the world of work, but also of strengthening the international competitiveness and attractiveness of universities, making them true centers of innovation, where research results can be effectively transferred to the economic system.

To this end, five national centers have been set up, namely aggregations of universities, public and private research bodies and organizations, and companies throughout the country. These Centers have a "Hub & Spoke" governance structure (with the Hub carrying out management and coordination activities and the Spokes carrying out research activities) and are dedicated to strategic areas for the country's development (simulations, high-performance data computing and analysis; agritech; development of gene therapy and drugs with RNA technology; sustainable mobility; biodiversity).

There are 55 universities and colleges involved; then there are 24 public and private research organizations and 65 companies (in total, 144 are participating in the 5 Centers).

Investments in the Centers are aimed at the recruitment of researchers (at least 40% of whom are women), the creation and renovation of research infrastructures and laboratories, the development of research programs and activities dedicated to the five themes, to encourage the growth of entrepreneurial initiatives with a higher technological content such as start-ups and research spin-offs, and to enhance their results.

"Territorial innovation ecosystems" were then created (11 in number, with a total investment of 1.3 billion euros and with the same governance structure as the national centers), i.e., networks of state and non-state universities, public research bodies, local public bodies, and other highly qualified and internationally recognized public and private entities. These ecosystems work on areas of technological specialization consistent with the industrial and research vocations of the reference territory, regional or supra-regional, promoting and strengthening collaboration between the research system, the production system and local institutions.

Also in this case, collaborations are envisaged between the same subjects mentioned above (in a higher number, since there are 222), whose purpose is to facilitate technology transfer and accelerate the digital transformation of companies' production processes with a view to economic and environmental sustainability and social impact on the territory.

Research and technological innovation infrastructures have therefore been strengthened, namely facilities, resources and services used by the scientific community to carry out research in their respective fields.

## 2. Critical aspects of the national innovation "strategy"

It remains to be seen what concrete effects such a mass of funding will be able to generate; the time does not yet seem ripe to make specific considerations. However, it is possible to highlight some problematic aspects right now, which could weaken the actual scope of the reforms undertaken.

First, it can be observed that the instruments provided by the NRRP concentrate interventions to a large extent on the supply of training and research, but the creation of attractive and internationally competitive poles would require the creation, at the same time, of national bodies capable of avoiding the dispersion of knowledge and the absence of well-defined strategic choices, both at the level of individual universities and at the national level, necessary to overcome resistance to innovation (Regini, 2022a, p. 203). As has been rightly observed, in the absence of a clear industrial policy strategy (still lacking in Italy), the measures do not seem sufficient to overcome the existing traditional economic development model, because they do not act on the demand side for high skills and new knowledge.

In this regard, it should be remembered that Italy is characterized by a rather low level of investment by the private sector compared to the European average, since the Italian productive structure is largely characterized by small businesses, not very inclined to invest in new technologies and innovative projects. The state should therefore intervene by developing an effective industrial policy (which can be relaunched thanks to

technological innovation and sustainability), which first of all allows companies access to public resources.

In the most recent budget law, there is no change in industrial policies and the business system continues to be fueled by automatic and generalized incentives. There is still no long-term strategy and many productive sectors are not able to position themselves in an international dimension.

Secondly, it should be noted that the actors called upon to develop and implement the many measures provided for in the NRRP were largely unprepared, because they are linked to traditional modes of action, not suited to new tasks.

A significant example is the lack of adequate strategic direction tools by the Ministry of University and Research, which has not even created a National Research Agency, able to dialogue, guide and coordinate local authorities, businesses and above all universities themselves, to better achieve the innovative objectives contained in the NRRP.

Nor can it be overlooked that the management of the huge resources of the NRRP by networks, hubs, poles, research centers, is taking place in a somewhat opaque way (and moreover with a real prospect of an increase in precariousness, with many researchers lacking a real future prospect).

Furthermore, there is no doubt that the distribution of resources and the creation of centers of excellence has ended up further exacerbating the differences concerning the involvement of universities in economic and social innovation processes and the already existing gap between the north and the south of the country (Regini and Trigilia, 2019).

The current government in office intends to significantly accentuate the processes of autonomy, not only territorial, with a NRRP which however risks in this way accentuating divergences between universities and that, with the spread of private foundations and the creation of a parallel research system under a private regime, would increase competition with the public sector of universities and research institutions regarding access to resources. These concerns are growing in parallel with the increasing flexibility of scientific disciplinary sectors and curricula and the reduction of the role of ANVUR (National Agency for the Evaluation of the University System and Research).

The Italian university system as a whole does not seem to have triggered significant processes of economic innovation so far (Modina *et al*., 2024, p. 576), also — and above all — due to the absence of adequate public policies (Regini, 2022b, p. 19) with a certain stability (compromised by the still high government instability characterizing the country).

It also seems useful to highlight the persistence of a training deficit in our tertiary education system, since a professionalizing channel capable of attracting students who are less motivated to undertake an academic path and are more interested in rapid entry into the world of work remains almost absent (Modica and Ghizzoni, 2022, p. 209).

This gap described above seem to place Italy in a different position compared to the experience of all other advanced economies. In some countries this role has in fact been entrusted to "short cycles" established within the university system, while in other states (especially in many northern European countries), a formally "binary" higher education system has been

established. In these countries there are alongside universities parallel institutions in close contact with the world of work, capable of understanding the needs of those who want to achieve a high level qualification but outside the traditional academic paths.

It is true that, in the last decade, some professional degrees have been introduced on an experimental basis, that is three-year courses of study with universities, companies and professional associations work in synergy, but Italy is still very far from having a substantial tertiary path alternative to the university one.

One factor that contributes to the efficiency gap of Italian universities compared to those of other European countries is the lack — in most public universities — of an effective coordination with secondary schools, as well as generalized and compulsory forms of entry orientation and efficient support services for the educational pathway.

Finally, it should be remembered that in Italy there are very few PhDs compared to their number in other European countries and they encounter greater employment difficulties, due to a lack of demand, linked, on the one hand, to the type of Italian economic system — characterized by a preponderance of micro-enterprises and medium-low technological intensity production sectors — and, on the other hand, to the much smaller size than elsewhere of public sectors such as education, health, social services and public administration, which typically absorb highly qualified professionals (Ballarino, 2020, p. 48).

In Italy there is still a traditional model of doctorate conceived as the first step for starting an academic career, while in other European countries this level of higher education has become the one in which the most highly specialized professionals for the economic system and public administration are also trained. However, making the private and public labor market the main employment field for PhDs in Italy as well requires a greater effort in creating third-level study programs specifically aimed at innovation in businesses and in public administration (a direction in which the NRRP seems to have actually moved).

## 3. University and Third Mission

In light of what has been said so far, it is easy to conclude that one of the most significant obstacles to a stronger role of universities in local and regional innovation systems is the absence of a clear national strategy on training, on the supply side, but above all of a long-term, adequate and efficient vision, on the demand side (Stella, 2017). The Italian university system continues to show overall low efficiency in providing human capital to an adequate extent to favor a "high road" to development, and a research performance which has proved insufficient to trigger significant processes of economic innovation. Moreover, this lack of efficiency has not been compensated by greater equity and a greater ability to foster social inclusion.

At the moment it seems preferable to think in terms of the coexistence of several local innovation systems, which express a fragmented reality, not strategically coordinated at the national level and with a rather modest impact, in most cases, which moreover does not even seem possible to measure with absolute precision (Boffo and Moscati, 2015, p. 257).

In this regard, it should be noted in particular that not all universities publish data and information related to the so-called "Third Mission", that is to say the set of scientific, technological and cultural transfer and productive transformation of knowledge activities, through which universities activate processes of direct interaction with civil society and the entrepreneurial sector, with the aim of promoting the economic and social and cultural growth of the territory (Frondizi, 2020, p. 54).

The Third Mission is in effect an institutional mission of universities, alongside the traditional ones related to teaching and research and whose purpose is essentially to encourage discussion, exchange and mutual development between the University and stakeholders, in relation to the territory and social contexts of reference, in order to build a "knowledge society".

Third Mission activities are usually organized into specific projects — through which the university interacts with the business world, public and private institutions, the various sectors of volunteering, more generally with society as a whole — which are developed around two main axes, On the one hand, there is a mission of "enhancement of knowledge" and its transformation for productive purposes (the management of intellectual property, the creation of enterprises, research on behalf of third parties and research-industry relations, and the management of intermediation and support structures, generally on a territorial scale). On the other hand, there is a cultural and social mission, through the production of public goods that increase the well-being of society, in the educational, cultural, social and public engagement fields (conferences, lectures, public events, presentations, etc.).

Third Mission activities include, for example, activities on behalf of third parties, archaeological sites and museums, consortia, continuing education, public engagement and, for the purposes that are of most interest here, also patents, spin-offs and start-ups.

At all Italian universities, the Third Mission is increasingly involving the relationship with businesses, society and the local area, through projects to promote research and entrepreneurial, social and cultural activities. However, what appears to be of particular interest is the commitment of universities to increase the direct commercial exploitation of scientific knowledge, through patents or the creation of companies by academics, but also research conducted jointly with companies or on their behalf.

University spin-offs and start-ups are private law bodies whose purpose is the use, in an entrepreneurial key, of the results of university research, in order to develop innovative products or services. In legal terms, these are companies whose main corporate goal is the use of the results of university research. Spin-offs, in particular, represent an excellent tool for transferring these results to the industrial world, through the creation of a new innovative business activity based on a research background developed in the academic field.

The procedures for proposing, participating and assuming formal responsibilities in companies with spin-off or start-up characteristics are defined by Decree No. 168 of 2011 issued by the Ministry of Education, University and Research. Many Italian universities have also adopted their own regulations, aimed at regulating the methods of involvement,

which vary according to the characteristics of the different entrepreneurial projects. These regulations also set out the procedures for granting the university's spin-off trademark and contain, if applicable, the conditions for the use of the university's premises and equipment and the employment of university staff.

Each University then has specific guidelines for patenting, spin-off and start-up creation.

The advantages for companies are manifold and range from the application of strategic technological knowledge to the development or innovation of products and services, to the opportunity to invest in innovative companies, to access to specific advanced technological knowledge, transferring qualified and high-level know-how to the productive world. It should also be noted that tax breaks are generally provided for innovative start-ups.

There is broad consensus on the need for greater commitment by universities in this area and on the difficulty of measuring the results achieved so far. There are in fact many differences between small and large universities and between regions in the south and the center-north of the country, due to a different demand from the productive sector and the different involvement of local governments. In the opinion of many, then, what matters most to contribute to innovation and development of territories is not the size or territorial location, but the ability of universities to give themselves a solid strategy and to establish an effective level of coordination with businesses and local governments.

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# The Development of Romanian Higher Education After 1990. Challenges and Institutional Transformations

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**Abstract**

This paper investigates the massification of higher education in Romania, with a specific focus on the dramatic surge in student numbers that occurred after 1990. Under the communist regime, access to higher education was extremely limited, with only 10% of individuals aged 20 to 24 enrolled in universities by 1989. The transition to a democratic system led to a substantial increase in student enrollment, characterized by both gradual and pronounced growth. The early 2000s were marked by extensive reforms and transformations in Romania's higher education landscape, driven by political and legislative changes. This period saw Romania's involvement in the Bologna Process and its integration into the European Higher Education Area, which significantly influenced the higher education sector. Furthermore, the increasing demand for skilled professionals in the labor market emphasized the necessity of obtaining university degrees. This study utilizes qualitative research methods, including interviews, to gather insights from higher education experts and educators who played pivotal roles in the massification process. By examining their perspectives and experiences, this study aims to offer a comprehensive on-the-ground analysis of Romanian higher education in the 2000s, highlighting the constraints and institutional incentives that influenced both individual behaviors and the evolution of higher education institutions.

**Keywords:** massification, institutionalism, higher education, institutional change, student choice.

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## 1. Introduction

### 1.1 Theoretical Framework: Institutionalism and Its Evolution

In this paper, I examine the institutional transformations in Romania's higher education system in the post-communist period, positioning these changes within the theoretical framework of institutionalism and its subcategories. The discussion begins with key concepts such as "rule," "model," and "institution," providing a basis to understand how these frameworks illuminate the organizational and institutional shifts in this context. This theoretical foundation sets the stage for analyzing how these changes influenced human and organizational interactions, as well as their implications for the evolution of higher education in Romania, which is explored in the subsequent sections and case study.

In a first phase, formal organizations are generally understood as systems of controlled and coordinated activities that, in modern societies, develop in highly institutionalized contexts. Thus, organizations are driven to integrate practices and procedures defined by prevailing rationalized concepts of organizational and institutionalized work in a society. Therefore, organizations that do so increase their legitimacy and longevity, independent of the immediate effectiveness of the acquired practices and procedures. To be more clear, institutional products, services, policies, and programs function as "*powerful myths*," and many organizations ceremoniously adopt them (Meyer and Rowan, 1977). Regarding the institutions, the two authors believe that they inevitably involve normative obligations, only that they often enter the sphere of social life primarily as factors that must be taken into account by the actors. More precisely, institutionalization represents the mechanism by which social processes, actualities or obligations come to obtain a *"rule" status* in social thought and action. Thus, an example both normative and cognitive in this regard is the institution of the doctor as a strongly institutionalized rule both in order to treat diseases and as a social role made up of certain behaviors, relationships and expectations (Meyer and Rowan, 1977). In the same sense, a sign indicating "Smoking prohibited" represents an institution with a legal status that has as implications the attempt to regularize the behavior of smokers.

Therefore, fundamental to this argument is the fact that institutional rules can have effects on organizational structures and their implementation in actual technical work (Ibidem, p. 46). Before continuing the discussion of institutionalism and the subdivision of it that is of interest to this paper, I will discuss some aspects of what constitutes an *"institution"* and what are its defining characteristics. In a first instance, according to Douglas North (1990), institutions represent the rules of the game in a society or, in a more formal sense, are the constraints created by people to shape their interaction with other actors in society. In this sense, they created systems of incentives aimed at regulating inter-human exchanges, be they economic, social or political. Thus, the institutional change in a society leads to the way it develops over time, so it is a very useful tool for understanding the changes that have occurred throughout history (North, 1990). Institutional constraints encompass both what individuals are prohibited from doing and, sometimes, the

conditions under which individuals are permitted to take a particular action. According to these definitions, institutions represent the limits within which human interactions can be carried out (Ibidem, p.4). Institutional constraints can be both formal (norms, rules, laws) and informal (such as conventions or codes of conduct), the formal ones being of interest in this work, given that they can be much more easily analyzed and measured, in compared to informal ones.

On the other hand, from a rather sociological perspective, Ronald Jepperson (2021) lists some elements that have the meaning of being institutions, such as: *"marriage, contract, motel, insurance, vacation, army, formal organization, presidency", "collection of hand", "sexism",* etc. All these elements are different from each other, some being more related to culture, others to structure, but there are some common points that lead us to group them together. All represent *"social programs"* or *"permissive structures",* connotations that refer to the repetitive character of sequences of activities (Jepperson and Meyer, 2021). In other words, the term " *institution"* represents a social order or pattern that has reached a certain state or property, institutionalization representing the process that leads to this result. By "*order"* or "*model"*, Jepperson refers to standardized interaction sequences, the institution being the social model that reveals a certain process of reproduction (*Ibidem*, p. 39). In the same vein, according to Guy Peters, the institution represents a structural characteristic of society and/or a policy and involves groups of individuals in modeled actions that are predictable based on specific relationships between the actors involved (Peters, 2019). More precisely, "*institution"* means the mechanism that governs the behavior of individuals in a community and represents an integrated system of rules that structure social interactions (Huntington, 1996).

However, the multiplicity of meanings assigned to a key term such as "*institution*" poses a problem in the very fact that there is no general understanding among academic communities of how individual preferences, strategies, rules, norms, customs, or aspects of political systems are related to each other. Terms such as "*action"*, "*results"* or "*coalition"* have, over time, acquired a general acceptance of how they are used in the formulation of theories generating predictable results. Thus, the multiple uses of the term "*institution"* indicate that it can be several concepts that should be identified and treated separately. The reason is that effective communication cannot be achieved if several researchers refer to the same concept but with a different meaning, although a scientific community cannot totally agree on a single language (Ostrom, 1986). Therefore, identifying the best definition of the term "institution" is not the focus of this discussion, but rather the use of the concept of "rules" as a term of reference when discussing institutions, this being predominantly used in publications that have as their object institutionalism (Ibidem, p.5). Regarding the meaning of the term "*rules,"* they are seen as "*personal strategies or routines"* (Heiner, 1989), as well as a set of norms used by more than one person to regulate decision-making. in interdependent situations.

In game theory, the rules of the game represent not only the mode of action, the information structure and the consequences of all decisions, but also the system of preferences

of all players (Shubik, 1984). However, Elinor Ostrom chooses to use the term "rules" as "*prescriptions commonly known and used by a group of participants in order to systematize repetitive and interdependent relationships*" (Ostrom, 1986), where by "*prescriptions*" she delimits what the actions are required, permitted and prohibited. Thus, rules represent the results of the implicit or explicit efforts of some individuals to achieve order and predictability in a certain set of situations, such as the establishment of positions in an organization, how participants can obtain or give up positions, or what are the actions that are allowed, prohibited or required of participants (*Ibidem*, p.5). Finally, I think it is important to note that Ostrom makes a clear distinction between "rules" and "formal laws", the latter becoming rules only when participants understand the law and are held accountable if they break it. Coercion is thus necessary for a law to become a rule, and participants may design or develop their own rules or follow those already drawn up by others (*Ibidem*). At the same time, institutions can also be discussed from the perspective of their form, more precisely structured and unstructured institutions.

### 1.2 New Institutionalism and Higher Education

Through this subchapter I intend to start the main theoretical discussion that is the basis of this paper, namely the one about the new institutionalism. I will thus try to discuss the usefulness of this theoretical perspective, but also how the new institutionalism discusses how and why institutional changes occur in a society. Given the assumption that individuals will modify or revise their behavior depending on the surrounding institutional framework, the norms and rules imposed on them can provide us with substantial information regarding the directions they will follow in both society and the environment academic.

"*Education has varied infinitely in time and space. In the cities of Greece and Rome, education formed the individual to blindly submit to the collective [...] Today, education tries to make the individual an autonomous personality. In Athens, they tried to form cultivated, informed souls [...] In Rome, they wanted all children to become men of action, devoted to military glory. In the Middle Ages, education was, above all, Christian; in the Renaissance it assumes a literary character; science today tends to occupy in education the role that the arts once occupied*" (Durkheim, 1956). I have chosen to introduce this section by referring to this characterization of Durkheim (1956) because his vision of educational institutions in society still applies today. Even though the paradigm has changed from previous centuries, both old and new institutional thinking assumes that social institutions can take on broad forms and structures, depending on the actors they address. Taking the school setting as an example, it may represent a small group of children listening to a story outdoors, a group of students passing the ball in the gymnasium, or a group of high school students doing experiments in the physics laboratory in an environment controlled (H.-D. Meyer & Rowan, 2006)

In this sense, the purpose of an institutional analysis is to help us understand why, given several available alternatives, one of them is preferred by the individual or organization and

which parties have the most to gain in a certain problem. According to this perspective, institutionalists try to identify what are the options that society and political actors have, which of the groups have to gain or lose and, vis-a-vis the educational factor, based on which constraints and arrangements this process takes place (*Ibidem*, p.4). Classical institutionalism envisages an analysis of long legal structures and a view of institutions according to which their existence as social arrangements is distinct from the action of individuals. On the other hand, the new institutionalism has as its central idea the fact that people and the actions provoked by them are the basis of the construction and consolidation of social institutions. More specifically, institutions are the creations of individuals to provide clarity and meaning to the interactions they engage in with other members of society. This results in values, behaviors and patterns that are reproduced in various situations because other alternatives cannot be considered at the time. I am thus discussing here about compliance with rules and norms, that is, the routines that are triggered in the relationships between people and organizations so that the interactions are effective and lead to progress (H.-D. Meyer & Rowan, 2006).

Another aspect addressed by the new institutionalism is that between the policies of a state, its economy and civil society there are close links that are constantly changing. In other words, the new institutionalism perspective gives economic markets an institutional load, the structure of which fluctuates according to aspects such as institutionalized forms of ownership or contracts developed by states and applied to individuals in civil society. I am thus discussing here about "institutional arrangements", i.e. those forms of organization of rules and norms in a society that can have significant consequences on the behavior of economic actors. Parties involved in economic transactions are, as in the case of neoclassical rationality, motivated by potential gains relative to estimated costs. The difference, in this case, is that the new institutionalism does not assume that individuals are the autonomous authors of their own preferences, but rather that their preferences are shaped by the constraints of a well-defined institutional framework (Immergut, 1998). From this perspective, the behavior of individuals cannot be one of indifference regarding the institutional arrangements in society, so they will try to "negotiate" as best as possible the institutional framework in which they operate. For this reason, institutional change becomes an attempt by each individual actor to be part of institutional arrangements as favorable as possible to their own interest (H.-D. Meyer and Rowan, 2006).

The change brought about by the new institutionalism regarding the model of the rational actor in a society is the importance of framing the discussion in a well-defined time frame. More specifically, the discussion of individual behavior is a useless one as long as the temporal, cultural and traditional reference implied by a particular institutional arrangement is not clearly specified. In this sense, the social context is very important, considering that individuals have complex behaviors that are difficult to reproduce identically from society to society. Therefore, the institutional system leads to the modeling of the entire structure of economic arrangements from a social framework (Powell, 1991). This time, the focus is on the attention that individuals should pay to the historical figures who built

and influenced certain institutions. For example, institutionalist theory does not assume that, at the political level, strong coalitions will generate the most effective and desirable social institutions. Moreover, a dominant leadership is likely to act so that institutional change does not occur at all or, if it does, change is gradual. Thus, any institutional change will most often start from a change of a political nature, that is, through a change produced in power relations at the social level (Powell and DiMaggio, 1991).

Regarding the implication that institutionalism has in the context of the expansion of higher education, the perspective proposed by sociological institutionalism is one of the starting points. I discuss here the perspective that the analysis of higher education is done in concise terms, in the form of a set of local and specific organizations, social roles and interactions, but also economic institutional arrangements. Specifically, whether we are discussing universities, teachers, students, or disciplines such as mathematics, literature, law, etc., all of these may have superficial local forms, but are truly rooted in the historical and global system (Meyer *et al*., 2007). In other words, social development over the last centuries has led to the institutionalization of supranational norms that constitute and structure the higher education system. From this point of view, local higher education organizations (i.e. universities) are inevitably dependent on outside institutions, this being a consequence of the culture of university "centrality" (Meyer *et al*., 2007). The argument here is that a supra-national framework encompasses both organizational and cultural templates, in order to set rules for what higher education provider organizations are, what their nature is and what a student represents. In this way, a universal organizational model is created that complements and improves local organizations.

In modern society, life and career are intensely influenced by various external models and norms to which states adhere. Individuals are required by law to attend primary education all over the world (Ramirez and Ventresca, 1992), and obtaining educational qualifications and degrees is a widespread requirement for individuals to access desirable jobs (Brown, 2001). The close relationship between the educational course and the occupational status on the labor market means that, in contemporary society, the skills of individuals are mostly useless, if they cannot prove through a diploma that they are qualified in this sense. On the other hand, the individual's obtaining a university degree will cause his abilities to be frequently treated as secondary attributes (Collins, 1971). These widespread patterns of university practices lead to the idea that higher education institutions reflect operating models taken over from the international level and thus end up developing as many similarities as possible over time and also developing similarly. Historically speaking, the global spread of higher education has occurred with a considerable degree of isomorphism in terms of the purpose, aspirations and content of the university environment (Riddle, 1993). In other words, the way in which higher education has spread worldwide has led to the creation of models and templates in the last decades, so that a process such as the expansion of higher education takes place transnationally in a similar way (Thorndike, 1975).

## 1.3 Institutionalism of rational choice and the concept of "student choice"

Since the institutional framework is not a homogeneous one and has, in turn, several subcategories, I will discuss in the following about one of them — rational choice institutionalism (also called economic institutionalism). The usefulness of this section is to provide us with a theoretical starting point in the discussion of student choice, an important process in terms of how individuals view the idea of enrolling, or not, in an undergraduate cycle of a higher education institution. This discussion is thus closely related to the institutional incentives and constraints surrounding individuals' decision about the future path they intend to follow. I aim here to identify how they rank a set of alternatives, a process behind which they arrive at a more or less rational decision, depending on the circumstances.

Considering the different angles from which the "rational choice" approach to studying institutions can be analyzed, there are three general methods that can be distinguished in the specialized literature and which I will briefly discuss below (Knight, 2001). The first of these approaches sees institutions as characteristics of individual preferences, the actor's utility function including arguments about altruism, cooperation or observing social norms (*Ibidem*). In other words, it considers the needs of a social group as the basis of individual behaviors, an aspect that does not have as a fundamental feature the argumentation proposed by the rational choice approaches that are of interest for this paper. Another approach sees the institution as a behavioral equilibrium in an already ongoing game. Specifically, its goal is to describe institutions in a way that explains observed behavior but also discusses the conditions that institutions must meet to be effective. Thus, an "*institution-as-equilibrium*" approach is chosen here, which aims to examine the differences that appear between formal and informal institutions, what are the circumstances under which they exist and what are the effects on the well-being of the participants (Schotter, 1981). The last approach and, at the same time, the closest to the idea of the rational actor is the model that treats institutions as constraining factors of behaviors. He sees institutions as "*rules of the game*" that examine rational behavior within the constraints imposed by institutional rules (North, 1990).

For North, an institution represents a scenario that names the actors, their behavioral strategies, the order in which the actors make the choices, the information they have at the time of the choice and the result obtained after the whole process (Ibidem). However, Randall Calvert makes a criticism of the "*institutions-as-constraints*" approach, namely that its utility is enhanced for understanding behaviors under stable institutions, but it fails as a tool for understanding the institutions themselves. The problem lies in the fact that the approach takes for granted the effectiveness of institutions in influencing behavior. In this sense, the "*rules of the game*" are either (a) impossible to break, given the specifics of the game or the guarantee of the actions of the other players; or (b) supported by certain external sanctions (Knight, 2001). Related to the Romanian higher education system, the "rules of the game" represent the functional norms, consistently imposed by the universities, and are criteria based on which individuals or organizations are either rewarded or sanctioned, depending on compliance with the respective norms. More precisely, if a university is more

oriented towards teaching, the "rules of the game" will consist of organizational inputs, such as educational plans, the development of the material base or the category of human resources (Păunescu *et al*., 2011). On the other hand, if a university puts more emphasis on the research side, then outputs, such as the number of ISI articles published by academics, will be more valued.

Institutional change will therefore have a significant impact on how universities position themselves, given that changing the 'rules of the game' involves changing the reward/sanction system. If the ranking of universities and the granting of funding will depend on, for example, the endowment of the universities, then they will rather be oriented towards teaching, considering that the material basis and the content of the courses are the most important criteria in the evaluation process of a study program university (*Ibidem*, p. 27). On the other hand, Barry Weingast distinguishes four characteristics specific to "rational choice" approaches to institutions (Katznelson and Milner, 2002). First, consistent with Douglas North's ideas, these approaches provide an explicit and systematic methodology for studying the effects of institutions. Thus, institutions are modeled as constraints on actions, given how they affect the sequence of interactions between actors, the choices from which actors can select, or the structure of available information. Regarding the second characteristic, the focus falls on the comparative nature of the methodology, providing predictions of two types: (1) models that often compare two different institutional constraints, providing predictions regarding expected behaviors and outcomes; and (2) given because the approach is based on equilibrium analysis, it often produces comparative results about how behavior and outcomes will change as underlying conditions change.

Thus, from the perspective of Higher Education Institutions, the issue of student selection criteria arises, which has two main elements: (1) the question of whether individuals should opt for higher education compared to other alternatives – such as working; and (2) the issue choosing a certain university over another (Hossler and Bontrager, 2014). Given that the student choice literature does not present a widely accepted model of student decision-making, various authors opt for either a five-stage model (Kotler and Keller, 2016) or a more common three-stage model (Hossler and Gallagher, 1987). According to the latter, a developmental model of student choice contains three phases: (1) predisposition, in which the student makes the decision to continue his studies; (2) search, when the student accumulates as much information as possible and develops a set of criteria to evaluate different universities and be able to rank his alternatives; and (3) choice, when he decides on one of the alternatives. Regarding the choice criteria that students refer to in the process of selecting a university, some of them are: the reputation or social status offered by graduating from certain universities, financial considerations such as state-funded or bursary places, career prospects, the quality of some programs or the location of the university (Mitić and Mojić, 2020).

## 2. Findings from Qualitative Research

In this sub-chapter I will discuss a few of the aspects resulting from the discussions with the twenty-one respondents during the interviews that took place over six months (May–November 2023). In this interval I collected qualitative data on higher education in Romania and how it developed and transformed with the fall of the communist system in December 1989. Therefore, the discussions focused on several interconnected dimensions, thus starting with the memory of the communist period and the way Romanian higher education was organized at that time. Once these benchmarks were established, it was of interest for my research to discover what were the first institutional changes that took place in the first years after the Romanian Revolution and, subsequently, how these changes contributed to the massification of higher education in Romania. Also, since the perspective of internationalization implies better communication and relations with foreign university environments, I considered how the Bologna Process contributed to the expansion of Romanian higher education. Last but not least, funding was another point of interest for this research, considering the system of incentives that is created around the funding methodology and the way in which universities are allocated state budget funds.

Regarding the perspectives on Romanian higher education from the pre-capitalist period, the interviews highlighted aspects such as institutional rigidity, centralization and elitism. Given that less than 10% of the population had access to tertiary education, people's main dissatisfaction was with formal access to universities. Entrance exams were highly selective and places available were very limited, so individuals applied for admission consecutively for several years for a chance to study the main fields of the period: industry, engineering or medicine. Fields of study such as social work, sociology and other social sciences were, according to the unanimity of the perspectives resulting from the interviews, strongly or completely "strangled" during the communist period, so that a field such as political science existed in the form of teaching party ideology, and social work was completely abolished. Therefore, the main characteristic of the university environment in the period before 1989 was that "immobilism", more precisely the inability of the university environment to reflect the real needs that the citizens had. Finally, the discussion about the elitism displayed in Romanian higher education was strongly supported by some respondents, as well as refuted by others. I am referring here to the two perspectives: the one according to which the system was an elitist one and only some individuals had higher education, and another according to which higher education was not officially reserved for elites, but elites were those who ended up being students, and it is difficult to establish if the latter were able to be students due to this privileged social status.

Although I chose to describe the college climate in the early 1990s with terms such as "fuzziness" or "idealism," one word I uncovered from the interview discussions was "disastrous." This term appeared in the context of the discussion about this, but this time, it was not formal access to higher education that was the trigger, but access to information and the gap between Romania and European and global developments. More precisely, the stagnation both technologically and from the point of view of research, made the access to

information in Romania very low, people could access up-to-date information and newly published literature only through their own connections and thus passed through the student years without consulting the latest materials in the field. Progress occurred when libraries were opened, discovered and the works published at that time began to be translated, but their distribution was difficult due to the lack of copiers. The emergence of new fields of study also facilitated the expansion of the university market for prospective students, given that they now had a wider range of options regarding their future as employees. As state-owned industry suffered after the fall of communism and investor interest in the field waned, it was no longer as attractive for students to obtain an engineering degree, and so the "field" was occupied by fields such as the social and humanities, which were much more accessible and did not require knowledge of exact sciences.

As state education was unable to cope with the number of people wanting to access tertiary education and the fields of study were increasingly varied, a need arose in the university market for additional providers to cover the deficiency created by the previously mentioned lack of access. Therefore, the mid-1990s was marked by the emergence and rapid development of private higher education institutions which, as can be seen from the discussions with the respondents, represented an initiative that was as new as it was difficult to manage and evaluate in the first years since its appearance. The beginnings of private universities were unclear, unregulated, and characterized by "outlawry" translated as a chaotic enrollment process, in very large numbers, without quality, and with very easy obtaining of a diploma upon completion of studies. Thus, the accelerated increase in the number of students in that period was artificial and was due, according to several respondents, to enrollments in private universities. This led to an oversaturation of the market for graduates of private universities, the consequence being the devaluation of the degrees they obtained, given situations such as the one where graduates' CVs were automatically rejected for employment if they mentioned graduating from a university private.

However, the completion of studies in newly emerging fields also brought with it a degree of uncertainty regarding the applicability of the skills acquired in the conditions of a labor market that did not offer students guarantees in this regard. However, the general desire among people was that of "self-improvement" which was translated into trying to enter the higher education system with the aim of acquiring either skills and abilities in a particular field, or to occupy a certain desirable social state. For this reason, the image of the student in the early 2000s was a privileged one, given that once they graduated, individuals could access higher paying jobs and had a better chance of integrating into social circles. In comparison, according to the discussions with the respondents, the status of the student has changed a lot nowadays, so that students no longer prioritize academic activity and rather identify themselves with the workplace or various other activities they undertake, thus putting studenthood on a plane secondary. This desire of people to access higher education in greater numbers also created internal university incentives for expansion, given that more students automatically meant more classes, thus more norms and more job opportunities, teaching and promotion positions in higher positions.

The emergence of the European Higher Education Area (EHEA) represented the institutional change that would change the way tertiary education was thought about in Romania, through actions such as cooperation, mobility, exchange of experience and, implicitly, the adoption of the provisions of the Bologna Process. Exchange programs appeared, students and professors were increasingly connected with universities abroad, and thus the aspect of internationalization was consolidated as an incentive to consider in the decision of individuals to access higher education. Also, the Bologna Process offered better clarity and separation of university cycles, by moving to the bachelor's, master's and doctorate system, which was not seen favorably by all respondents. I am referring here to perspectives such as the one according to which university coherence suffered due to the one-year decrease in the length of the bachelor's cycle and the introduction of the master's cycle which, initially, was not so easily accepted, the reason here being the loss of some courses or even of university norms by the teachers who were affected by the shortening of the years of study. However, for students, this reduction in the length of their undergraduate studies represented an opportunity to leave the faculties faster and, implicitly, to enter the job market faster or to change the field if what they studied until the end of their studies doesn't suit them.

In terms of the size of funding, the main elements drawn from discussions with respondents are dissatisfaction, lack of predictability and the alternative of a funding methodology that would remove university incentives to lower standards in order not to risk losing students. In other words, according to the current methodology, a good part of the budget funds allocated to the universities go to them depending on the number of students they enroll each year. The previously mentioned alternative envisages the possibility of the funding being made per cohort, not per the number of students who remain in the faculty each year. More precisely, according to the alternative proposed by some of the respondents, universities would receive in the first year the amount of money for all enrolled students, for all undergraduate years. In this way, even if some students do not meet the standards and fail to pass an academic year, the institution of higher education would not lose anything financially, because the funds have already been allocated for the entire period of undergraduate studies. Therefore, an incentive system would be created within which standards would be maintained at the highest possible level, given that there would no longer be the risk of losing funds and, implicitly, the risk of losing norms or becoming incapacitated for the payment of salaries, since the university no longer loses money in the event of a student's withdrawal.

This paper highlights selected findings from the broader qualitative research conducted with twenty-one experts in the field of higher education. Through in-depth interviews, the study explored various facets of institutional transformations in Romania's higher education system post-1989. While this paper focuses on key themes such as massification, internationalization, and funding methodologies, the broader research delves into additional dimensions, offering a comprehensive perspective on the challenges and opportunities faced during this transitional period. We thus learned that, both before '90 and shortly after,

the institutional climate in higher education was one characterized by immobility, lack of clarity and the lack of a clear future direction regarding the development of this sector. However, the effervescence of the period and the idealism shown by the institutional actors made it possible for higher education in Romania to start on the path of massification. Thus, the steps followed were the emergence and rapid development of private education, the emergence of new fields of study previously prohibited or suppressed during communism, internationalization, as well as the expansion of the labor market and the possibility for graduates to find a professional path more easily. What fundamentally changed was formal access to higher education, given that the reason why participation in academic life was so low during the communist period was not people's lack of interest in higher education, but the very limited number of places and the very high competition for the respective academic positions.

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# Innovation Potential of the Košice Region Ecosystem

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**Abstract**

Trends and challenges of contemporary society are forcing more intensive collaboration among local and regional stakeholders. Helix models are built on the assumption that knowledge and innovation have the potential to integrate and manage increasing interactions of multiple societal subsystems. The Quadruple Helix model describes interactions involving the local government, business environment, higher educational institutions, research organizations, and society. The study examined the innovation potential of the Košice Region ecosystem. The study examined the roles of key stakeholders in the Košice Region, as an implication of the Quadruple Helix model, and their impact on the ecosystem´s development. The research confirmed the importance of their cooperation for the innovation ecosystems and identified new types of 'modified subjects' derived from the

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roles and missions of traditional actors. The primary benefit of our research is the identification of a theoretical model and the explanation of the mutual relationships between traditional helixes of the Quadruple Helix model and modified subjects.

**Keywords:** quadruple helix model, innovation potential, innovation ecosystem, modified actors, Košice Region.

## 1. Introduction

The collaboration of local and regional actors is a prerequisite for the functioning of a healthy ecosystem that supports innovation and development of the territory. At the same time, these relationships set up in the ecosystem also contribute to the development of the participating entities themselves. The theory defines several approaches to innovations and the harmonization of relations between regional and local actors.

The most discussed framework emphasizing the importance of innovations within the cooperation of local and regional actors is the Helix theory. Based on the number of helixes, the traditional aspect of the helix model theories of innovation is the collaboration of key actors in the territory. Theory and practice mostly consider the Triple Helix model and the Quadruple Helix model, which identify collaboration between business, government, academia, or civil society as the fourth helix. However, other modified subjects were established by basic and traditional helixes in different states during the last years. These modified subjects are created as a result of intensive collaboration in the territory, and at the same time, they act separately, but their main impact is added value for the innovation in the ecosystem (Shin, Rask and Kahma, 2023; Hasche, Höglund and Linton, 2019; Höglund and Linton, 2018). In this regard, modified subjects are usually created as a result of collaboration between traditional helixes.

The study has the ambition to realize preliminary research and investigate the innovation potential of the Košice Region ecosystem. More specifically, the study highlights the existence of newly modified subjects in the Quadruple Helix model approach and identifies their importance for the development and innovation in the Košice Region ecosystem.

Subsequently, the study identifies and explains the unique model in the Košice Region ecosystem and creates a universal theoretical Quadruple Model that reflects the role of identified modified subjects.

## 2. Innovation ecosystems and helix models

### 2.1. Collaboration in innovation ecosystems

Collaboration in the territory between different local and regional stakeholders allows local and regional governments to be more susceptible in the way they develop infrastructure to meet the needs of their citizens. Contemporary democratic governance and

sustainable development issues can only be solved or mitigated with the mutually beneficial collaboration of stakeholders. The interdependence of local and regional stakeholders is the key characteristic of innovative regional and local ecosystems.

From a theoretical and practical point of view, different approaches have evolved at the communal and regional levels. Several approaches explain the development of the region and the relationships between individual actors, concepts of endogenous development, e.g., Learning region, IS, NIS, RIS (Pino and Ortega, 2018).

Specifying the beneficial interactions and collaboration between relevant subjects through the existence of interdependencies between all the participating subjects, the helix model theory is a frequently used framework worldwide. The main benefit and advantage of these theories is the concentration on innovation and development within the local or regional ecosystem. Long-term collaboration among local and regional stakeholders naturally leads to more connected and efficient local and regional innovation ecosystems, that bring together people or organizations whose goal is to generate innovations and foster linkages between resources, organizations, investors, and policymakers (European Commission, 2024; Fan, Urs and Hamlin, 2019; Gonzalez Fernández, Kubus and Pérez-Iñigo, 2018; Ručinská and Ručinský, 2007). In other words, an innovation ecosystem is the evolving set of actors, activities, and artifacts, and the institutions and relations, including complementary and substitute relations, that are important for the innovative performance of such an innovation ecosystem (Granstrand and Holgersson, 2020). The helix models of innovation provide a fundamental framework for the development of innovation ecosystems that are based on sophisticated relations between local and regional stakeholders grouped into the helixes.

## 2.2. Helix models of innovation

Helix models usually describe collaborative tendencies among local stakeholders focused on the development of the territory and participating entities. The foundation of helix models is underlining the natural tendency of local stakeholders to collaborate in specific territories. These models aim to build and foster collaboration in territories that produce innovations. Helix models are built on the proposition that knowledge and innovation have the potential to integrate and manage increasing interactions of multiple societal subsystems (König, Suwala and Delargyet, 2020). The importance of helix model theories and their application based on live and dynamic relations (Amaral and Cai, 2022). Put differently, helix models steer the focus of collaboration in the territory of innovations in a contemporary dynamic society. The beginnings of the helix theory come from the basic three helixes, which are expanded by other helixes due to the dynamics of society. The contemporary state of knowledge includes the basic Triple Helix model, updated Quadruple Helix model, Quintuple Helix model, as well as the possibility of N-tuple Helix models. Carayannis, Campbell and Grigoroudis (2022) and Cai (2022) provide an excellent overview of the development of all models.

The Triple Helix model is the first and one of the most influential theories that describe mutually beneficial collaboration of stakeholders on the local level. The triple helix model is usually perceived as a milestone in innovation in contemporary knowledge-based societies (Fidanoski *et al*., 2022). As the starting point of helix theories, the triple helix model is based on three basic components. The main focus of the Triple Helix innovation model concentrates on government-university-industry relations (Hințea, Hamlin and Neamțu, 2022; Cai and Etzkowitz, 2020; Leydesdorff, 2012).

The key benefit of the Triple Helix model is the explanation of innovations as the result of interaction between academia, industry, and government (Galvao *et al*., 2019). The Triple Helix model is usually described as a core model for knowledge production and an innovation application, with an emphasis on the economy or knowledge economy (Carayannis and Campbell, 2021). The main role of universities or academia in the model is the creation of knowledge, the main role of business is the creation of wealth, and the basic role of government is normative control (Cai, 2022).

The Quadruple Helix model adds a fourth helix, mostly defined as citizens or society. The quadruple helix is another development stage of helix model theories that describe interactions involving the local government, business environment, higher educational institutions, and society (Kuzior and Kuzior, 2020). This additional helix is based on different approaches to innovations. The Quadruple Helix model benefits from media-based, culture-based, and art-based innovations, but also civil society, democracy, and knowledge democracy in all four helixes (Carayannis and Campbell, 2021; González-Martinez *et al*., 2021; Sumarto *et al*., 2020).

The addition of the fourth helix demonstrates a higher level of relation sophistication. The four core components of an innovation system are not involved in unidirectional and simple relationships but rather in multi-layered, dynamic, bi-directional interactions (Schütz, Heidingsfelder and Schraudner, 2019). In this regard, the creation of the Quadruple Helix model reflects the complexity and character of a hyper-connected society (Figure 1). However, this dynamically changing reality also leads to the development of the helix models theory, mainly reflecting democratization processes, digitalization, and the needs of the public.

The Quadruple Helix innovation model can be seen as a model that integrates the dimension of democracy or the context of democracy in order to promote knowledge, knowledge production, and innovation (Eigelsreiter, 2017; Schallmo, Williams and Boardman, 2017). The importance of the fourth helix reflects the changing role of citizens who are not perceived as passive citizens but rather active citizens engaged in the creation of innovative solutions (Värmland County Administrative Board, 2019). This basic idea of the Quadruple Helix model significantly changes the view of innovation creators within the ecosystem.

The focus on collaboration and the character of innovations are also developing together with the number of helixes. Based on multidirectional collaboration, innovations are incorporated into different outputs and outcomes that foster the development of

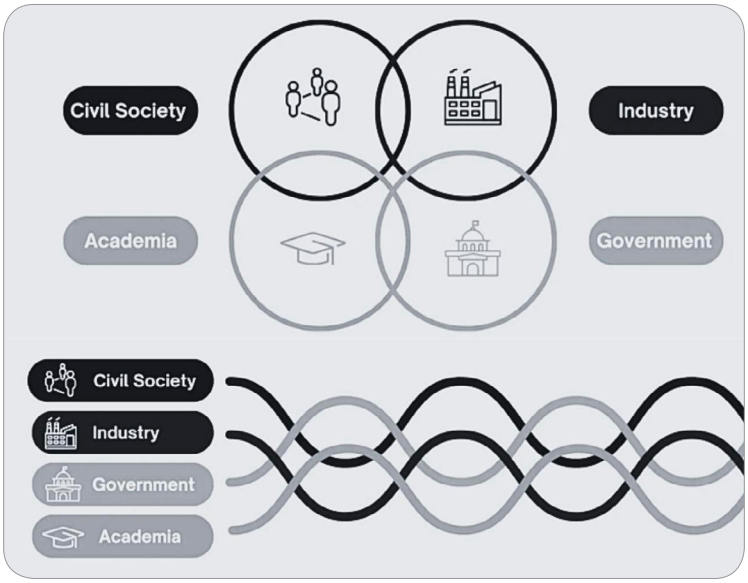


Figure 1: The Quadruple Helix Model

Source: Authors' own contribution based on ECHAlliance (2024)

local stakeholders. In the quadruple helix model, the collaboration between four helixes generates opportunities for the development and delivery of innovative services and products, from minor product innovations to fundamental successful innovations, that meet the needs of ecosystems′ communities (Kulikauskienė, 2021; Kolehmainen *et al*., 2016). By triggering collaborative innovations between the representatives of the four helixes, this type of helix model promises a more responsible integration of values, as well as mitigation or avoidance of risk (Popa, Blok and Wesselink, 2020). The importance of users and user communities is confirmed by user-oriented innovations, which represent the key part of success in business and commercially successful innovations (Grundel and Dahlström, 2016).

The **Quadruple Helix model** also fosters thinking about the future of the local ecosystem. Practical aspects of collaboration focus on trends and challenges of contemporary society, such as digital transformation, encouraging cultural awareness in schools, encouraging youth empowerment, supporting start-ups, and also highlighting the importance of clusters (Shin, Rask and Kahma, 2023; Aggarwal and Sindakis, 2022). Another new perspective on the Quadruple Helix model is based on the importance of collective leadership as an important factor in generating innovations and additional value (Kriz, Bankins and Molloy, 2018). In this regard, the accountability for future development is shared among all four helixes, while this accountability is also considered in its environmental impacts. The natural environment is not only another inspirational source of knowledge and innovation but should be perceived as the most critical aspect of sustainability and humanity in the future (König, Suwala and Delargyet, 2020).

The Helix model theory and its future development currently predict the possibilities and benefits of other helixes that should be included. The **Quintuple Helix model** reflects knowledge production and knowledge application on social ecology and clearly qualifies to relate to themes of Industry 5.0 and Society 5.0, which are manifestations of institutional, cultural, legal, social, political, economic, and technological changes (Carayannis and Campbell, 2021). This development stage of the helix model theory strongly incorporates the future of democracy and climate change as key topics for innovations in the whole ecosystem (Deese, 2019; Hanusch, 2017). The Quintuple Helix model deals with the key negative aspects and shortcomings of Triple and Quadruple Helix models, mainly because it concentrates on the elimination of barriers (Popa, Blok and Wesselink, 2020), limitations of data quality (Cai and Lattu, 2022; Leydesdorff and Lawton Smith, 2022), and greater social cohesion and respect to the environment (Deakin, 2022). Theoretical predictions also create opportunities for unlimited helix models called N-tuples of helices (Leydesdorff, 2012; Leydesdorff, 2013). However, theoretical discussions on the Quintuple Helix model lack a clear connection to practice and sound measurability. At the same time, the Quintuple Helix model intends to reflect the development of a hyperconnected society, as well as trends and challenges that local innovation ecosystems have to deal with. As discussed by Cai (2022), there are different explanations for whether in the case of the Quadruple Helix model, it is just a simple extension of the Triple Helix model, and in the case of the Quintuple Helix model, it is just a simple extension of the Quadruple Helix model. Within all helix models, individual actors overlap, which means that individual actors take over the roles of the other (Etzkowitz, 2002).

This means that, in addition to the main role that the university fulfills within the model, namely knowledge creation, the university will acquire other roles that we can describe as 'modified roles'. If the university and business overlap, the university takes over the tasks primarily performed by the business sector and, therefore, wealth creation if the university takes over the role from the government, it gets into the position of normative control.

In the linear model of innovation creation, the university focuses on teaching and basic research without a keen interest in the practical life of the research results. In addition, the economy and society use the university's basic research activities and turn it into applications with the aim of making a profit. The model of non-linear innovation explains that universities produce research that has a practical level in the form of knowledge application and innovation. The third level of innovation is the Helix models, which represent the second and third level of innovation and is associated with the concepts of co-existence, co-evolution, and co-specialization (Carayannis, Campbell and Grigoroudis, 2022, Carayannis and Campbell, 2009).

Summing it up, Triple and Quadruple Helix models are currently perceived as an effective approach that helps to identify and analyze the complex relationships between key stakeholders in local innovation systems around the world. Both Triple and Quadruple Helix models were successfully examined by various studies, such as the examination of Triple and Quadruple Helix in Mena regions (Aggarwal and Sindakis, 2022), Quadruple

Helix in the North Sea Region (Värmland County Administrative Board, 2019), Triple Helix model in Shenzhen Special Economic Zone (Liu and Cai, 2018), Triple Helix in Japan (Duan and Jin, 2021), Quadruple Helix in North Portugal (Marques *et al*., 2020), Quadruple Helix in Sweden (Hasche, Höglund and Linton, 2019), or analysis approach to Quadruple Helix in Australia (Kriz, Bankins and Molloy, 2018).

However, the increase in complexity opens the question of not only additional helixes but also modified subjects. The Quadruple Helix presumes that the fourth helix consists of both different users (including triple helix actors) as well as civil society. In this regard, the fourth helix cannot be defined just as a simple civil society, but it must be characterized by the creation of actors with different abilities to generate innovation, and that was established by different sectors (Hasche, Höglund and Linton, 2019; Nordberg, 2015). The Quadruple Helix model can create collaborative and coordinated environments with multiple diverse stakeholders interacting (Höglund and Linton, 2018; Miller *et al*., 2016). The diversity of stakeholders helps to create a balance between individual helix actors' self-interest and value motives against the collective value motives for innovations that foster the development of the regional or local ecosystem (Cunningham, Menter and O'Kane, 2018).

In this regard, the diversity of subjects in the innovation ecosystems is the logical development of a hyper-connected society. However, the research gap remains mainly with the focus on the creation and the roles of these new subjects. These subjects usually operate in the intersection of different helixes, focusing on the goals and interests of subjects from these helixes. Summing it up, the importance and the role of these subjects have not been confirmed and examined deeply so far.

## 3. Košice Region innovation ecosystem

### 3.1. Methodology

The study has the ambition to realize preliminary research and investigate the innovation potential of the Košice Region ecosystem. The main aim of the study is to highlight the existence of newly modified subjects in the Quadruple Helix model approach and identify their importance for the development and innovation in the Košice Region ecosystem.

The study combines two main methods: desk research and structured interviews with experts. Desk research was used to identify the innovation potential of subjects from all four helixes in the Košice Region. To identify the roles of key local and regional stakeholders in the ecosystem, strategic documents, evidence, activities, and news were examined. Structured interviews with selected experts were realized between February and March of 2024, both in in-person and online form. The intentional selection of interviewed experts allows the identification of the innovation potential and tasks of individual subjects, specifically Technical University Košice, Pavol Jozef Šafárik University in Košice, representatives of the Košice IT Valley cluster, representatives of key international companies, startup owners, and also representatives of local and regional government. In the study,

the theoretical analysis was used to analyze the contemporary state of research and knowledge focusing on the Helix models theory, mainly the Quadruple Helix model. In this regard, the theoretical background highlights the importance of collaboration within the regional context, underlining the significance of innovation, as well as the importance of helix models.

The territory of the Košice Region encompasses the Košice Self-governing Region, with primary connections evolving in and around the city of Košice and the functional city region. The population consists of 230,000 (two hundred and thirty thousand) inhabitants in the City of Košice and 800,000 (eight hundred thousand) inhabitants in the Košice Region. The region is situated on the eastern border of the EU and in the southeastern part of the Slovak Republic.

### 3.2. Academia helix

The academic environment in the Košice Region has unique and specific characteristics, primarily due to the presence of three public universities, Technical University in Košice, Pavol Jozef Šafárik University in Košice, and University of Veterinary Medicine and Pharmacy, each covering a different segment of students. In the academic year 2024/2025, the current student enrollment exceeds 18,000. The study programs portfolio is not competitive; thus, it creates a whole variety of study programs. In the Košice Region, students could explore technology studies, medicine, veterinary medicine, natural sciences, and social sciences together. Each of the three universities can be considered as a traditional institution, with a history of over 60–70 years, with one established in the 17th century. Simultaneously, detached workplaces of three public universities and one private high school were established in the City of Košice.

In the context of university quality, two universities rank within the top four out of 35 universities in Slovakia. Pavol Jozef Šafárik University in Košice ranked #1614 and Technical University Košice ranked #1717 in 2024-2025 Best Global Universities Rankings (Best Global Universities, 2024). The QS World University Ranking 2024 ranks Pavol Jozef Šafárik University in Košice between 851 and 900 place, and Technical University Košice between 1001 and 1200 place (QS Top Universities, 2024). Universities have their own science parks: TECHNICOM University Science Park, MEDIPARK Science Park, PROMATECH Science and Research Center, Technical University Košice has its own Start-up Center and TUKE Incubator.

Furthermore, the region is home to almost 10,000 students enrolled in 20+ high-quality general and specialized secondary schools. Even though the helix model is focused on academia/research, these secondary schools are also an important part of research and the creation of business-driven innovations.

### 3.3. Business helix

In the Košice Region, there is a very strong business sector, which is not so diversified because Slovakia in general is focused on the automotive industry. However, the business sector includes various important entities. Primarily, important automotive industry subcontractors are located in the Košice Region, including US Steel as the largest steel producer in Europe.

The Košice Region has a strong IT sector. This technological force began to emerge in approximately 2006. One of the first international corporations Telekom (former T-Systems) expanded from a small number of employees to several thousand and was followed by IBM, AT&T, Ness, and many other IT companies, maybe not so big, but relevant for the regional market. These corporations hire university graduates, and companies begin to be included in this ecosystem. These IT companies have set the trend in the Košice Region, which was also followed by non-IT companies.

The key thing is that companies have established relationships with universities and their educational philosophy. Strong cooperation can also be seen in internships, students´ theses, expert lectures, and projects - that is, the expansion of cooperation and innovations. This collaboration was also declared by the senior management level and was also incorporated into long-term visions and strategies. Business helix also benefits from the interest of young people and graduates who also like to stay in the region.

### 3.4. Government and society helixes

Furthermore, the stability of collaboration indicates the involvement of local and regional governments in the ecosystem and the fostering of innovation. For more than two decades, irrespective of political affiliations and political party differences, fostering innovation and promoting collaboration within the region has been one of the top priorities. Mayors from various political parties share similar opinions, emphasizing the necessity of local government collaboration with universities and the business sector. This trend is unique and very specific.

Citizens and NGOs reflect the needs of residents (civil society) related to democratization (protection of people with disabilities, homeless people population census, support of seniors and young people, transformation of old buildings from thermal management to community centers). Diverse types of activities describe collaboration with other stakeholders, CSR activities of companies, popularization of science by universities, participatory budgeting, and involvement in policy making.

An important entity within all of them are the city of Košice and the Košice self-governing region, which are the facilitators of the strategic development of the city and the region. The city has its own strategic documents, which were created on the basis of cooperation with all entities in the city, and self-governing region has their own economic and strategic development plan, which defines the intentions and goals of the development of the region, including the role of city and self-governing region in the creation of innovations.

### 3.5. Modified actors

Based on our research, we have identified several modified actors whose role results from the sophistication of mutual relationships between key stakeholders in the territory. These subjects differ by the intention of their creation, while modified subjects can be established by national governments, key local stakeholders, or public institutions at local and regional levels of government. In our opinion, the modified actors have modified roles of the basic actors, which is a new element within the helix models.

Business companies have representatives through various **chambers**, **associations**, **and councils**. First, state public institutions are located in the Košice Region with their own representations, with the main aim to foster networking and help the region and its development (Slovak Chamber of Commerce and Industry, Slovak Investment and Trade Development Agency).

Other chambers that represent the interests of international corporations such as the American Chamber of Commerce in the Slovak Republic, The British Chamber of Commerce in the Slovak Republic, Deutsch-Slowakische Industrie und Handelskammer, Alliance Française de Košice.

The role of these subjects is mainly to provide information, organize networking events, as well advocating the interests of companies.

The cluster IT Valley Košice is another important entity in the Košice Region. Universities are co founders, together with the local government and other key companies in the region. When the cluster was established, its primary objective was to drive innovation and foster regional development. Key stakeholders in the region recognized the importance of having a formalized structure to ensure the achievement of these goals. The cluster IT Valley Košice continues to grow as a prestigious institution, attracting the interest of other subjects. Currently, the cluster has more than 80 members (universities, international corporations, SMEs, successful start-ups, high schools, NGOs) (IT Valley Košice, 2024). At the beginning of its development, the cluster represented one of the modified actors, focusing on specific tasks that universities and businesses could not solve independently. Currently, the relations within the cluster are highly developed, thus, the cluster creates a separate innovation system.

The Business Košice and Regional Innovation Center were established by local and regional governments in collaboration with universities. The establishment of self-governing bodies within the ecosystem supports innovation. These subjects are specifically designed to facilitate networking and foster innovation, creating a platform for collaboration and idea exchange among stakeholders. The self-governing region and the city established the Regional Innovation Center, which mission is to motivate and connect universities, public administration and the business sector and create conditions for their effective cooperation, exchange of information, creation of new products and services, sharing of new knowledge and thereby increasing the innovation potential of the entire region (Košice Self-governing Region, 2022). Both subjects cannot be perceived as direct creators of new business companies, but rather as the creators of beneficial conditions and providers of assistance.

Startups are founded to develop a product or service. From the ecosystem perspective, startups can generate high gains, unique products, and innovations for a relatively low level of risk. Startups can be created by independent entrepreneurs, transnational corporations as well as universities. Incubators represent modified entities that are created on university grounds, and their task is to transform research results or ideas into business activity. Within the Košice Region, it is interesting that the modified subject Regional Innovation Center creates space for the creation of other derivative actors in the form of incubators and startups.

In addition to the mentioned actors, there are several other players in the region, intermediaries who help the development of the region but do not fall into individual spheres as key players. Cai and Etzkowitz (2020) characterize them as 'secondary players' or the 'label supporting actors'. The roles of supporting actors and modified actors are completely different, they must be distinguished and not confused.

## 4. Innovation potential of the Košice Region and roles of key subjects

Based on the analysis of the current status of collaboration among the key local and regional stakeholders, we proposed a model that reflects conditions in the Košice Region Innovation Ecosystem (Figure 2). This practical model reflects the current state of art and reproduces the theory of the Quadruple Helix model. However, the innovation ecosystem is a very fluid platform. This model is actual today in 2024 but probably will be different in the near future, especially because of the intention of local and regional stakeholders to generate another innovation for the region.

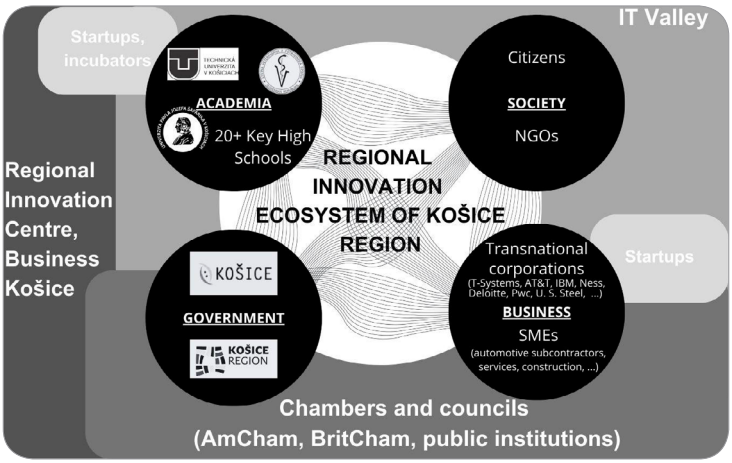


Figure 2: Regional Innovation Ecosystem in the Košice Region

Source: Authors' own contribution

Modified subjects are a part of the traditional helixes of the quadruple helix model. Based on our research, modified subjects enrich networks, add value, and help the region to create innovations.

Chambers created by Slovakian and other national governments have the best predispositions to organize networking activities, provide assistance, and direct the flow of information among the existing and potentially new companies in the ecosystem. The role of chambers in the innovation ecosystem is not to directly create new business subjects but rather to create an appropriate informational base and a constructive environment for existing and new potential investors. Subjects with similar aims can also be created with local and regional governments. The ambition to cultivate a positive business environment leads local and regional governments to establish locally specific organizations that foster economic activity in innovation ecosystems.

Clusters with a high diversity of members from all four helixes have the potential to create innovations based on a variety of interests and also serve as a platform for building and strengthening networks. The potential of clusters is to integrate different perspectives on the creation of innovations to create a synergistic effect in the development of the territory. Cluster fosters innovation and helps their members to support and strengthen a robust ecosystem and enhance its competitiveness.

Startups bring ideas with high innovation potential to real practice, mainly because of their ability to face high risk with a relatively low level of failure for the key actors from business and academia helixes. The main role of the startup is to serve as an innovation platform that effectively serves big companies and universities, as well as independent individuals or small groups of entrepreneurs at the beginning of their journey.

Modified subjects identified in the Košice Region Innovation Ecosystem have a positive impact on the innovation and development ecosystem and all participating entities. Similar tendencies and roles of modified subjects with positive impact on innovation ecosystems were identified in Hungary (Toth and Hary, 2024), Finland (Shin, Rask and Kahma, 2023; Roman and Fellnhofer, 2022), Sweden (Hasche, Höglund and Linton, 2019; Höglund and Linton 2018), Brazil and Chile (Armando *et al*., 2017), Baltic Sea Region (Mikhaylov, 2013). Subjects created as a result of intensified collaboration between traditional three or four helixes have an important role in fostering innovation (Flechas, Kazunari Takahashi and Bastos de Figueiredo, 2023; Lupova-Henry, Blili and Zotto, 2021).

Based on the abovementioned, the proposed practical model of the Regional Innovation Ecosystem in the Košice Region offers space for the composition of the universal model (Figure 3).

The benefit of this generalization is the contribution to the discussion on frameworks fostering the innovation potential of regional ecosystems around the world. The proposed universal model applies to any kind of administrative and territorial units, such as metropolitan areas, regions, municipalities, and cities. The key characteristic of the proposed universal model is the importance of modified subjects, established by the collaboration between four helixes.

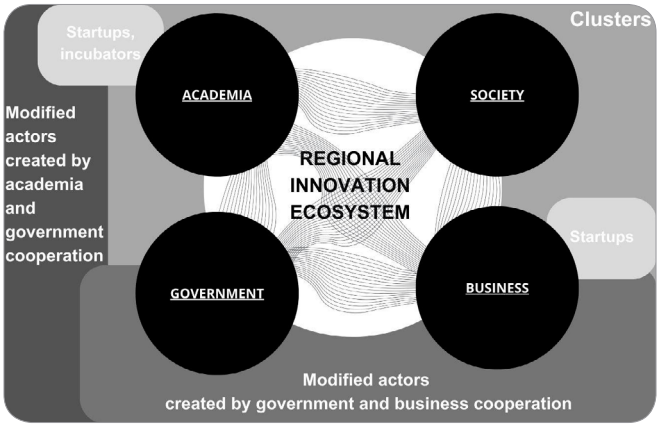


Figure 3: Universal Quadruple Helix Model of Regional Innovation Ecosystem

Source: Authors' own contribution

## 5. Conclusion

The study realized preliminary research and examined the innovation potential of the Košice Region ecosystem. The study examined the roles of key stakeholders in the Košice Region, as an implication of the Quadruple Helix model, and their impact on the ecosystem´s development. The research confirmed the importance of their cooperation for the innovation ecosystems and identified new types of 'modified subjects' derived from the roles and missions of traditional actors. The primary benefit of our research is the identification of a theoretical model and the explanation of the mutual relationships between traditional helixes of the Quadruple Helix model and modified subjects. More specifically, the study highlights the existence of newly modified subjects in the Quadruple Helix model approach and identifies their importance for the development and innovation in the Košice Region ecosystem.

Modified subjects concentrate on specific goals related to bilateral roles and tasks created by traditional actors - universities - businesses - government. Modified subjects reflect a new level of fulfillment of goals based on bilateral cooperation. However, these goals have gone through their dynamic development from the initially created simple bilateral relations between universities–businesses, universities–government, businesses–government, mainly through connection within the helix and subsequent splitting off with the intention of concentrating on specific tasks.

Based on the analysis of the innovation system, it is essential to observe individual actors and their tasks within the region as separate units, as well as the relationships between them in terms of scope and intensity. It is important to perceive that each actor has different roles in the various relationships and collaborations that he creates. Important is also the identification of initiators of these relationships. Perhaps, maybe that is the importance of modified actors, to stand as the main drivers of the development of cooperation.

Future research might be focused on the applicability of the created universal model across innovation ecosystems. From the theoretical and practical point of view, an international comparison of similar ecosystems can be beneficial. Future research might be focused on the existence of similar subjects, relationships, and roles within different innovation ecosystems.

Innovations are very complex and very fluid and flexible, even more so in situations when different subjects collaborate to achieve the same goals — sustainability, digital transition, green transition, and many others. But these subjects just need to be tuned to the same wave, the wave of innovation.

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# Comparative Models of University Extensions in European and International Contexts

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**Abstract**

Education is one of the fundamental pillars of a state's development, as it shapes the workforce necessary for creating plus value within a nation, as well as within an organization. Universities are among the institutions that contribute to the development of better-trained employees, ready to face the increased dynamism. Moreover, university extensions are a way through which universities expand their geographical presence and diversify their educational offerings. In Europe and internationally, these extensions are implemented in various ways, depending on the local context and the goals of the institutions. This study focuses on a comparative analysis of the most well-known university models at the European and international levels, revealing various approaches and strategies adopted by universities to expand their impact and respond to community needs. Many European and international universities adopt a research-based education model, where students are actively involved in research projects, thereby developing practical and theoretical skills. The SWOT analysis underlines the advantages and disadvantages of these models, concluding that whether it involves

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 192–205

technology transfer, education for social inclusion, or engagement in community issues, university extensions have demonstrated a significant impact on regional development and strengthened the ties between universities and society.

**Keywords:** university extension, comparative analysis, challenge, regional development, community.

## 1. Introduction

Knowledge has always been a significant advantage. Although, in the past, it could not be easily accessed by everyone, it conferred a special aura to those who managed to handle it. Further on, it enhanced one's image and favored the opening toward important positions in the societal hierarchy of those times. Over time, things have evolved, the number of educational institutions has increased, and state policies have begun to encourage the population to access educational services. Schools have been established in various fields to train the human resources needed within ongoing society. The existing universities were opened in capitals or representative cities of a state, and most of the teenagers migrated to them, leading to an increase in their costs.

Later, universities began to meet the students' needs, becoming more numerous and diversified, and once with the adoption of the Bologna process idea, they emphasized the 'push' strategy by establishing branches in smaller cities.

University extensions, also known as satellite campuses or branches, are a way through which universities expand their geographical presence and diversify their educational offerings. In Europe and internationally, these extensions are implemented in various ways, depending on the local context and the goals of the institutions (Hințea, Hamlin and Neamțu, 2022).

In the new European context, university extensions play a crucial role in ensuring access to higher education and promoting regional cohesion. These extensions contribute to the economic and social development of the regions where they are located and facilitate access to education for students from less developed areas (Arguelles, Gómez and Rodrígue, 2023).

For example, the European policies promoted within the European Education Area and the Bologna Process encourage collaboration among higher education institutions and support the development of university extensions, thereby increasing access to education and improving its quality.

States, communities, and various institutions operating globally support education, which, alongside health, are the fundamental pillars for the workforce of an entity. The European Union embraces the idea of 'quality training and social cohesion' (EU, 2021).

One of the objectives of the European Education Area is to ensure the automatic recognition of diplomas and study periods among member countries. This facilitates the

mobility of students and academic staff and supports the development of university extensions, which can offer study programs recognized at the European level.

The Bologna Process promotes the harmonization of higher education structures in Europe, ensuring compatibility and coherence of study programs. This allows university extensions to offer study programs that meet European standards and facilitates the transfer of credits between institutions. University extensions benefit from this mobility as they can attract students and professors from other countries, thus enriching the educational experience and promoting cultural diversity. By cooperating with other higher education institutions in Europe, university extensions can access additional resources and expertise to improve the quality of education (Fullan, 2015).

Therefore, European policies both encourage cooperation among higher education institutions and support the development of university extensions, contributing to enhancing educational accessibility and improving its quality.

## 2. University Extensions Worldwide: A Comparative Analysis

Universities play an essential role in regional development by providing an educational offer adjusted to the economic and social needs of the region, preparing students for the local and regional labor market. Universities collaborate with local and regional companies to develop vocational training programs, internships, and joint projects, which can lead to increased economic competitiveness of the region by offering educational and professional opportunities in the area, thus contributing to the reduction of youth migration to large urban centers by retaining human capital in those areas.

A snapshot of the specifics of university extensions in various parts of the world indicates similarities and differences, as well as common points and challenges that must be overcome. University extensions in Europe often face challenges related to funding, especially in countries with less developed economies. Securing the necessary resources for infrastructure and personnel can be difficult, but they must align with European standards and requirements, which may require adjustments and additional investments. This is essential to ensure compatibility and recognition of degrees at the European level (Fergus, Noguera and Martin, 2014). In the United States and Canada, challenges include ensuring equitable access to education for students from disadvantaged communities and minorities and requiring university extensions to develop programs and policies that support diversity and inclusion.

Universities in Germany tend to create satellite campuses in other cities to attract students from various regions and collaborate with local industries. These extensions are often specialized in certain fields, such as engineering or applied sciences. By training local specialists and creating job opportunities, university extensions contribute to the economic and social development of the regions in which they are located (Elder-Connors and Marcus, 2024). The creation of a network of European universities represents an initiative aimed at connecting universities from different European countries, facilitating academic

collaboration, and the exchange of best practices. Through these networks, university extensions can benefit from additional resources and expertise, thus improving the quality of education provided.

In France, university extensions are frequently used to facilitate access to education in rural or less developed areas. These campuses offer bachelor's and master's programs, often in collaboration with local and regional authorities. University extensions can provide study programs adapted to the specific needs of the regions in which they act, thereby contributing to the development of skills required in the local labor market (Fortunato *et al*., 2017).

Universities in the United Kingdom have adopted international extensions by opening campuses in other countries to attract international students and promote academic mobility. These campuses offer programs similar to those at the main campuses but adapted to the local context.

In Europe, university extensions have played a significant role in connecting the academic environment with local communities through educational programs, applied research, and engagement in social issues. Among the most representative, we mention:

1. University of Cambridge (United Kingdom) – Cambridge Enterprise is a university extension initiative that supports technology transfer and the development of innovations created at the University of Cambridge. It collaborates with entrepreneurs and businesses to transform academic ideas and research into products and services that can bring economic and social benefits. It also supports the formation of start-ups, stimulating the local and national economy and having a significant impact: over 150 spin-off companies have been created, contributing to economic growth and job creation in the UK.

2. University of Bologna (Italy) – AlmaEngage is a university extension project of the University of Bologna, focusing on collaboration with local and international communities to address environmental, educational, and social inclusion issues. The program allows students and researchers to participate in community development projects, both in Italy and in other countries. AlmaEngage projects have included sustainability-related initiatives, such as promoting renewable energy in rural communities, as well as literacy programs for migrants and refugees.

3. University of Copenhagen (Denmark) – The Science for Society project is a partnership between universities in Denmark, Sweden, and Norway aimed at transforming academic research into solutions for societal challenges. It supports social and economic innovation initiatives, with an extension component where students and researchers collaborate with local industries and non-profit organizations to develop applicable solutions. The program has contributed to the development of the entrepreneurial ecosystem, encouraging dozens of research-based start-ups and providing innovative solutions to economic and environmental challenges.

4. Autonomous University of Barcelona (Spain) – UAB Open Labs are co-creation and innovation laboratories open to the community and the business environment, promoting collaboration among students, professors, and community members to solve local

challenges. Through these labs, the university organizes workshops and mentoring programs and supports the development of social and technological innovation projects. The program has had a major impact on promoting social and technological entrepreneurship, facilitating collaboration between the academic environment and the private sector in areas such as health, environment, and technology.

5. University of Helsinki (Finland) – Think Corner (Tiedekulma) is a university extension initiative of the University of Helsinki that brings the university's research and innovations into the community. The Think Corner space is open to the public and hosts debates, conferences, and workshops on various current topics, encouraging dialogue among researchers, students, and citizens. This initiative has contributed to increased civic engagement and has provided a direct benefit to the community by creating an open forum for discussion on public interest issues, such as climate change or public health.

6. Ghent University (Belgium) – Ghent University has introduced a Community Service-Learning program that combines academic learning with community service. Students engage in local projects where they apply their knowledge to solve real-world problems in areas such as education, health, and urban development. This program has had a significant impact on the local community, improving quality of life and developing strong relationships between the university and society. Additionally, students gain practical experience and essential civic skills.

7. University of Manchester (United Kingdom) – The University has placed a strong emphasis on social responsibility, being the first British university to explicitly include this aspect in its strategy. Extension programs include partnerships with local organizations to address social, economic, and health challenges. The university organizes and supports student volunteering, research focused on social issues, and community development projects. The involvement of students and academic staff in over 1,000 volunteer and research projects has brought direct benefits to the communities in Manchester, contributing to improvements in education, health, and social inclusion.

Australian universities have extensions in Asia, particularly in countries such as Singapore and Malaysia. These campuses offer internationally recognized study programs aimed at attracting students from the Asia-Pacific region. Monash University in Australia has campuses in Malaysia, South Africa, and Italy. The case study examines how these extensions contribute to diversifying educational offerings and increasing the number of international students. University extensions must invest in modern facilities and technologies to provide quality education, while in African countries, access to higher education is limited by economic and geographical factors. There, university extensions should develop strategies to attract and retain students from diverse socio-economic backgrounds (Turner and Piso, 2024).

In China, university extensions are often created in collaboration with foreign universities, offering joint study programs. These extensions are part of efforts to modernize the higher education system and attract international expertise. These models reflect the diversity and adaptability of university extensions based on local needs and the strategic

objectives of higher education institutions. The University of Nottingham has campuses in China and Malaysia, created to attract international students and promote global academic collaboration. The case study analyzes the impact of these campuses on the university's reputation and student mobility.

University extensions face diverse challenges that can vary based on local and international contexts. Managing cultural and linguistic diversity can be a major challenge, too. Universities must ensure an inclusive environment and provide adequate support for students and staff from various cultural backgrounds. Monash University, for example, has had to address these issues in its campuses in Malaysia and South Africa. Further, the high costs of higher education represent a significant challenge. University extensions need to find ways to provide quality education at affordable costs, including through scholarships and other forms of financial support (Jacob *et al*., 2015).

American universities are also known for their international extensions, establishing campuses in various countries across Asia, Europe, and the Middle East. These extensions are often part of the internationalization strategy aimed at attracting international students. New York University has established campuses in Abu Dhabi and Shanghai, which are part of the university's internationalization strategy, providing educational programs comparable to those offered at the main campus in New York. The case study explores the challenges and benefits of these extensions, including adapting the curriculum to the local context.

Universities must adapt their programs and curricula to meet local requirements and expectations. For example, New York University (NYU) had to adjust its programs to comply with educational regulations in Abu Dhabi and Shanghai. International extensions require significant investments in infrastructure and human resources. Universities must find sustainable funding sources to maintain these campuses. Underfunding is a common issue present in most of the analyzed institutions.

University extension programs in Latin America play an important role in developing local communities, as they address social, economic, and cultural issues, adapting education and university research to the specific needs of these communities. These programs have been developed to bring academic resources closer to marginalized or rural communities and to promote sustainable development, innovation, and local problem-solving. Moreover, these contribute to the development of local communities through accessible education and continuous training relevant to the job market (Cafezeiro and da Costa, 2021). Thus, they are offered continuing education courses, vocational training, and workshops for people who do not have access to formal education on university campuses. These programs are designed to meet local needs and develop essential skills, such as agricultural technology, public health, and entrepreneurship.

In many rural communities in Latin America, university extensions collaborate with farmers, craftsmen, and local entrepreneurs to improve agricultural technologies and practices, support local industries, and promote sustainable development (Bonfim and de Souza, 2022). These programs help create jobs and stimulate the local economy through

knowledge transfer and innovations. Universities in Latin America often collaborate with governments and non-governmental organizations to address social issues such as gender inequality, racial discrimination, and poverty. Through applied research and direct engagement, extension programs develop concrete solutions to community challenges, such as increasing access to education and improving healthcare services (Wenger-Trayner and Wenger-Trayner, 2020).

In Latin America, many university extensions focus on environmental issues, such as biodiversity conservation, natural resource management, and ecological education. These programs help educate communities about sustainable agricultural practices and manage resources in a way that protects the environment in the long term.

Universities work closely with community members to identify problems and find locally relevant solutions, aiming to develop strategic partnerships with various organizations and institutions to support extension projects. Moreover, they use modern technologies to facilitate communication and coordination among the different parties involved in extension projects. This participatory approach helps create strong ties between universities and communities, thus the proposed solutions being better adapted to the specific needs of each group (Pavot, Flores and Tamayo, 2022).

**Here are some notable examples from Latin America:**

- Universidad de Buenos Aires (Argentina) has a very active extension program, which includes initiatives in public health, education, and the environment. The university collaborates with communities to improve access to health and education services, especially in disadvantaged areas. Universidad de Buenos Aires publishes reports about their extension programs that include interventions in areas such as public health, education, and sustainable development. The reports focus on how these initiatives have contributed to solving local problems and community involvement.
- Universidad Nacional de Colombia implements research and extension projects focused on rural development, environmental protection, and social equity. Their programs contribute to improving the quality of life in poor rural and urban areas. Universidad Nacional de Colombia has reports on extension projects aimed at rural development and environmental protection. These reports present data on the number of beneficiaries and resources invested in their projects.
- Universidad de São Paulo (Brazil) has extension programs that include community health, technological education, and environmental projects. Collaborations with local governments and non-profit organizations have had a significant impact on the economic and social development of communities.
- Universidad Nacional Autónoma de México (UNAM) issues annual reports on extension activities, focusing on a variety of projects such as educational, cultural, and social programs. These are centered on education for sustainable development and the social inclusion of marginalized groups.

In Latin America, university extension programs are documented in various reports and studies conducted by universities, governments, and international organizations. These reports highlight the social, economic, and cultural impact of these initiatives on local communities. In Latin America, university extension programs have a significant impact on local communities, positively influencing social, economic, and cultural aspects. These initiatives contribute to the development and improvement of the quality of life in various regions (Yturralde, 2024).

University extension programs in Latin America represent an important means of democratizing education and knowledge, allowing university resources to be used to address real community issues. These programs help reduce social inequalities, support economic development, and promote social innovation and sustainability. National governments and organizations underline the impact of university extensions on regional development, addressing aspects such as economic development, health, and education. Universities can contribute to the common good through projects that respond to community needs. Through extension activities, universities can promote values such as solidarity, equity, and social justice. These values are essential for building a fairer and more inclusive society. These aspects underline the importance of university extension activities not only as a means of fulfilling academic missions but also as a tool for promoting public ethics and social responsibility (Zambrano van Beverhoudt and Rincon Perozo, 2008).

Ministries of Education in Latin America publish national reports on the collaboration between universities and communities, evaluating the impact of extensions on increasing access to education and economic development. For example, in Brazil, the Ministry of Education publishes reports on university extensions in rural areas, including statistics about literacy rates and improvements in public health. The Organization of Ibero-American States (OEI) publishes reports regarding regional initiatives that promote the integration of university education with communities. OEI collaborates with universities to develop extension projects that support innovation and sustainable development in member countries. International organizations such as UNESCO or the Inter-American Development Bank (IDB) publish studies and reports that examine the role of university extensions in achieving sustainable development goals and reducing inequalities in Latin America.

UNESCO has reports on education and social development in Latin America, which also include examples of best practices within university extensions. These reports highlight the impact of extension programs in promoting social inclusion, economic development, and improving the quality of life in rural communities.

The Inter-American Development Bank (IDB) publishes reports on the financing and implementation of regional development projects involving collaborations with universities. One example is the IDB report on university extensions and their impact on rural development in South America, which includes data on investments made and results achieved in various regions. University extension reports from Latin America provide a comprehensive view of how universities collaborate with communities to address social, economic, and environmental issues. These documents demonstrate the effectiveness of

extension programs in regional development, and improving the quality of life for disadvantaged communities.

A SWOT analysis of university extensions indicates the following aspects:

**I. Strengths:**

**1. Increased accessibility –** University extensions allow access to education for students from rural or less developed areas, reducing the need to move to large cities. University extensions provide educational opportunities in smaller communities or rural areas where students may have difficulty in going to the main university campuses. These extensions often offer the same study programs as the main campuses, ensuring continuity and quality of education. Students can attend undergraduate, master's, and, in some cases, even doctoral courses.

**2. Diversification of educational offerings –** These extensions can provide specialized programs that meet local and regional needs, thus attracting a larger number of students.

**3. Collaboration with local industries –** Extensions can facilitate partnerships with local companies, providing students with internship and job opportunities.

**4. Internationalization –** International campuses help increase the university's visibility and prestige globally, attracting international students.

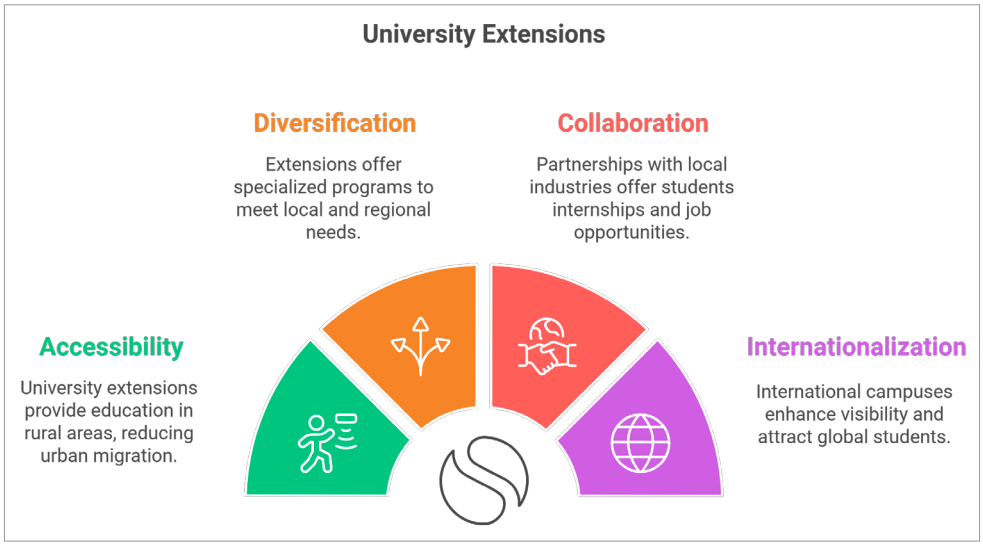


Figure 1: University extensions – strong points

Source: Authors' own contribution

**II. Weak Points**

**1. High costs –** Implementing and maintaining university extensions require significant investments in infrastructure and human resources.

**2. Administrative aspects –** Managing remote campuses can be complex and may require resilient organizational structures.

**3. Quality of education** – Maintaining a high educational standard across all extensions can be challenging, especially in the context of cultural and linguistic differences.

**4. Dependence on local context** – The success of extensions can be influenced by local factors.

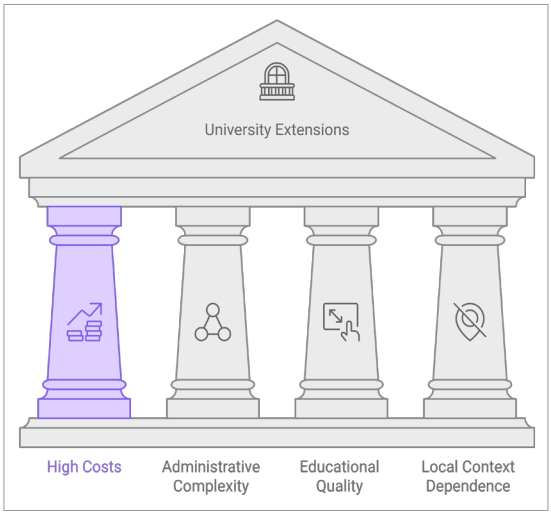


Figure 2: University extensions – weak points

Source: Authors' own contribution

**III. Opportunities**

**1. Increasing demand for education** – Extensions can respond to the growing demand for higher education in various regions and countries.

**2. Innovation and digitalization** – Investments in technology and digitalization can enhance access to educational resources and facilitate distance learning.

**3. Strategic partnerships** – Collaborations with other educational institutions and the private sector can bring mutual benefits and support the development of extensions.

**4. International funding** – Accessing international funds and grants can support the development of campuses.

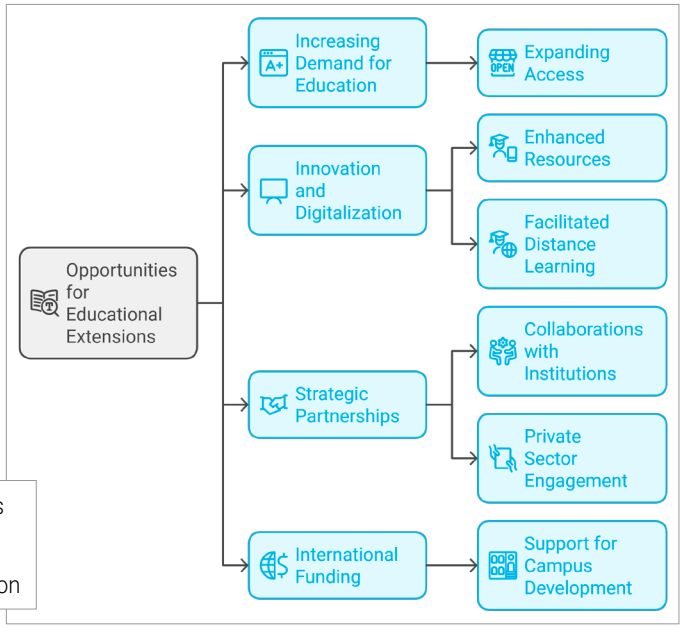


Figure 3: University extensions – weak points

Source: Authors' own contribution

**IV. Threats**

**1. Strict regulations –** Changes in local and international educational regulations can affect the functioning of extensions.

**2. Increased competition –** The growing number of universities extending their international presence can lead to greater competition for students and resources.

**3. Economic instability –** Local or global economic crises can reduce students' ability to pay school fees and may affect funding for extensions.

**4. Cultural differences –** Managing cultural and linguistic diversity can be a major challenge, requiring effective integration strategies.

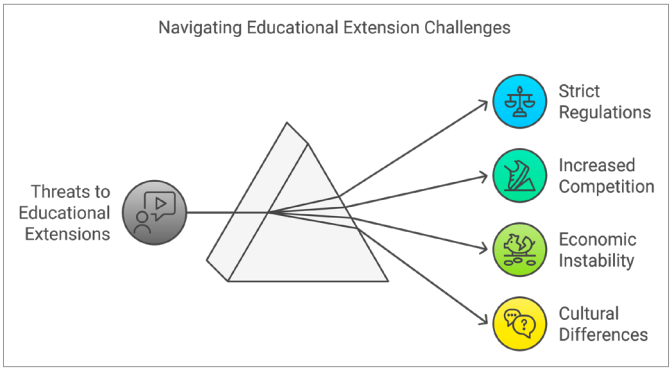


Figure 4: University extensions – threats

Source: Authors' own contribution

This SWOT analysis shows an overview of the strengths, weaknesses, opportunities, and threats related to university extensions. Among the opportunities mentioned in the SWOT analysis of university extensions, we may include the development of new educational programs that meet the demands of the labor market and the interests of students and the access to European funds or other financing sources for the development of infrastructure and research programs. Further on, the implementation of advanced technologies in the educational process and research to enhance the quality of education and scientific outcomes, as well as active involvement in community projects that support the economic and social development of the region, represent opportunities that can significantly contribute to the growth and improvement of university extensions, bringing benefits to both students and local communities. Each university extension needs to develop its strengths, minimize its weaknesses, and remain vigilant and open to regional, circumstantial, or governmental threats and challenges.

## 3. Conclusion

Universities can be found all over the world, from capitals to small towns in various regions. They adapt to the specifics of the region, being universities in the region and for the region. Thus, the study programs offered are specific to the training of the local and regional workforce, which reduces costs for both partners involved and stops migration to the main attraction poles.

Universities, through their extensions, contribute to the socio-economic development of the regions within which they act, facilitating access to education for different categories of learners from less affluent areas. They perform based on the rules established by the university, but the specifics of the programs, fees, and forms of educational services are adapted to the needs of the community they serve. University extensions are essential for a dynamic economy, for attracting investors, and for supporting and developing the entrepreneurial spirit in the region.

University partnerships bring benefits to both educational institutions and local communities. Collaborating with institutions from other countries can offer students the opportunity to learn about different cultures and improve their language skills. Educational institutions can learn from each other about effective teaching methods and develop better educational programs (Kolb, 2014). Enhancing access to educational resources is another benefit of international partnerships, which can provide students access to study programs and educational resources that are otherwise inaccessible (Catalano, Albulescu and Chiș, 2014). Obtaining the necessary accreditations and complying with local regulations can be a complex and time-consuming process. Universities must face different educational systems and meet the specific requirements of each country. Digitalization and the integration of modern technologies in the educational process represent a continuous challenge. Universities must invest in technological infrastructure and ensure proper training for staff to use these technologies effectively (Theodori, 2023).

Students participating in mobility programs are more likely to find a job quickly after graduation due to the skills gained during their international experience, while teachers have the opportunity to develop new skills in project planning and management, as well as intercultural teaching (Fullan, 2001). Cross-border cooperation contributes to improving the quality of education and facilitates the recognition of degrees obtained abroad. These benefits contribute to creating a more inclusive and competitive educational environment, preparing students for the challenges of a globalized job market. The study conducted by Hințea, Hamlin and Neamțu (2022) includes a qualitative analysis conducted in both the USA and Romania, highlighting the similarities and differences in how universities contribute to community development in different contexts (Hințea, Hamlin and Neamțu, 2022).

Effective university extensions in Europe focus on collaboration between the academic environment and local communities to address social and economic issues while supporting innovation and sustainable development. Whether it involves technology transfer, education for social inclusion, or engagement in community issues, these initiatives have

demonstrated a significant impact on regional development and strengthened the ties between universities and society.

Comparing university extension models at the European and international levels reveals various approaches and strategies adopted by universities to expand their impact and respond to community needs. Many European and international universities adopt a research-based education model, where students are actively involved in research projects, thereby developing practical and theoretical skills. University extensions often include continuing education and adult education programs, thought for the specific needs of the labor market and local communities.

All in all, these models demonstrate the diversity and flexibility of university extensions, customized to local and international contexts, to maximize educational and social impact.

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# Effective Leadership: A Crucial Factor in Improving High School Performance

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**Abstract**

School performance, a complex concept, can be analyzed through the perspectives of leadership, culture, satisfaction, and other variables. In our study, leadership style emerged as a crucial factor influencing school performance in Cluj-Napoca, Romania. This finding not only underscores the importance of our research but also holds the potential to significantly impact and improve educational practices, offering a hopeful outlook for the future of education.

Our definition of leadership is a comprehensive, three-dimensional concept. We delve into the dimensions of transformational, transactional, and Laissez-Faire leadership, collectively known as the Full Range Leadership model. This model provides a profound and enlightening understanding of leadership in the context of school performance, which depends on fulfilling two conditions: teacher satisfaction and academic results. This in-depth and comprehensive understanding of leadership styles will equip our readers with the knowledge they need to make informed decisions in their educational roles.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 206–222

Our research methodology is unique because it involves testing the validity of the MLQ instrument in high schools in Cluj-Napoca. The ultimate aim of this article is to establish a direct correlation between leadership style and school performance. This finding will be integrated into a more comprehensive thesis in the future, showcasing the originality and depth of our research.

**Points for practitioners:** The insights gleaned from this research can be instrumental in developing a best practice guide for high schools. By implementing the performance indicators derived from our analysis of leadership styles, schools can enhance their results and create a more conducive learning environment, empowering educators and administrators to make positive changes.

**Keywords:** leadership styles; school performance; results in high schools; transformational; transactional; passive-avoidant leadership

## 1. Introduction

This paper aims to establish a direct correlation between leadership and school performance, specifically focusing on high schools in Cluj-Napoca, Romania. To achieve this, we first need to understand what school performance entails. Various factors, including student and teacher performance, teacher satisfaction, and community involvement, can influence a school's performance. However, it's important to note that there isn't a one-size-fits-all approach; currently, many cases rely on students' standardized test scores as a measure of performance. Our goal is to provide a more comprehensive understanding of school performance, with a specific focus on the role of leadership.

Numerous article authors and researchers from Romania and abroad are currently engaged in a focused effort to determine the effectiveness of schools. They are looking beyond outdated standard evaluation methodologies. Holly Spinelli, a prominent advocate for alternative and strength-based pedagogies, emphasizes the pivotal role of student voices in their education, this was mentioned by Ferlazzo in 2022. She is widely recognized for her work as a student rights activist in New York, her role as a public high school teacher, and her active participation in the National Council of Teachers of English Committee.

This paper unequivocally aims to uncover the fundamental factors significantly impacting school performance. It meticulously delves into the pivotal role of leadership and its profound influence on the performance of high schools in Romania. For our research, it is imperative to grasp the intricate connection between leadership styles and performance. Based on these aims, we will further explain leadership and how it can be used in this research paper. The concept of leadership has been defined in various ways over the years, leading to the development of different theories that form the basis of the Multifactor Leadership Questionnaire (MLQ). This instrument is used to identify the various leadership styles that exist within a group of people or an organization. The MLQ evolved over the last 25 years, and many investigations have been done using this instrument, from massive corporations in the public or private sector, on directors and leaders of these corporations but also leaders or project managers lower in the organizational hierarchy.

## 2. Main body

Leadership styles have been around since the early 20th century. It's important to differentiate between leadership and management, as they are two distinct concepts. In 1962, Krech, Crutchfield, and Ballachey defined the theory of leadership functions, categorizing them into two main groups: executive and advocacy. According to this theory, leadership characteristics are found in functions rather than a specific persona. The executive function involves structuring initiative and production supervision, while the advocacy function involves consideration and employee supervision. Expanding on this theory, researchers identified three leadership styles: autocratic, democratic, and 'laissez-faire.' The nature of the content has posed challenges to previous theories. However, in this theory, we posit that the limitations are not content-based but rather stem from the practical applicability of the study. There is a clear need for a more comprehensive analysis that can be tested in real-world scenarios. This theory sheds light on the key distinctions among three leadership styles: the autocratic style, which emphasizes the concentration of power and the exclusive right to wield it, vested solely in the leader; the democratic style, which advocates for equality in decision-making, with power and responsibilities vested in the group; and finally, the laissez-faire style, in which the leader is entirely uninvolved in the decision-making process, leaving the group accountable for power and responsibility.

Starting with these theories appeared 'Full-range Leadership,' a concept based on which stands the MLQ (Multifactor Leadership Questionnaire). Unlike the others before it, this concept has been tested in practice multiple times internationally, becoming the standard for testing Transformational Leadership, such in the case of Bass in 2005. This practical applicability of the Full-Range Leadership model instills confidence in its effectiveness. Before explaining the mechanism behind this questionnaire, it is essential to understand the principles of the Full-Range Leadership model. For the past twenty years, there has been a concentration on multiple leadership paradigms, including transformational and transactional leadership. Many of them, though, could not comprehend the complete palette of leadership styles. Many characteristics, such as inspirational and charismatic or passive and avoidant, could not find their place in the current palette of leadership styles.

The name 'Full Range Leadership' was chosen to differentiate this theory from previous ones, which were more narrowed, as mentioned by Iliescu and other authors in 2007. This one was developed to enlarge the spectrum of leadership styles previously investigated. Besides traits, as previously discussed, limited leadership styles, this model differentiated between three styles based on their qualities, situational characteristics, and efficiency. On one end is Transformational Leadership, reflected on the other side by Transactional leadership; on the other, there is Laissez-Faire or passive/avoidant leadership. Being developed based on past theories that were dominant at the time, such as autocratic vs. democratic leadership, directive vs. participative leadership, the leadership concentrated on objective vs. concentrated on the relation; this model is perfectly built in such a way to include all of them and also bring contributions to a better understanding of the strategical effects of those leadership styles.

Passive/avoidant is the first and the most unique, even newer, type of leadership style. Passive leaders avoid implication in any potential problem that might arise in the group. They avoid determining the critical zones and monitoring the actions of their employees. This leadership style usually has the most negative effect on the organization's results. Specialists say this leadership style's expressions are management by expression passive (MBEP) and Laissez-faire (LF).

Transactional leadership is the most intuitive leadership style. It is represented by clearly defining the task's benefits. The leader here is focused on working intensely with subordinates and closing deals with informal contractors to achieve specific goals. More than that, transactional leadership is focused on continuously establishing work standards. A transactional leader constantly monitors the appearance of problems and motivates through a reward system. In this case, the situational reward or contingent reward (CR) and management by exception active (MBEA) are expressions of transactional leadership.

According to multiple students, workers, and specialists worldwide, the third and most effective type of leadership is the transformational style. The behavior of a transformational leader exceeds the primary focus on the rewards system or undoing the mistakes made, which are typical of transactional leadership. Leaders like this are known to be inspirational, motivating figures and intellectually stimulating visionaries focused on maximizing performances. Carisma is a word that describes transformational leaders very well.

Many studies have shown that transformational and transactional leadership styles are correlated with group success. Leaders are known to be motivators and efficient in their interactions with employees or workers on different organizational levels, and they bring satisfaction with their work methods. This study shows leaders with transformational characteristics are prone to 45%–60% of managerial efficiency, mentions Avolio in 2004. They usually have a better match between the mission and the organization's vision than others; profitability of investments and higher sales scores are found when a transformational leader leads. As the results show, transformational leaders are more inclined towards creativity and innovation, creating a safer work environment, an idea developed by Bass in 2005.

In Romania, preliminary studies started in 2005, when the first attempt was used as an auto-evaluation study. The MLQ (Multifactor Leadership Questionnaire) measures a full range of leadership styles, grouped into three broad categories: transformational, transactional, and passive-avoidant, separated by their behaviors and expected outcomes.

The questionnaire in its newest and shortest form (Form 5x) contains 45 items, scored by 12 scales (nine scales and subscales evaluate leadership behaviors, and three scales measure performance and results associated with these behaviors). The first nine scales contain four items, each identifying and measuring leadership and fundamental efficiency behaviors. These items were previously established to have a clear connection to individual and organizational success. MLQ highlights many leadership behaviors, from laissez-faire to the most idealistic. The first nine scales show a strong correlation between items of the same scale but a lower correlation between the items of the other eight components. Andoh mentions in 2013 that at the same time, MLQ differentiates efficient leaders from inefficient

ones because the nine items are split into three scales, which evaluate leadership results over the subordinates, as said by the author.

More than that, the scales of the MLQ are structured in four categories: the first three measure leadership behavior, and the fourth measures leadership results. Each of these scales has more sub-scales in its component. Transformational scales include five sub-scales; transactional scales include two sub-scales; passive-avoidant behavior scales include two sub-scales, and leadership results scales have three distinct sub-scales.

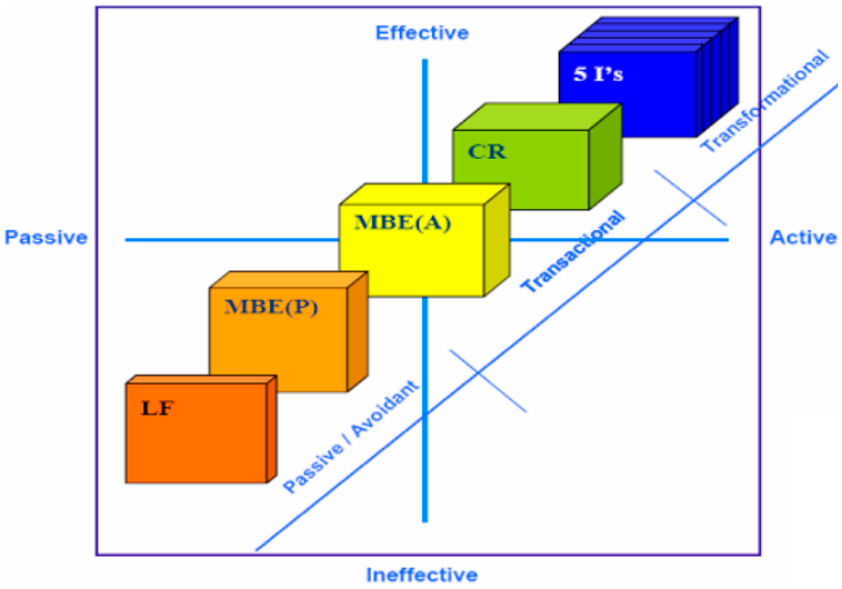


Figure 1: Full Range Leadership

Source: Andoh, 2013

## 2.1. Transformational scales (IA, IB, IM, IS, IC)

This scale measures the way transformational leadership can influence how subordinates, colleagues, or employees differentiate what is important and what is not, and can determine a new perspective on their persona, over their work responsibilities, opportunities, and challenges. Transformational leaders have subordinates and colleagues who attribute them idealized characteristics that can reflect power and influence. Bass mentions in 2005 that their subordinates want to identify with their leader, with their vision and objectives so much that they believe not only in their leader's capacity to lead but also in their morals. This is the reason why employees are motivated to exceed normal work expectations.

*– IA: Idealized Attributes (Builds trust)*

This scale establishes by its higher scores the capacity of a person to exercise influence and inspiring power. The Attributes scale highlights that higher scores here indicate

attributing idealized qualities by others, not necessarily having those qualities. These persons raise pride among followers, offer trust, and raise above personal interests in favor of group interests.

*– IB: Idealized Behaviors (Acts with integrity)*

In this scale, a high score means the tendency to manifest ideal behaviors like dominance, auto-control, ascendence, high moral judgment, optimism, and efficiency. People with higher scores in this category support their most important beliefs and goals, highlighting the necessity of finishing on a desirable note and considering their decisions' ethical and moral consequences. At the same time, it accentuates the importance of building a sense of collectivity shared among all the group members when talking about their mission.

*– IM: Inspirational Motivation (Encourages others)*

People in this category with higher scores behave in a motivating manner with subordinates, giving their work meaning and discovering challenges in their activity and the others. As leaders, they inspire enthusiasm and optimism in the team, stimulating individual and also team spirit. They encourage others to have trust in their future, seeing and thinking positively about it. Talking about the future with optimism and having a positive vision inspires others to work towards realizing their objectives, highlighting the importance of achieving each of them.

*– IS: Intellectual Stimulation (Encourages innovative thinking)*

Higher scores on this scale identify with people who cultivate and stimulate innovation and creativity among themselves. They do that by encouraging people around them to question and doubt assumptions and decisions, pushing people to reanalyze and reformulate problems they encounter, and looking at issues from a different angle, searching for new perspectives. Leaders in this category always ask their subordinates for new solutions and creative ideas for usual problems, nurturing them in the resolution process.

*– IC: Individual Consideration (Coaches & Develops people)*

Leaders with higher scores in the Individual Consideration scale take great responsibility in the process of realizing the needs of their people; each individual has essential needs regarding evolution, and their leader acts as a mentor and a coach when it comes to allocating their resources and effort into helping others achieve their proper role. The subordinates here have all the conditions of a climate oriented toward support, in which they can evolve rapidly because they have at hand new opportunities to learn and reach even higher levels. The leader addresses their needs and wishes differently, following their potential and capacities. Leaders train and teach others in continuum development, accentuating their key competencies and strong points.

## 2.2. Transactional scales (CR, MBEA)

The transactional scales measure the transactional characteristics of evaluated people and behaviors associated with constructive transactions, such as contingent rewards, corrective transactions, and management by exception. Leaders in this category know the roles and duties necessary for their subordinates to achieve the desired outcomes. Clarifying the tasks for the subordinates instills in people a sense of security toward the objective, the means required to achieve the purpose, and the modality to evaluate their effort as Avolio said in 2004. Therefore, transactional leadership coordinates the actions of individuals toward a common goal, offering them a sense of clearance that is energizing for following that direction. Leaders recognize the needs of their subordinates and work to clarify how those needs can be solved in the working context. Most contemporary leadership training programs prefer this approach, but it is limited to the primary level of transactions. It is vital to mention that transactional leadership is considered an essential component of Full-range Leadership. This consecrated transactional leadership paradigm is completed and not replaced by transformational leadership. When this is the case, transformational leaders can be transactional leaders, but transactional leadership is increasingly becoming a solution for lower levels of performance groups or insignificant changes.

*– CR: Contingent Reward (Rewards achievement)*

Leaders in this category manifest behavior specific to efficient transactions, meaning they discuss in more precise terms what is responsible for what, establish what is to receive when the performance objectives are met and express satisfaction when the others meet the tasks they were asked to do. These people recognize others' merits when they achieve objectives and clarify expectations. Contingent rewards are a vital instrument of transactional leadership, and they consist of a reward that is given only when the goals are met. The results drawn from this approach consist of individuals or groups reaching high-performance levels.

*– MBEA: Management by Exception – Active (Monitors deviations & mistakes)*

People with high scores on this scale specify standards for compliance, the meaning of inefficient performance, and those who resume alternatively sanctioning subordinates for noncompliance with the standards. This leadership style presumes carefully monitoring deviations, mistakes, and errors and then taking action to correct those wrongs as fast as possible when they are committed or when there are deviations from the standard. Leaders who have management by exception — active as practice tend to keep evidence of the errors and all of the mistakes and focus most of their attention on irregularities, exceptions, and deviations from the standard, but also on treating those wrongs, complaints, and failures as Andoh mentioned in 2013.

### 2.3. Passive-avoidant behavior scales (MBEP, LF)

Passive-avoidant leadership refers to a more passive and reactive type of leadership, describing leaders who do not react systematically to problems and situations they encounter. They usually avoid clarifying objectives, expectancies, and standards for subordinates to meet. This style has more negative outcomes over time, the opposite of what the leader intends. MLQ has two scales in passive-avoidant leadership: management by exception–passive and laissez-faire. Behaviors typical to management, by exception, are passive, in which leaders take action just after the problem arises; this behavior is not proactive but is reactive based on punishment, for instance. Typical for the laissez-faire leadership style are situations in which the leader avoids complete involvement in solving issues and does not react to threats or problems with the excuse that they will solve themselves sooner or later. Both styles harm the organizational well-being of the group, the subordinates, and the colleagues.

– *MBEP: Management by Exception – Passive (Fights fires)*

Management by exception—active refers to leaders who carefully monitor problems and deviations and then apply corrective measures, but management by exception—passive does not wait for problems to arrive. They wait until their errors and mistakes become severe and their gravity passes the limits for them to act. These leaders act only when problems become chronic, and situations worsen.

– *LF: Laissez-Faire (Avoids involvement)*

This category of leadership style can be defined more as a non-leadership because it expresses an inefficiency of the transformational style. In this case, the leader avoids interacting with responsibility with problems and does not offer information to the subordinates. They do not provide feedback to colleagues and are incapable of recognizing and satisfying employees' needs. People with higher scores in this category avoid being involved when important matters or problems arise, are absent when others need them to take action, and evade making decisions. Usually, they react late to grave issues after they become critical.

### 2.4. Leadership results scales (EE, EFF, SAT)

Both transformational and transactional leadership correlate with success at the level of individuals, organizations, and groups. MLQ evaluates leadership efficiency based on how subordinates, colleagues, and employees perceive leaders as being good motivators, being efficient in interactions at different levels of the organization, and generating satisfaction with the ways of work.

– *EE: Extra Effort (Generates supplemental effort)*

Extra effort is an effect of efficient leadership, and it is when a leader wishes to realize superior performance through higher efforts, with subordinates being convinced to do more than they are expected to leaders with high scores in this category amplify the desire to push others harder, raise their availability to succeed, and strive for more.

– *EFF: Effectiveness (Is productive)*

The effectiveness scale identifies leaders who are efficient by satisfying the professional needs of others or the professional needs of the group representatives in front of a higher authority, by satisfying the requirements and necessities of the organization, and by representing the effectiveness of the whole group coordinated by them.

– *SAT: Satisfaction with the Leadership (Generates satisfaction)*

The satisfaction scale linked to leadership contains only two items and is identified by generating satisfaction in interactions with others and interpersonal relationships. Leaders in this category are typically open, authentic, warm, and honest with others. They can develop feelings of thankfulness and generate gratitude among employees and subordinates.

## 3. Research Methodology

The methodology employed in this study involved the administration of the Multifactor Leadership Questionnaire (MLQ) to high school teachers to elicit their perspectives on various leadership variables. Subsequently, the gathered responses were analyzed using SPSS, enabling the calculation of descriptive statistics such as means and standard deviations for each leadership variable (Q1–Q12). Furthermore, the Pearson correlations between leadership traits and student grades were examined to explore potential relationships between leadership styles and academic performance. It is imperative to acknowledge the study's limitations, notably the small sample size of 10, and to consider factors such as sample representativeness and statistical power when interpreting the findings.

Numerous authors characterize transformational leadership as a motivating and inspiring approach that exceeds expectations by emphasizing innovation, personal growth, and shared goals, particularly for students. In the context of Cluj-Napoca, information available at the City Hall website in 2024, it is observed that most high-performing high schools exhibit transformational leadership, while lower-level high schools tend to adopt transactional leadership. This observation forms the basis of the hypothesis to predict the performance of high schools in Cluj-Napoca. Below is a comprehensive list of these high schools:

Table 1: High school ranks in Cluj-Napoca

| No. | High school name | Promotability rate | Grade |
|---|---|---|---|
| 1. | Colegiul Național 'Emil Racoviță' | 100% | 9,28 |
| 2. | Liceul Teoretic 'Avram Iancu' | 100% | 9,22 |
| 3. | Liceul Teoretic 'Nicolae Bălcescu' | 100% | 9,19 |
| 4. | Liceul Teoretic 'ELF' | 100% | 9,13 |
| 5. | Colegiul Național 'Gheorghe Șincai' | 100% | 9,02 |
| 6. | Liceul de Informatică 'Tiberiu Popoviciu' | 100% | 8,85 |

| No. | High school name | Promotability rate | Grade |
|---|---|---|---|
| 7. | Colegiul Național ‘George Coșbuc’ | 100% | 8,64 |
| 8. | Liceul Unitarian ‘Janos Zsigmond’ | 100% | 8,61 |
| s9. | Liceul Teoretic Creștin ‘Pro Deo’ | 100% | 8,33 |
| 10. | Liceul Teoretic ‘Lucian Blaga’ | 98,9% | 8,77 |
| 11. | Colegiul Național ‘Gheorghe Lazar’ | 98,2% | 8,54 |
| 12. | Colegiul Ortodox Mitropolitul ‘Nicolae Colan’ | 97,5% | 8,38 |
| 13. | Colegiul Economic ‘Iulian Pop’ | 96,9% | 8,23 |
| 14. | Colegiul Național ‘George Barițiu’ | 96,7% | 8,55 |
| 15. | Liceul Teoretic ‘Onisifor Ghibu’ | 96,5% | 8,78 |
| 16. | Liceul Teoretic ‘Bathory Istvan’ | 95,1% | 7,82 |
| 17. | Liceul Teoretic ‘Apaczai Csere Janos’ | 92% | 7,70 |
| 18. | Colegiul de Muzică ‘Sigismund Toduță’ | 90,9% | 7,66 |
| 19. | Liceul Teoretic ‘Eugen Pora’ | 90,8% | 7,87 |
| 20. | Liceul Teoretic ‘Victor Babeș’ | 90,7% | 8,17 |
| 21. | Liceul Teologic Baptist ‘Emanuel’ | 90,6% | 7,75 |
| 22. | Liceul Teoretic ‘Mihai Eminescu’ | 89,1% | 7,80 |
| 23. | Colegiul Tehnic de Comunicații ‘Augustin Maior’ | 87,6% | 7,41 |
| 24. | Liceul Waldorf | 87,5% | 7,13 |
| 25. | Liceul Teoretic ‘Horea Cloșca și Crișan’ | 86,7% | 7,67 |
| 26. | Liceul Teologic Reformat | 85,5% | 7,65 |
| 27. | Liceul de Coregrafie și Artă Dramatică ‘Octavian Stroia’ | 83,3% | 7,16 |
| 28. | Colegiul de Servicii în Turism ‘Napoca’ | 83,3% | 6,77 |
| 29. | Liceul de Arte Vizuale ‘Romulus Ladea’ | 82,1% | 7,26 |
| 30. | Liceul Tehnologic nr.1 | 81,8% | 7,05 |
| 31. | Colegiul Tehnic ‘Ana Aslan’ | 81,6% | 7,30 |
| 32. | Liceul Teologic Adventist ‘Maranatha’ | 81,3% | 7,13 |
| 33. | Liceul Greco-Catolic ‘Inochenție Micu’ | 80% | 7,40 |
| 34. | Colegiul Tehnic Energetic | 78,7% | 6,76 |
| 35. | Colegiul Tehnic ‘Raluca Ripan’ | 71,4% | 6,81 |
| 36. | Liceul Tehnologic „Alexandru Borza’ | 70,6% | 6,62 |
| 37. | Liceul cu Program Sportiv | 61,6% | 6,35 |
| 38. | Colegiul Tehnic ‘Anghel Saligny’ | 61,3% | 6,30 |
| 39. | Liceul Teoretic ‘Virgil Madgearu’ | 53,1% | 6,07 |
| 40. | Liceul Teoretic ‘Brassai Samuel’ | 52% | 6,02 |
| 41. | Liceul Tehnologic ‘Aurel Vlaicu’ | 41,7% | 6,08 |
| 42. | Liceul Tehnologic Special pentru Deficienți de Auz | 41,7% | 5,82 |
| 43. | Liceul Tehnologic UCECOM ‘Spiru Haret’ | 37,8% | 5,53 |
| 44. | Colegiul Tehnic de Transporturi ‘Transilvania’ | 29,2% | 5,32 |
| 45. | Liceul Special pentru Deficienți de Vedere | 16,7% | 5,66 |

**Source:** Anon., 2025

To evaluate the items in MLQ, the respondent must use a five-point scale between 0 and 4, each of these items estimating the frequency of the described behavior. The five points of the scale are presented as comes next:

- 0 = Not at all;
- 1 = Once in a while;
- 2 = Sometimes;
- 3 = Fairly often;
- 4 = Frequently, if not always

On average, completing the questionnaire takes around 15 minutes for universal respondents starting at 14–15 years old. For those who don't have the reading capacity of a 14-year-old, the person administering the questionnaire could read aloud.

The following is a condensed version of the MLQ, consisting of only 12 questions, each corresponding to a specific variable. This questionnaire was administered to a random sample of professors from 10 different schools, yielding varying results in terms of ranking. This study aims to assess the instrument's validity and determine whether any adjustments or additional details are necessary.

**Table 2**: MLQ (questionnaire applied)

| | Question | Score (0–4) |
|---|---|---|
| 1 | I go beyond self-interest for the good of the group. | |
| 2 | I consider the moral and ethical consequences of decisions. | |
| 3 | I talk optimistically about the future. | |
| 4 | I enable others to think about old problems in new ways. | |
| 5 | I help others develop themselves. | |
| 6 | I make clear what one can expect to receive when goals are achieved. | |
| 7 | I keep track of all my mistakes. | |
| 8 | I wait for things to go wrong before taking action. | |
| 9 | I avoid making decisions. | |
| 10 | I push others to do more than they are expected. | |
| 11 | I satisfy the professional needs of others. | |
| 12 | I make the work environment a place that satisfies others. | |

**Table 3**: Scores explanation.

| Key: | |
|---|---|
| ***0*** | Not at all |
| 1 | Once in a while |
| 2 | Sometimes |
| 3 | Fairly often |
| 4 | Frequently, if not always |

Each key variable in the Full Range Leadership model is directly linked to a specific question, providing valuable insights into leadership dynamics. The comprehensive table provided provides detailed information on the questions, variables, and their explanations.

Table 4: Questions & scales

| Question | Type | Theoretical Basis | Description |
|---|---|---|---|
| Q1 | Idealized Attributes | Transformational Leadership | Idealized Attributes (IA) indicates attributing idealized qualities by others, not necessarily having those qualities. These persons raise pride among followers, offer trust, and raise above personal interests in favor of group interests. |
| Q2 | Idealized Behavior | Transformational Leadership | Idealized Behavior (IB) manifests ideal behaviors like dominance, auto-control, ascendence, high moral judgment, optimism, and efficiency. It highlights the necessity of finishing on a desirable note and focuses on the ethical and moral consequences of one's decisions. |
| Q3 | Inspirational Motivation | Transformational Leadership | Inspirational motivation (IM) measures the degree to which you provide a vision and demanding goals, use appropriate symbols and images to help others focus on their work, and try to make others feel their work is significant. |
| Q4 | Intellectual Stimulation | Transformational Leadership | Intellectual stimulation (IS) shows the degree to which you encourage others to be creative in looking at old problems in new ways, create an environment that is tolerant of seemingly extreme positions, and nurture people to question their values and beliefs and those of the organization. |
| Q5 | Individual Consideration | Transformational Leadership | Individualized consideration (IC) indicates the degree to which you show interest in others' well-being, assign projects individually, and pay attention to those who seem less involved in the group. |
| Q6 | Contingent Reward | Transactional Leadership | Contingent reward (CR) involves telling others what to do to be rewarded, emphasizing what you expect from them, and recognizing their accomplishments. |
| Q7 | Management-by-exception: Active | Transactional Leadership | Management-by-exception: Active (MBEA) shows leaders who specify compliance standards and the meaning of inefficient performance and those who resume alternatively sanctioning subordinates for noncompliance. |
| Q8 | Management-by-exception: Passive | Passive-Avoidant Leadership | Management-by-exception: Passive (MBEP) describes leaders who act only when problems become chronic and situations worsen and are a believer in 'if it ain't broke, don't fix it.' |

| Question | Type | Theoretical Basis | Description |
|---|---|---|---|
| Q9 | Laissez-faire Leadership | Passive-Avoidant Leadership | Laissez-faire (LF) leaders are content to let things ride and let others do their own thing. They are absent when others need them to take action and evade making decisions. Usually, they react late to grave problems after they become critical. |
| Q10 | Extra Effort | Leadership Results | Extra Effort (EE) explains how subordinates are convinced to do more than expected. Leaders with high scores in this category amplify the desire to push others harder, raise their availability to succeed, and strive for more. |
| Q11 | Effectiveness | Leadership Results | Effectiveness (EFF) identifies leaders who are efficient by satisfying the professional needs of others, or the professional needs of the group representatives in front of a higher authority, by fulfilling the requirements and necessities of the organization. |
| Q12 | Satisfaction with the Leadership | Leadership Results | Satisfaction with Leadership (SAT) describes typically open people who are authentic, warm, and honest with others. They can develop feelings of thankfulness and generate gratitude among employees and subordinates. |

## 4. Data analysis

The study included ten professors from ten different high schools, with grades ranging from 7.26 to 9.28, as depicted in the graph below. Both median and mean analyses were conducted to compare the responses to 12 questions. The descriptive statistics for the leadership survey responses (Q1–Q12) revealed a range of perceptions on various leadership variables. Each variable received ten reactions on a scale from 0 to 4. Questions such as Q2

**Descriptive Statistics**

| | N | Minimum | Maximum | Mean | Std. Deviation |
|---|---|---|---|---|---|
| Q1 | 10 | 1.00 | 4.00 | 2.1000 | 1.19722 |
| Q2 | 10 | 1.00 | 4.00 | 3.1000 | .99443 |
| Q3 | 10 | .00 | 4.00 | 2.7000 | 1.25167 |
| Q4 | 10 | 1.00 | 4.00 | 2.9000 | .99443 |
| Q5 | 10 | 2.00 | 4.00 | 3.1000 | .73786 |
| Q6 | 10 | .00 | 4.00 | 2.9000 | 1.44914 |
| Q7 | 10 | .00 | 4.00 | 2.6000 | 1.50555 |
| Q8 | 10 | .00 | 3.00 | .4000 | .96609 |
| Q9 | 10 | .00 | 3.00 | .7000 | .94868 |
| Q10 | 10 | .00 | 4.00 | 2.2000 | 1.31656 |
| Q11 | 10 | .00 | 4.00 | 1.8000 | 1.22927 |
| Q12 | 10 | 1.00 | 4.00 | 2.7000 | 1.15950 |
| Grades | 10 | 7.26 | 9.28 | 8.6690 | .68586 |
| Valid N (listwise) | 10 | | | | |

Figure 2: Descriptive analysis

and Q5 received higher average scores, indicating a consensus among participants regarding those aspects of leadership. In contrast, responses to questions like Q8 and Q6 showed more variability, suggesting diverse views on those traits.

The mean grade was 8.67, with a relatively low standard deviation, implying consistency in academic performance. This uniform performance across the group suggests a limited grade spread, indicating relatively similar academic results among students.

The variability in responses to leadership variables suggests that respondents perceive different leadership styles differently. Questions like Q2 and Q5 received higher average ratings, indicating general agreement among participants in those areas. Conversely, variables like Q7 and Q6 elicited a broader range of responses, signifying diverse perceptions of leadership in those aspects. With less dispersed grades, there could be consistent academic performances among students if the sample size were more significant. The next step would involve examining correlations between these leadership styles and academic performance to explore how leadership might influence grades.

**Correlations**

| | | Q1 | Q2 | Q3 | Q4 | Q5 | Q6 | Q7 | Q8 | Q9 | Q10 | Q11 | Q12 | Grades |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Q1 | Pearson Correlation | 1 | .271 | .615 | .289 | -.013 | -.378 | -.468 | -.423 | -.362 | .127 | .695* | .664* | .234 |
| | Sig. (2-tailed) | | .449 | .058 | .417 | .972 | .282 | .172 | .224 | .304 | .727 | .026 | .036 | .515 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q2 | Pearson Correlation | .271 | 1 | -.062 | -.213 | -.469 | -.146 | -.416 | .069 | -.436 | .322 | .200 | -.357 | .095 |
| | Sig. (2-tailed) | .449 | | .864 | .554 | .171 | .686 | .232 | .849 | .208 | .363 | .580 | .312 | .795 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q3 | Pearson Correlation | .615 | -.062 | 1 | .062 | .517 | .227 | .224 | -.717* | -.646* | -.027 | .679* | .850** | -.289 |
| | Sig. (2-tailed) | .058 | .864 | | .864 | .126 | .529 | .534 | .020 | .044 | .941 | .031 | .002 | .418 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q4 | Pearson Correlation | .289 | -.213 | .062 | 1 | .167 | .146 | .267 | -.532 | -.271 | .441 | .073 | .260 | .098 |
| | Sig. (2-tailed) | .417 | .554 | .864 | | .646 | .686 | .456 | .113 | .449 | .202 | .842 | .468 | .789 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q5 | Pearson Correlation | -.013 | -.469 | .517 | .167 | 1 | .634* | .640* | -.530 | -.270 | -.366 | .024 | .429 | -.549 |
| | Sig. (2-tailed) | .972 | .171 | .126 | .646 | | .049 | .046 | .115 | .451 | .298 | .946 | .217 | .101 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q6 | Pearson Correlation | -.378 | -.146 | .227 | .146 | .634* | 1 | .896** | -.603 | -.509 | .128 | -.012 | -.020 | -.542 |
| | Sig. (2-tailed) | .282 | .686 | .529 | .686 | .049 | | <.001 | .065 | .133 | .724 | .973 | .957 | .105 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q7 | Pearson Correlation | -.468 | -.416 | .224 | .267 | .640* | .896** | 1 | -.565 | -.405 | .045 | -.168 | .051 | -.505 |
| | Sig. (2-tailed) | .172 | .232 | .534 | .456 | .046 | <.001 | | .089 | .246 | .902 | .642 | .889 | .136 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q8 | Pearson Correlation | -.423 | .069 | -.717* | -.532 | -.530 | -.603 | -.565 | 1 | .752* | -.245 | -.487 | -.575 | .138 |
| | Sig. (2-tailed) | .224 | .849 | .020 | .113 | .115 | .065 | .089 | | .012 | .496 | .154 | .082 | .703 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q9 | Pearson Correlation | -.362 | -.436 | -.646* | -.271 | -.270 | -.509 | -.405 | .752* | 1 | -.480 | -.438 | -.293 | .360 |
| | Sig. (2-tailed) | .304 | .208 | .044 | .449 | .451 | .133 | .246 | .012 | | .160 | .205 | .411 | .307 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q10 | Pearson Correlation | .127 | .322 | -.027 | .441 | -.366 | .128 | .045 | -.245 | -.480 | 1 | .233 | -.029 | .020 |
| | Sig. (2-tailed) | .727 | .363 | .941 | .202 | .298 | .724 | .902 | .496 | .160 | | .516 | .936 | .956 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q11 | Pearson Correlation | .695* | .200 | .679* | .073 | .024 | -.012 | -.168 | -.487 | -.438 | .233 | 1 | .733* | -.156 |
| | Sig. (2-tailed) | .026 | .580 | .031 | .842 | .946 | .973 | .642 | .154 | .205 | .516 | | .016 | .667 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Q12 | Pearson Correlation | .664* | -.357 | .850** | .260 | .429 | -.020 | .051 | -.575 | -.293 | -.029 | .733* | 1 | -.137 |
| | Sig. (2-tailed) | .036 | .312 | .002 | .468 | .217 | .957 | .889 | .082 | .411 | .936 | .016 | | .705 |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Grades | Pearson Correlation | .234 | .095 | -.289 | .098 | -.549 | -.542 | -.505 | .138 | .360 | .020 | -.156 | -.137 | 1 |
| | Sig. (2-tailed) | .515 | .795 | .418 | .789 | .101 | .105 | .136 | .703 | .307 | .956 | .667 | .705 | |
| | N | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |

*. Correlation is significant at the 0.05 level (2-tailed).

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

Figure 3: Pearson Correlation.

In this research, we aim to explore the potential relationship between leadership styles, as evaluated by the Multifactor Leadership Questionnaire (MLQ), and the academic performance of high school students. We employed correlation analysis to investigate the connection between these variables. Our hypothesis posited that positive correlations would indicate that higher leadership qualities correspond to better grades, while negative correlations would suggest a decline in grades as leadership scores increase. A lack of significant correlation would imply an absence of a consistent relationship between the variables. It is important to note that our sample size was limited to only 10 participants, potentially impacting the robustness of the correlation results. A larger sample size could produce more statistically significant results and more apparent trends. However, it was anticipated that limitations would exist in this study. The variables under investigation encompassed leadership questions (Q1 to Q12), representing different dimensions of leadership from the Full Range Leadership Model, and grades as the outcome variable.

Please take note of the following information:

– *No significant relationships with grades*: None of the leadership style questions (Q1 to Q12) correlate statistically significantly with grades. The p-values for all correlations between MLQ responses and grades are more significant than 0.05, suggesting that any observed relationships may be due to random variation.

– *Negative Correlations*: Q5 ('I make clear what one can expect to receive when goals are achieved') shows a moderate negative correlation with grades ($r = -0.549$). This indicates that higher scores on this leadership item are associated with lower grades. However, the relationship is not statistically significant ($p = 0.101$), making it inconclusive but suggesting a possible trend. Q6 ('I keep track of all my mistakes') and Q7 ('I push others to do more than they are expected') also have moderate negative correlations with grades ($r = -0.542$ and $r = -0.505$, respectively). However, these are also not statistically significant ($p = 0.105$ for Q6 and $p = 0.136$ for Q7).

In interpreting these results, negative correlations might imply that more assertive or structured leadership traits (such as keeping track of mistakes or setting strict expectations) could be linked to lower academic performance. However, further data is needed to validate this.

For questions such as Q1 ('I go beyond self-interest for the good of the group'), there is a weakly positive correlation with grades ($r = 0.234$) that is not statistically significant ($p = 0.515$). This indicates a slight positive trend where students demonstrating selfless leadership may have slightly better grades, but the impact is too small to be considered significant.

Upon careful consideration, it is evident that there are no significant correlations. The absence of statistically significant results indicates a lack of solid evidence supporting a consistent relationship between leadership behaviors and academic performance in this sample. While there may be potential explanations for the observed trends, such as:

– *Sample Size:* The small sample size limits the ability to identify strong correlations. Conducting more extensive studies may unveil more precise patterns.

– *Contextual Factors*: Other variables (e.g., personal motivation, teaching style, external academic support) may have a more significant impact on educational outcomes than leadership traits alone.

Future research will require additional insights, which will be gathered following the public presentation of this article. It is suggested that future research should focus on specific dimensions of leadership. For instance, analyzing individual aspects of leadership, such as transformational leadership traits, may reveal a stronger correlation with academic outcomes. A more extensive and diverse sample size would clarify the relationship between leadership, academic performance, and promotability within each school. It's important to note that our analysis only considered the high school results without considering the promotability rate.

## 5. Conclusions

This article delved into the Full-range Leadership theoretical framework Bass outlined in 2005. The study established a clear link between leadership styles and high school performance in Cluj-Napoca, Romania. Utilizing the Multifactor Leadership Questionnaire (MLQ), we examined how leadership influences various factors contributing to improved student outcomes. The descriptive statistics and correlation analysis revealed that specific leadership traits, especially those related to motivation and development, could impact students' academic achievements despite the limited sample size.

School performance is multidimensional, traditionally gauged by standardized test scores, but leadership undeniably plays a pivotal role in shaping student success. Numerous scholars, stress the significance of considering alternative measures of school performance, focusing on student engagement and leadership effectiveness. This study adds to the growing body of literature, suggesting that effective educational leadership can positively influence teacher satisfaction, school culture, and students' academic accomplishments.

Future studies should expand the sample size to ensure more broadly applicable results, as suggested in a linked article by the author Perșa in 2024. This study highlights the crucial role of leadership in school performance, extending beyond traditional academic measures. The findings suggest that schools should reconsider the impact of leadership on educational outcomes, emphasizing leadership that supports staff and students.

In summary, while the current analysis did not reveal statistically significant relationships between leadership styles (as measured by the MLQ) and grades, this article aimed to assess the validity of the MLQ instrument. Nonetheless, there are observable trends that warrant further exploration. The data indicates that certain leadership behaviors may have either a positive or negative impact on grades. Still, these findings are inconclusive due to the limited sample size, which consisted of ten respondents chosen from the author's close circle of relatives and acquaintances. In the coming months, a more comprehensive study will be conducted using the insights gathered from this study, with a larger sample size encompassing all high schools in Cluj-Napoca. This research aims to provide valuable guidance for high schools nationwide.

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# The Benefits of the Joint Cross-border Cooperation Program on Local Communities from Romania and Moldova*

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**Abstract**

The present research focuses on different aspects regarding cross-border cooperation between Romania and the Republic of Moldova in the 2014–2020 period. The study analyses the benefits of the Romania- Moldova Joint Operational Cooperation Program, investigating the projects carried out, the encountered obstacles, the main motivations for participating in cross-border cooperation projects in the future period of time, and the main modalities to raise awareness regarding

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the program and its impact. The study revealed that the main obstacles encountered in projects' implementation are different legal regulations and varied organizational structures of the two countries, as well as the need for raising awareness regarding the program and the implemented projects.

**Keywords:** Romania-Moldova Joint Operational Cooperation Program 2014–2020, cross-border cooperation, local communities.

## 1. Introduction

In the last years, border regions have drawn more and more attention due to their increased potential and importance on the international stage. The evolution of cross-border cooperation inside and outside the European area led to an interconnected global network where major economic, political, social, and environmental relationships developed (Castanho *et al*., 2018).

Cooperation between regions in at least two Member States that are bordering or adjacent to each other is known as European cross-border cooperation. It is an important aspect of territorial development because more than a third of the European population lives in border areas (Castanho *et al*., 2018). The purpose of cross-border cooperation is to solve common problems found in border regions and take advantage of the unexploited growth potential of these areas while strengthening cooperation to achieve the harmonious development of the Union (European Commission, 2023). It is considered a type of international cooperation, either between two or more countries or between regions sharing or not sharing common borders, developed for achieving mutual benefits or common goals, such as increasing economic growth or sustainable development (Sousa, 2012). Cross-border cooperation contributes to the reduction of economic and social disparities and imbalances in the European Union and sustains an equilibrated development.

The territorial cooperation process can be explained as a basic political procedure for promoting territorial integration (Knippschil, 2011). The purpose is to reduce barriers to the borders and promote territorial development (Medeiros, 2015) through allocating resources for transborder, transnational, interregional, and macroregional cooperation programs and/or projects that can generally have a significant impact on different dimensions of territorial development (Medeiros, 2015).

Cross-border cooperation has varied impacts on states, from economic and social development to strengthening diplomatic relations and promoting regional stability (Sousa, 2012). Also, the effectiveness of the cross-border cooperation programs depends on different factors, such as economic, political, social, or cultural (Bobylev *et al*., 2020; Prokkola, 2019).

Despite there being different transnational cooperation strategies in the European area, such as the Danube and Baltic Sea macro regions, it can be affirmed that cross-border cooperation represents the most important tool in the territorial cooperation process in

Europe. Even though cross-border cooperation is sometimes considered a difficult process, it is also a successful one. A good example could be the Euroregion that succeeded in becoming important actors in the development of cooperation strategies in the border regions (Medeiros, 2015).

In this respect, the research focuses on aspects regarding cross-border cooperation between Romania and the Republic of Moldova in the 2014–2020 period. The study analyses the benefits of the Romania-Moldova Joint Operational Cooperation Program, investigating the projects carried out and the encountered obstacles. Also, the research investigates the main motivations for participating in the program in the future period and the main methods to raise awareness regarding the program and its impact. By analyzing these aspects, the paper seeks to highlight the potential of this collaboration between the two neighboring countries and the manner in which it can be improved in order to contribute to sustainable development objectives and strengthen the partnerships between Romania and the Republic of Moldova.

## 2. Main considerations on cross-border cooperation

Cross-border cooperation is a concept that refers to the development of neighboring relations between local authorities and stakeholders on both sides of the border to overcome problems in those areas and promote the harmonious development of neighboring communities. In this process, the local authorities do not receive additional competencies, but rather, they try to use their powers as efficiently as possible. The local communities in neighboring countries can associate in cross-border associations to implement development projects (Huntigton, 2011).

Based on their geographical peripheric positions, different national legal provisions, and levels of economic development, border regions can be less developed compared to other regions, being more prone to suffer from economic imbalances and inequities (Popa, 2006). Through this cooperation, border communities can develop economies of scale, broaden cultural perspectives, provide better services to citizens, achieve sustainable goals, and support socio-economic development. The success of cross-border cooperation depends on local communities' willingness to collaborate, the national legal frameworks, and the development of clear goals for the partnerships (Council of Europe, 2024).

Out of the main effects of cross-border cooperation acknowledged in the literature, the following benefits should be mentioned: (1) the development and implementation of joint projects in fields such as health, education or culture; (2) the strengthening of regional security and effective emergency management; (3) the reduction of economic and social disparities between regions; (4) the development of communication networks and transport infrastructure; (5) the improvement of life quality; (6) the increase of investments and trade operations between regions, generating significant economic benefits; (7) better cooperation in technology development and research projects; and (8) better diplomatic relations between neighboring states (Basboga, 2020; Böhm, 2021).

As mentioned above, cross-border cooperation can lead to social and economic development of the neighboring areas that decide to be involved in these partnerships. The motivation of local communities to cooperate is sustainable development, increased living standards, decreased regional disparities, and eliminated border barriers (Huntigton, 2011). In this process, countries play major roles through their national policies regarding border regions' development. As border areas have no legal authority, states are the ones that develop and implement regional policies and cooperation agreements (Moisescu, 2008). Therefore, the border regions engage in economic and social activities according to their national regional policies and also consider the issues regarding national security.

Considering the aforementioned, regional cooperation in border areas between countries outside the European Union's space can raise challenges in terms of freedom of capital, goods, services, and people (Moisescu, 2008). In addition, development differences between EU Member States and other countries raise the problem of competition that could lead to conflicts and social tensions and make cross-border cooperation challenging because well-developed countries will achieve better outcomes after the programs' implementation.

To respond to the challenges raised by the regions situated on border areas and to their main economic and social issues, the European Union designed the European Neighboring Policy (ENP) in order to negotiate agreements inclusively with non-EU states and offer economic support and access to the internal market (Șlusarciuc and Prelipcean, 2013) in exchange for partner reforms (Volkhart, 2007).

Also, the cohesion policy helps the cooperation between border regions because its purpose is to reduce regional and social disparities (Faludi and Peyrony, 2011). The policy tries to improve territorial integration and promote regional cooperation, although there are still high regional development differences, inclusively in the border regions, which tend to confront more economic problems than the other regions (Rodríguez-Pose and Garcilazo, 2015; Dentinho, 2020; Butkus *et al*., 2019; Rodríguez-Pose and Ketterer, 2019). Nevertheless, territorial cooperation is one of the objectives of the European cohesion policy, this aspect being reflected in the financial allocation of the policy. From the allocated funds, the European Regional Development Fund could be mentioned, which finances the INTERREG program that can contribute to a high extent to the cooperation between border regions (Kurowska-Pysz and Szczepańska-Woszczyna, 2017).

Even though the cohesion policy helped the proper functioning of cross-border implementation projects (Kurowska-Pysz, 2016; Namyślak, 2013; Sohn and Giffinger, 2015), there are still important gaps in the territorial development policies and a difficulty in measuring their real impact. Thus, it is certain that cross-border cooperation can increase life quality, reduce economic disparities, and lead to resilient economies in border regions (Batista *et al*., 2013; Yigitcanlar, Dur and Dizdaroglu, 2014), hence, the European states should continue to improve their territorial policies and give a greater importance to this aspect.

## 3. Research methodology

The main purpose of the paper is to investigate the impact of cross-border cooperation between Romania and the Republic of Moldova in the 2014–2020 period.

The research started with the following objectives:

(1) To analyze the benefits of the Romania-Moldova Joint Operational Cooperation Program in the 2014–2020 period;
(2) To analyze the main problems encountered in the implementation process of cross-border cooperation projects;
(3) To determine the motivations for continuing to participate in the program and the main ways to raise awareness regarding the program.

The main research questions of the study are:

RQ1: What are the main benefits of the projects implemented during the program?
RQ2: What are the main obstacles encountered in the implementation process of cross-border cooperation projects?
RQ3: What motivates local communities to participate in cross-border cooperation projects?
RQ4: How can local communities raise awareness regarding the cooperation between Romania and the Republic of Moldova and its impact?

The research methodology consists of a document analysis based on secondary data collected regarding the projects implemented in the eligible areas of the Romania-Moldova Joint Operational Cooperation Program during the 2014–2020 period and an opinion survey conducted in the border counties of Romania (Galați, Vaslui, Botoșani and Iași) and the Republic of Moldova. The respondents of the survey were people who work or live near the border, who were chosen using the convenience sampling method based on accessibility. 111 respondents agreed to participate in the study, 36 from the Republic of Moldova and 75 from the eligible counties from Romania.

## 4. Main research results

### 4.1. The implementation of the Romania–Moldova Joint Operational Cooperation Programme 2014–2020

In the 2014–2020 period, the European Union financed the Romania–Republic of Moldova Joint Operational Program, through the European Neighborhood Instrument (ENI) with the purpose of contributing to the overall objective of the European Neighborhood Instrument: the evolution towards regional prosperity and good neighborliness, achieved through cross-border cooperation actions for the benefit of EU and non-EU Member States that border each other (Dekanozishvili, 2017). The program had funding of 89.1 million euros (out of which 81 million euros were financed by the EU and 8.1 million euros were co-funded by the partner states) (Vasilescu and Morari, 2020).

The program had four thematic development priority areas: education, research, and innovation; culture and historical heritage; transport and communications; and sectors contributing to safety and security in the region. The main thematic objectives of the project were: support for education, research, technological development, and innovation; promotion of local culture and preservation of historical heritage; improving accessibility to the regions, developing transport and communication networks and systems as well as common safety and security challenges (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024a).

The eligible area for the cross-border cooperation program consisted of four Romanian counties: Botoșani, Iași, Vaslui, and Galați, and the entire territory of the Republic of Moldova. The eligible area covered a total surface of 54.092 km², of which 20.246 km² were in Romania and 33.846 km² in Moldova. This region has a total of 5,676,181 inhabitants, of which 37.3% live on the Romanian side of the border and 62.7% on the Moldavian side. A large part of the population lives in densely populated urban centers, such as Iași, Galați, and Chișinău, which have become points of attraction for both population and economic flows. Also, 56.75% of the population in the eligible core area lives in rural areas and 43.25% in urban areas, which emphasizes the pronounced rural character of the eligible core area (Ministry of Regional Development and Public Administration, 2015).

In the analyzed period, 87 projects from both countries have obtained funding of 106 million euros. Out of the 87 projects, 4 were large infrastructure projects; 21 projects targeted the development and modernization of infrastructure (named HARD projects) with investments of more than 1 million euro per project; 59 were called SOFT projects, which either do not include an infrastructure component or have an infrastructure component costing less than 1 million euro (Ministry of Regional Development and Public Administration, 2015).

The four large infrastructure projects implemented in the eligible area were: (1) Improvement of communication services between Romania and Moldova – € 7,951,320.33; (2) Improvement of the operating infrastructure of the Mobile Emergency Service for Resuscitation and Rescue (SMURD), by increasing the level of training and maintaining the capacity of professional staff to intervene in emergencies – 10.026.408,71 euro; (3) Preventing and combating cross-border crime in Romania and Moldova – € 12.568.107,85; and (4) Rehabilitation and modernization of customs offices at the Romanian–Moldovan border – Giurgiulești – 10.000.000 euro (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024d).

The so-called *hard projects* have focused on important areas such as: '*transport infrastructure; social infrastructure – education and health; environmental infrastructure – water and waste management; economic and tourism infrastructure; cultural and recreational infrastructure*' (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024c).

Transportation infrastructure projects focused on building and upgrading roads and bridges to improve connectivity between border regions, developing and rehabilitating

rail infrastructure, and improving port and airport infrastructure to support mobility and trade. Project activities aimed at the modernization of transport infrastructure in the cross-border area of Tulucești Commune and Sireți Commune, improvement of access roads to cross-border centers of interest in Tulucești Commune and promotion of innovative solutions in the modernization of roads in Tulucești and Sireți (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024d).

Improvement of social infrastructure projects aimed at the construction and modernization of health institutions such as hospitals and clinics, and modernization of educational institutions including schools and universities. An example of a project was the construction of a pediatric ward in the Târgu Bujor City Hospital in Galați County and the rehabilitation of the Hîncești Health Center, Hîncești District, Republic of Moldova (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024d).

Environmental infrastructure projects have focused on the construction and modernization of water treatment plants and sewage systems, the development of waste management infrastructure, including recycling and disposal facilities, and the implementation of projects for environmental protection and pollution reduction.

Development of business infrastructure meant to support economic development, building and upgrading tourism infrastructure such as tourist information centers and accommodation facilities, and promotion of tourism by developing tourist routes and shared attractions. One of the projects in this area contributed to the diversification of the tourism offers by introducing two major cultural and historical sites in the cross-border area dedicated to the era of Stephen the Great into the cultural and historical tourist routes; valorization of the common cultural and historical heritage by creating events promoting local customs and traditions to tourists and history lovers (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024c).

In the field of cultural and recreational infrastructure, projects of construction and modernization of cultural centers, theatres, and museums were implemented, the development of sports and recreational infrastructure such as stadiums and parks, and the organization of joint cultural and sports events to promote intercultural collaboration. A relevant example is the refurbishment of the Orheiul Vechi historical museum complex of 3 vernacular architectural objects (traditional peasant houses) in the villages of Butuceni and Morovaia (Republic of Moldova) and the rehabilitation of the George Enescu Memorial House in Liveni, Botoșani County (Romania).

As far as soft cross-border cooperation programs were concerned, they focused on non-infrastructural activities that promote collaboration, knowledge exchange, and capacity building between border regions. They are essential for strengthening relations, improving skills, and stimulating socio-economic development in cross-border regions. Soft cooperation projects cover areas such as education and research, health, sustainability, environmental protection, economic development, tourism, and promotion of cultures and heritage (Romania–Republic of Moldova ENI-CROSS BORDER COOPERATION, 2024b).

An example of such a project had as its main objective to ensure access to quality education for children with special educational needs in two regions (in Romania and the Republic of Moldova), by training trainers (who would create a cross-border network) and teachers, as well as advising parents on equal opportunities in education and providing a specific environment for inclusive education. Another project aimed to ensure the quality of feedstock solid biofuels from both banks of the Prut River in the Republic of Moldova and the counties of Botoșani, Iași, Vaslui, and Galați in Romania in order to establish economic development and improve the quality of life. The State Agrarian University of Moldova and the Technical University of Iași established partnerships for the joint development of theoretical research and also joint research actions and studies (including the purchase of related equipment) in the field of environment (climate change challenges, biodiversity conservation, renewable energy and resource efficiency, etc.).

These cross-border cooperation projects played a major role in the sustainable development of border regions. They contributed to improving skills, strengthening relations, and promoting balanced socio-economic development. Through collaboration and the exchange of knowledge, these projects facilitated the solving of common problems and seized opportunities for a prosperous common future.

### 4.2. The results of the survey

The respondents were asked if they were aware of the cross-border cooperation program and projects. It can be observed that they had different levels of knowledge about the program. Unfortunately, most of them, 37.8% (44), knew about the existence of these projects to a small and the smallest extent. However, 24.3% (27) of respondents considered that they had a medium level of knowledge, while 37.8% (40) had a high level of awareness about the existence of these projects. The results revealed the need for raising awareness about the programs and their impact on communities.

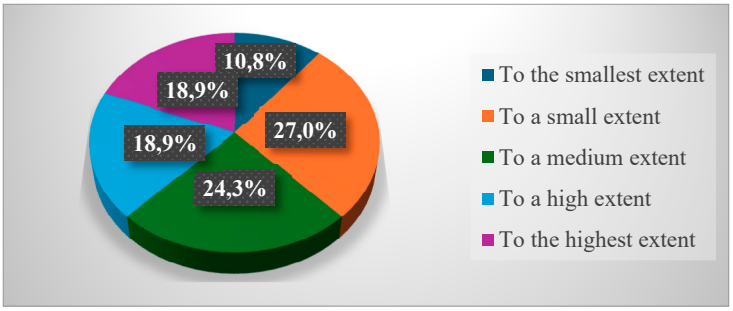


**Figure 1:** The level of awareness regarding the cross-border cooperation program

**Source:** Authors, own processing (2024)

The next question focused on the opinion regarding the main obstacles encountered

in the projects' implementation. 73% (81) of the participants considered the different legal regulations of the two countries to be the main challenge in the management and implementation of cross-border projects. Another major obstacle, considered by 68.5% (76) of respondents, was the existence of varied organizational structures that manage the program in the two countries. Distinct funding procedures were also perceived as highly challenging by 44.1% (49) of respondents, and interinstitutional communication was perceived as an important obstacle only by 8,1% (9) of participants.

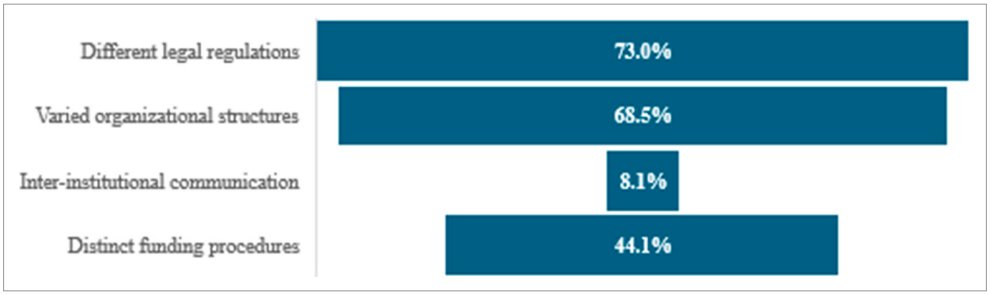


Figure 2: Main obstacles in cross-border cooperation projects' implementation

Source: Authors, own processing (2024)

All in all, different legal regulations are perceived as the biggest obstacle in managing cross-border projects, highlighting the need for harmonization and alignment of the legal framework between the two partner countries. Different funding procedures and variations in organizational structures are also considered significant challenges but to a lesser extent. Inter-institutional communication, although important, is seen as a minor problem compared to other administrative aspects.

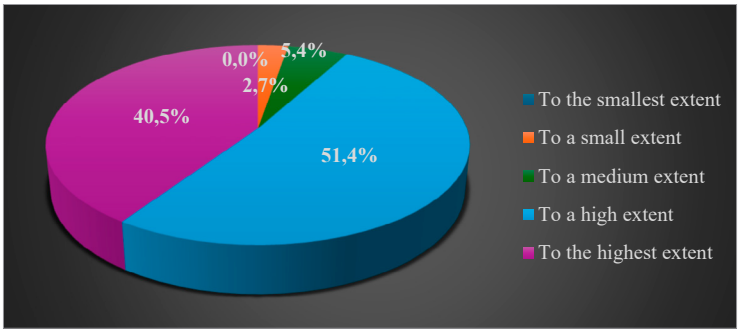


Figure 3: The influence of information on communities' motivation to take part in cross-border cooperation projects

Source: Authors, own processing (2024)

Participants in the study were also asked if more information about the implemented projects and their impact would increase local communities' participation in cross-border cooperation projects. The majority of respondents (91.9%) considered that the level of information has a significant influence on the motivation of local communities to participate in international cooperation projects. Only 5.4% considered the impact to be medium, and 2.7% believed the influence to be low.

The general perception is that a high degree of information is important for motivating local communities to engage in cross-border cooperation projects. Adequate and continuous information seems to play a key role in stimulating community interest and participation, emphasizing the importance of effective and transparent communication for the success of these projects. Without adequate information, community involvement may be reduced, thus affecting the effectiveness and results of cooperation projects.

Lastly, respondents were asked to point out the main ways to raise awareness of the benefits of cross-border cooperation projects. The most effective way to inform people about opportunities to participate in cross-border cooperation projects, according to the majority of the respondents (70.3%), is the use of social networks and online platforms. Media campaigns are considered effective by 24.3% of respondents, indicating the importance of traditional media in disseminating information. Brochures and information materials are perceived as effective by only 5.4%, and workshops and seminars were not chosen by any respondent, underlining a low preference for these more formal methods of information.

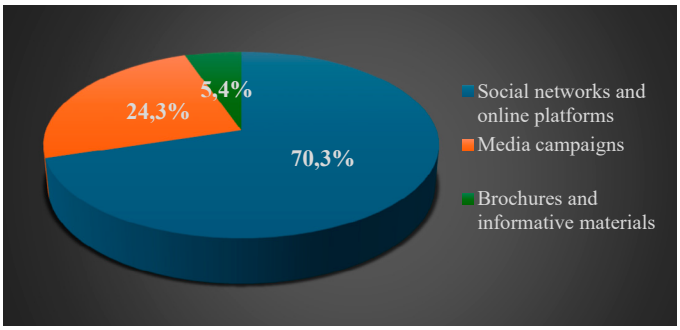


Figure 4: Ways to raise awareness of the benefits of cross-border cooperation projects

Source: Authors, own processing (2024)

In conclusion, social networks and online platforms are perceived as most effective for raising awareness of the benefits of cross-border cooperation projects. This highlights the importance of using digital technologies and the internet to reach a wide and diverse audience. Traditional media campaigns remain relevant but have less impact compared to online ones. Brochures and information materials, although useful, are considered less effective, and outreach methods through workshops and seminars are not seen as effective in this context.

## 5. Conclusion

The research aimed to investigate the impact of cross-border cooperation by analyzing the benefits of the Romania-Moldova Joint Operational Cooperation Program in the 2014–2020 period. The analysis of the projects implemented during the aforementioned program showed that cross-border cooperation projects played a major role in the sustainable development of local economies in border regions. They contributed to improving skills, strengthening relations, and promoting balanced socio-economic development. Through collaboration and the exchange of knowledge, these projects facilitated the solving of common problems and seized opportunities for a prosperous common future.

Also, the study revealed the main obstacles encountered in projects' implementation, namely different legal regulations and varied organizational structures of the two partner countries. The results showed the need for the two countries to adopt unitary regulations regarding cross-border cooperation and have similar organizational structures for the management of the projects.

In addition, the need to raise awareness regarding the program and the implemented projects was revealed. The most effective manner to increase knowledge is through social media platforms. Increasing the amount of information about the program will also increase local communities' involvement as well as citizens' awareness regarding projects' impact on the social and economic aspects of their communities.

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# The Dynamics of Post-Contractual Remedies: A Synthesis of General Principles

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**Abstract**

Post-contractual remedies, alongside pre-contractual remedies, form an integral part of national procedural law, designed to ensure the effective application of EU public procurement law. Ensuring the *effet utile* of substantive public procurement law requires more than just procedural mechanisms established by Member States under their procedural autonomy, as this autonomy is not an absolute right. To this end, EU law has established a set of minimum standards designed to ensure the protection of subjective rights conferred by EU legislation, which are enshrined in principles. By reference to the content and meaning of these EU law principles and considering the influence of CJEU case law, remedies in public procurement law acquire a dynamic aspect, on which we will focus our attention in this paper.

**Keywords:** Public Procurement Remedies, Directive 89/665/CEE, National Procedural Autonomy, Principle of Effectiveness, Principle of Equivalence.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 236–246

## 1. Setting the Scene

The system of remedies governed by the provisions of Directive 89/665/EEC (the Remedies Directive) and Directive 92/13/EEC (the Utilities Directive) constitutes a decentralized system, given that the application of substantive law provisions is carried out through the judicial and procedural systems of the Member States. Consequently, the system of remedies is inevitably closely linked to the administrative law tradition of each Member State.

In legal scholarship, the concept of '*Europeanisation*' has generated considerable academic discourse with a particular focus on the ways in which EU law provisions shape national legal systems, particularly on administrative law, since it is usually through the latter that the application of EU substantive law is ensured (Hans *et al*., 2007, pp. 4, 35; Eliantonio, 2009, p. 3).

National administrative law is not only influenced by EU secondary legislation, but also, to an equal extent, by the case law of the Court of Justice of the European Union (CJEU), as well as indirectly, as a result of EU law, by the administrative law of other Member States (Hans *et al*., 2007, p. 5). The CJEU exercises a *jurislateur* character (Niță (Dumitrașcu), 2023, p. 334), in the sense that, through its activity, it has contributed to filling legislative gaps, lacunae within primary law, and has shaped a series of fundamental principles of EU law (Fábián, 2018, p.132).

These multiple influences have gradually shaped the national system of remedies to ensure that '*effective and rapid remedies must be available in the case of infringements of Community law in the field of public procurement or national rules implementing that law*'[1].

Thus, post-contractual remedies[2], have been decisively influenced by the principles of EU law developed through the case law of the CJEU, contributing decisively to shaping the framework and conditions under which post-contractual remedies are to have an effective character (the most edifying example here being that of the award of damages).

In this respect, this contribution will aim to highlight, in a succinct manner, the ongoing contribution of EU law principles to the development and adaptation of *post-festum* remedies. The focus will be on the principle of procedural autonomy, as well as on the related principles of equivalence and effectiveness. In conclusion, some general considerations will be presented on the issues analyzed.

1 See the third recital of Council Directive 89/665/EEC of 21 December 1989 on the coordination of the laws, regulations and administrative provisions relating to the application of review procedures to the award of public supply and public works contracts (89/665/EEC).

2 Post-contractual remedies include the award of damages (Article 2(1)(c)), ineffectiveness (Article 2(d)) and alternative penalties (Article 2(e)(2) of Directive 89/665/EEC).

## 2. Procedural Autonomy in the Realm of Post-Contractual Remedies

Enforcing EU substantive law at the national level has shifted from the initial, centralized system, at the heart of which lies the infringement procedure governed by Articles 258–260 of the Treaty on the Functioning of the EU (TFEU), towards a decentralized system through the judicial and procedural systems of the Member States.

Under the principle of sincere cooperation, enshrined in Article 4(3) of the Treaty on European Union (TEU)[3], national courts, as well as national administrative authorities, are called upon to respect and apply the provisions of EU law, as well as to ensure remedies and avenues of redress for persons harmed by an infringement of EU law (Eliantonio, 2009, p. 8 apud. Lang).

Thus, Member States enjoy a certain degree of autonomy at the procedural level, meaning that they are free to establish procedural rules and the conditions under which subjective rights are to be exercised and protected. The principle of procedural autonomy stems from the principle of national institutional autonomy, which implies that Member States are free to determine which authorities or institutions will be responsible for implementing EU law, unless otherwise provided by EU law (Hans *et al*., 2007, p. 18).

Similarly, the principle of procedural autonomy has been the subject of controversy in legal doctrine[4], with some voices questioning the very existence of this principle (Schebesta, 2016, p. 41; Baghrizabehi, 2016, pp. 23–26; Bobek, 2011).

The starting point in the development of this principle is the CJEU judgment in Case C-33/76, *Rewe*[5], although the Court of Justice did not use the notion of procedural

3 Article 4(3) TEU provides: '*Pursuant to the principle of sincere cooperation, the Union and the Member States shall, in full mutual respect, assist each other in carrying out tasks which flow from the Treaties. The Member States shall take any appropriate measure, general or particular, to ensure fulfilment of the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. The Member States shall facilitate the achievement of the Union's tasks and refrain from any measure which could jeopardize the attainment of the Union's objectives.*'.

4 The notions of procedural competence or national procedural responsibility would be more appropriate to describe procedural autonomy, particularly in light of Article 19(2) TEU.

5 '*[...] in the absence of Community rules on the matter, it is for the domestic legal system of each Member State to designate the courts having jurisdiction and to lay down the procedural rules governing actions at law intended to ensure the protection of the rights which citizens have from the direct effect of Community law, it being understood that such rules cannot be less favorable than those governing similar domestic actions;[...] in the absence of such harmonizing measures, the rights conferred by Community law must be exercised before the national courts in accordance with the conditions laid down by national rules; [...] The position would be different only if the conditions and time-limits made it impossible in practice to exercise the rights which the national courts are obliged to protect.'* – Judgment of the Court of Justice of the European Union in Case C-33/76, *Rewe*, para. 5, ECLI:EU:C:1976:188.

autonomy[6]. It follows from the grounds of the judgment that it is for each Member State to determine the procedural rules and conditions for the protection of the rights conferred on individuals, in the absence of EU rules in the field. At the same time, this right enjoyed by the Member States is subject to certain requirements, which have themselves acquired the status of principles, namely the principle of equivalence or non-discrimination and the principle of effectiveness. These principles will be examined in the following sections.

The principle of procedural autonomy has evolved gradually alongside the case law of the CJEU, its content being influenced by the way in which the Court of Justice has approached the two limiting principles[7], particularly the principle of effectiveness.

In the context of remedies for public procurement contracts, it is important to emphasize that the provisions of Directive 89/665/EEC establish only the minimum conditions that must be met by the legal remedies provided for by national law in order to ensure compliance with EU public procurement legislation[8]. Therefore, in the absence of EU legislation or where existing provisions establish only a vague framework for the exercise of remedies in the field of public procurement[9], it will be for the Member States to define and regulate remedies in the field of public procurement in accordance with the rules governing the national procedural system (Bovis, 2012, p. 195).

According to Arrowsmith, the principle of procedural autonomy will manifest itself primarily in the case of irregularities concerning the award of public procurement contracts

6 The principle of procedural autonomy was first mentioned in the CJEU judgment in Case C-201/02, *The Queen on the application of Delena Wells v. Secretary of State for Transport, Local Government and the Regions*, ECLI:EU:C:2004:12.

7 In Case C-199/82, *San Giorgio*, the CJEU developed the principle of effectiveness, holding that national law conditions which render the exercise of rights conferred by EU law practically impossible or excessively difficult are incompatible with the latter. Similarly, the principle of procedural autonomy has been progressively eroded by the case law of the CJEU concerning the need to create new procedural remedies. While initially, notably in Cases C-33/76, *Rewe*, and C-158/80, *Rewe-Handelsgesellschaft Nord mbH and Rewe-Markt Steffen v Hauptzollamt Kiel*, the Court insisted on the absence of any obligation for Member States to provide new remedies not available in domestic law, subsequent case law, starting with Cases C-199/82, *San Giorgio*, C-221/89, *Factortame*, Joined Cases C-6/90 and C-9/90, *Francovich*, and C-432/05, *Unibet*, has emphasized the need to create new remedies in certain situations.

8 '*It must be pointed out in this regard that the detailed rules for the judicial review of decisions adopted in connection with procedures for the award of public contracts are not covered by Directive 93/36, but only by Directive 89/665. The latter directive lays down the minimum conditions to be satisfied by the review procedures established in the national legal systems, so as to ensure compliance with the requirements of Community law concerning public contracts.*' – Judgment of the Court of Justice of the European Union in Case C-327/00, *Santex Spa*, paragraph 47, ECLI:EU:C:2003:109.

9 Judgment of the Court of Justice of the European Union in Case C-568/08, *Spijker*, paragraph 90, ECLI:EU:C:2010:751; Judgment of the Court of Justice of the European Union in Case C-314/09, *Stadt Graz*, paragraph 33, ECLI:EU:C:2010:567.

to which the formal rules deriving from Directive 2014/24/EU do not apply, but to which the fundamental principles of the TFEU (e.g., free movement of goods, freedom of establishment and freedom to provide services) do apply (Arrowsmith, 2020, p. 933).

In the realm of post-contractual remedies, the principle of procedural autonomy assumes considerable relevance in matters concerning the awarding of damages, given that the provisions of Directive 89/665/EEC are rather limited in regulating the conditions under which this remedy may be exercised. In this respect, according to Article 2(1)(c) of Directive 89/665/EEC, Member States shall ensure that the measures taken concerning remedies provide powers that allow for the award of damages to persons harmed by an infringement. Furthermore, in addition to these normative provisions, Article 2(6)[10] and (7)(2)[11] of Directive 89/665/EEC will also apply.

In situations of ineffectiveness, Article 2d(1)(a) to (c) of Directive 89/665/EEC sets out the cases in which the remedy of ineffectiveness applies, while paragraphs (4) and (5) are dedicated to exceptional situations where the general rules do not apply. Similarly, paragraph (3) details the cases in which a contract may not be declared null and void on the grounds of overriding public interest. In these cases, Member States must provide for the application of alternative sanctions. However, procedural autonomy applies solely to determining the legal consequences of ineffectiveness, as provided for in Article 2d(2) of Directive 89/665/EEC[12].

Therefore, the influence of EU law on national remedies is evident, contributing to the progressive '*Europeanisation*' of the latter. The principle of procedural autonomy appears to mitigate the influence of EU law on national law, while still allowing for national expression of the law. However, the mitigation process is, in turn, limited by the principles of equivalence and effectiveness.

## 3. The Principle of Equivalence: A Fading Star?

The principle of equivalence (or non-discrimination) mandates that procedural measures and legal actions for enforcing national law must be equally available for enforcing EU law (Craig, de Búrca, 2017, p. 254). Simply put, actions based on EU law must be treated

10 Article 2(6) of Directive 89/665/EEC provides as follows: '*Member States may provide that where damages are claimed on the grounds that a decision was taken unlawfully, the contested decision must first be set aside by a body having the necessary powers.*'

11 Article 2(7) of Directive 89/665/EEC states that: *'Furthermore, except where a decision must be set aside prior to the award of damages, a Member State may provide that, after the conclusion of a contract in accordance with Article 1(5), paragraph 3 of this Article or Articles 2a to 2f, the powers of the body responsible for review procedures shall be limited to awarding damages to any person harmed by an infringement.'*

12 Article 2d(2) of Directive 89/665/EEC provides: '*The consequences of a contract being considered ineffective shall be provided for by national law.*'

the same as actions governed by national law (Hans *et al*., 2007, p. 46). Furthermore, with respect to the system of remedies, Lenaerts asserted that the principle of equivalence constitutes the application of the EU principle of equality to legal provisions governing remedies (Lenaerts, 2011, p. 16).

The practical application of this principle has encountered several difficulties, stemming from the necessity of conducting an analysis regarding the similarity between EU law and national law. In this regard, the CJEU[13] has gradually established the criteria underlying the examination of an infringement of the principle by the legislation of a Member State. Therefore, national judicial bodies must consider the objective/purpose of each action, both individually and in relation to the entire procedure, as well as the essential characteristics of the national legal system. Similarly, the comparison must be made in relation to actions that fall within the same area of law.

In Bobek's opinion, the exercise of comparison inevitably entails a value judgment by the one who is called upon to compare, namely the Court of Justice of the European Union. Similarly, comparison inevitably involves the interpretation of the elements being compared. However, the CJEU does not have the competence to make such value judgments with regard to national law or to interpret the latter (Bobek, 2011).

In this respect, legal scholars, referring to the CJEU judgment in Case C-225/97, *Commission v France*, have argued that national procedures and actions cannot be considered equivalent to those concerning remedies in public procurement matters if the former do not address public procurement procedures (Arrowsmith, 2020, p. 934). Therefore, national procedural conditions for awarding damages regulated by private law cannot be compared to procedural conditions for awarding damages in the context of procurement procedures, considering their inclusion in public law, specifically administrative law.

Similarly, the application of the principle of equivalence does not entail an automatic application of the most advantageous national procedural conditions or rules in the case of actions founded on EU law, such as remedies applicable to public procurement procedures ( Widdershoven, 2019, p. 9).

In the CJEU's case law, there is an increasingly pronounced trend towards giving less and less importance to this principle, with priority being given to the principle of effectiveness[14], thus turning the principle of equivalence into a falling star of EU law.

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13 Judgment of the Court of Justice of the European Union in Case C-261/95, *Palmisani*, ECLI:EU:C:1997:351; Judgment of the Court of Justice of the European Union in Case C-326/96, *Levez*, ECLI:EU:C:1998:577; Judgment of the Court of Justice of the European Union in Case C-78/98, *Preston*, ECLI:EU:C:2000:247; Judgment of the Court of Justice of the European Union in Case C-231/96, *Edis*, ECLI:EU:C:1998:401; Judgment of the Court of Justice of the European Union in Case C-118/08, *Transportes Urbanos*, ECLI:EU:C:2010:39.

14 Judgment of the Court of Justice of the European Union in Case C-166/14, *MedEval*, parag. 45, ECLI:EU:C:2015:779; Judgment of the Court of Justice of the European Union in Case

## 4. The Principle of Effectiveness: A Game Changer or a False Promise?

The CJEU judgment in *Rewe* served as the starting point in shaping this principle, indirectly stating that conditions laid down by national rules cannot render the practical exercise of rights conferred on individuals by EU law impossible. Subsequently, also through case law, an additional requirement was added, namely that national rules not render the exercise of EU rights excessively difficult.

Therefore, based on the principle of effectiveness, national procedural law applicable to legal actions based on EU law must not render the exercise of rights conferred by EU law practically impossible or excessively difficult (Widdershoven, 2019, p. 10).

According to Schebesta, the principle's demands are imprecise, given that it dictates certain standards for national law based on EU law principles yet fails to establish a clear connection between these standards and national legal norms (Schebesta, 2016, p. 33). Similarly, according to Bobek, effectiveness lacks the characteristics of a true principle, given that the concept lacks internal limits, a situation arising from the addition of the supplementary requirement concerning the excessively difficult exercise of EU rights (Bobek, 2011).

It is important to emphasize that, in relation to the principle of equivalence, the principle of effectiveness takes priority[15]. The principle of effectiveness can be viewed both from the individual perspective of rights conferred by EU law and in relation to an entire system of remedies designed to ensure the right to an effective remedy. In this regard, with the entry into force of the Treaty of Lisbon, the interpretation of the principle of effectiveness is also carried out with reference to the provisions of Article 47 of the Charter of Fundamental Rights of the European Union (CFREU) (Arrowsmith, 2020, p. 936)[16].

Regarding *post-festum* remedies, particularly the awarding of damages, the principle of effectiveness has arguably constituted the most important point of reference when

C-314/09, *Strabag Graz*, parag. 39, ECLI:EU:C:2010:567; Judgment of the Court of Justice of the European Union in Case C-61/14, *Orizzonte Salute*, parag. 46–69, ECLI:EU:C:2015:655 (with the observation that in this case a subsidiary analysis of the principle of equivalence is also carried out – paragraphs 66–68).

15 Judgment of the Court of Justice of the European Union in Case C-199/82, *Amministrazione delle Finanze dello Stato v SpA San Giorgio*, ECLI:EU:C:1983:318.

16 Under the marginal heading 'Right to an effective remedy and to a fair trial', the provisions of Article 47 of the Charter of Fundamental Rights of the European Union read as follows: '*Everyone whose rights and freedoms guaranteed by the law of the Union are violated has the right to an effective remedy before a tribunal in compliance with the conditions laid down in this Article. Everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal previously established by law. Everyone shall have the possibility of being advised, defended and represented. Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.*'

assessing the compatibility of domestic law with the objectives envisaged by the provisions of Directive 89/665/EEC. In this regard, in Case C-314/09, *Strabag Graz*[17], CJEU was asked to determine whether the provisions of Article 2(1)(c) of Directive 89/665/EEC preclude a national provision that makes the award of damages conditional on the culpable nature of the infringement of public procurement law by the contracting authority.

Similarly, in Case C-568/08, *Combinatie Spijker*[18], CJEU conducted an analysis concerning the conditions under which damages may be awarded for harm resulting from a contracting authority's breach of EU public procurement law. The principle of effectiveness has been relied upon to temper the effects of the principle of procedural autonomy of Member States where the provisions of Directive 89/665/EEC do not lay down detailed criteria on the basis of which damage is to be established and evaluated, and this task falls to national law. The principle of effectiveness has been relied upon to temper the effects of the principle of procedural autonomy of Member States where the provisions of Directive 89/665/EEC are silent on the detailed criteria for awarding and evaluating damages, thus deferring to national law on this matter.

Furthermore, in Case C-620/17, *Hochtief*[19], it was established that the provisions of national legislation ensuring compensation for damage caused by an infringement of EU law must not be designed in such a way as to prevent or excessively hinder the award of damages. The CJEU followed the same line of reasoning in Case C-547/22, *INGSTEEL*[20], while assessing the compatibility of national law that categorically excluded the possibility for a tenderer excluded from a procurement procedure, following an illegal decision by the contracting authority, to be awarded damages for being deprived of the opportunity to participate in the procedure with a view to obtaining the contract.

## 5. Conclusions

The principle of procedural autonomy, along with the requirements of equivalence and effectiveness, confers a specific degree of dynamism on the system of national remedies in the field of public procurement.

If it can be described in this way, the provisions of national law are compelled to look not only inwards, towards the foundations of their own legal system, but also outwards, towards EU law.

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17 Judgment of the Court of Justice of the European Union in Case C-314/09, Strabag Graz, ECLI:EU:C:2010:567.

18 Judgment of the Court of Justice of the European Union in Case C-568/08, Combinatie Spijker, ECLI:EU:C:2010:751.

19 Judgment of the Court of Justice of the European Union in Case C-620/17, Hochtief, ECLI:EU:C:2019:630.

20 Judgment of the Court of Justice of the European Union in Case C-547/22, *INGSTEEL*, ECLI:EU:C:2024:478.

Through this interaction, remedies specific to EU public procurement law adapt and develop. A good example of this is the remedy of ineffectiveness or the adoption of alternative penalties.

The CJEU's case law has gradually developed the principles of equivalence and effectiveness, with priority being given to the principle of effectiveness. Although criticized in legal doctrine, this principle has acquired major importance in ensuring the *effet utile* of the substantive provisions of public procurement law.

The application of the principles, particularly the principle of effectiveness, must also be carried out with reference to the CFREU following the entry into force of the Treaty of Lisbon, by virtue of which the CFREU acquired legally binding character, having legal force equal to the EU Treaties.

The dynamism created by the analyzed principles can also be a factor in increasing litigation in the field of public procurement, an aspect that is not always desirable within national judicial systems.

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# The Role of Human AI in Transforming Public Administration: Enhancing Decision-Making and Service Delivery

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**Abstract**

The present research examines the transformative impact of India's Maharashtra government initiative in public administration, demonstrating how the programme has institutionalized data-driven decision-making over the past five years. Nevertheless, through the integration of advanced analytics and machine learning, human AI consultants can offer government agencies actionable insights that enhance transparency, operational efficiency, and overall service quality within the public sector. Key metrics such as India's GDP growth, digitalization progress, and rural development efforts highlight the impact of the Maharashtra government smart village programme, offering a framework to extrapolate the potential benefits of human AI assistants. Additionally, the article explores the initiative's incorporation of AI solutions, which has enhanced rural development in areas like agriculture, healthcare, and governance. Finally, it discusses how innovative AI solutions, supporting cognitive research, could further enhance the future implementation of the Maharashtra government initiative in rural India.

**Keywords:** Maharashtra government initiative, AI, digitalization, efficiency.

**Introduction.** In this article, we explore a groundbreaking concept in artificial intelligence: Human AI, a proactive, super intelligent, and integrated system that goes far beyond conventional chatbots or robotic automation. This novel approach was first prototyped through the *Smart Village Initiative*, a collaborative effort led by Prof. Darwin, aimed at transforming rural development through intelligent, human-centric technology. The research and development phase revealed key insights into how AI can act not just as a tool, but as a true partner in problem-solving and governance. These findings ultimately shaped a real-world solution now in use by the Government of Maharashtra: the Maharashtra BI AI. This article will unpack the core principles of Human AI, detail the journey from prototype to product, and present the major takeaways from this pioneering initiative.

India's embrace of technology and research-driven initiatives, such as the Smart Village Initiative led by Professor Solomon Darwin of Berkeley University, has significantly transformed public administration over the past five years. By adopting a structured approach and integrating AI into governance, India has facilitated faster decision-making, improved resource management, and streamlined public service delivery, particularly in rural areas. The Smart Village Initiative, aimed at modernizing rural governance, highlights AI's potential to elevate public services and optimize local development. The Smart Village initiative in India represents a paradigm shift towards sustainable rural development by integrating modern technologies with local governance structures. Initially conceptualized to bridge the urban–rural divide, the approach emphasizes the deployment of information and communication technologies (ICT) to enhance service delivery in areas such as healthcare, education, and governance (Bhattacharya, 2021, Kuldeepsinh 2018).

Central to this model is the recognition that technological adoption must be accompanied by community participation and capacity building.

From a macroeconomic standpoint, India's real GDP grew by an average of 6.3% between 2019 and 2023, reflecting resilience and growth despite challenges like the COVID-19 pandemic. The focus on building digital infrastructure, supported by initiatives like Digital India and Smart Villages, underscores the country's commitment to leveraging technology and research for inclusive development. (application output)

**Literature review.** Recent developments in artificial intelligence (AI) are catalyzing a fundamental transformation in public administration, as humanoid-like AI assistants both embodied robots and disembodied cognitive agents become integral to governance. Beyond the traditional conception of human AI as robots mimicking human appearance, contemporary applications also encompass non-physical systems endowed with natural-language processing, decision-making algorithms and interactive functionalities. Sun's (2019) review underscores the prevalence of predictive-analytics platforms and conversational agents in public governance, while Wirtz, Weyerer, and Geyer (2019) highlight AI's capacity to refine policy judgments, optimize resource allocation and enhance service delivery, even as they caution about attendant risks to privacy, security and ethical governance.

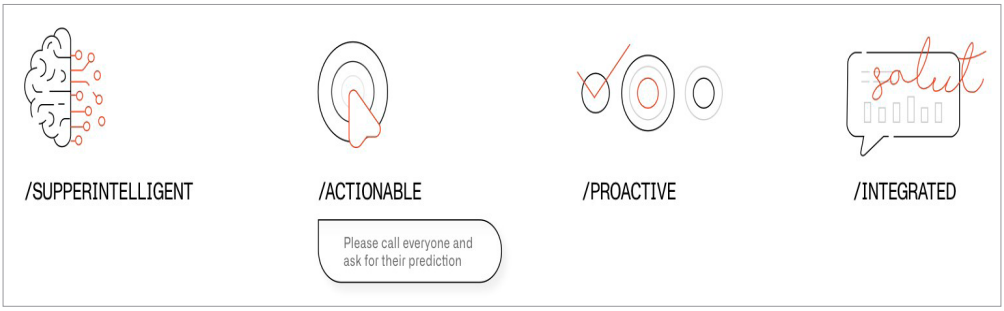


**Image1**. Core components of Human AI

**Source**: created by authors

The term humanoid AI is traditionally associated with embodied robots that mimic human form and behavior. In this article, however, we intended to broaden the term to include non-physical AI systems with human-like cognitive capabilities, such as natural language processing, decision-making, and interactive functions in public administration. Human AI is a novel concept that represents a transformative shift in artificial intelligence, distinct from traditional chatbots like ChatGPT or robotic AI systems. Unlike passive or reactive technologies, Human AI is designed to be *actionable*, *superintelligent*, and *proactive,* capable of initiating tasks, making complex decisions, and engaging dynamically with the world. It is also *integrated*, meaning it seamlessly merges across platforms, environments, and functions, operating as a coherent, intelligent partner rather than a tool limited to isolated tasks. This emerging paradigm envisions AI that collaborates with humans at a deeply intuitive level, extending beyond scripted interactions to deliver real-world impact and strategic initiative. In this form, human AI expands beyond physical embodiment and direct human-like interaction, as its essence covers cognitive architecture, social function and integration of AI in human roles and context, ethical agency and responsibility in AI's dimension similar to a human's approach on the topic.

In this sense, the meaning of human AI expands beyond physical embodiment into a system capable of direct human-like interaction, with a specific architecture, social function that is integrated into diverse processes with distinct roles or context that would normally be attributed to a human, its output and performance would be similar, and its capabilities of ethical agency and responsibility would follow a similar pattern to that of a human's approach on the topic. Theodore R. Summers and others identifies as key points in the architecture design of AI agents memory modules in order to ensure a semantic memory, internal action space for the system to be able to write and read into the modules and learn from its interactions, as well as a decision-making procedure specifying how reasoning and retrieval actions are taken in order to choose an external or learning action". While traditional AI agents are distinct from the human AI, as they have clearly defined, specialized and specific roles that they are designed for and given tools to fulfil independently, they are not integrated into an encompassing single-system, but rather have tasks implemented

separately with outputs used in a system-specific pattern, while Human AI framework would allow the workers to self-improve, similar to humans, adapting through the use of real-time data to a specific need or output. (Sukhobokov, A., 2024, pp. 16–18)

*Human AI is a new concept introduced and explained by us and is not current treated in the literature. This is not only a concept was also applied in the created application.* The Human AI framework is the underlying AI infrastructure designed to evolve with the pace of industry advancements, providing a modular, scalable, and protocol-driven foundation for deploying and managing AI workers. Unlike traditional AI systems, the platform is built to support autonomous, intelligent digital workers that integrate advanced reasoning with action models, enabling them to perform complex tasks, automate workflows, and seamlessly interact with enterprise environments. Designed as a protocol, the platform allows not just human users but also AI itself to self-improve, create new functions, generate workflows, and drive continuous innovation. With configurable AI workers, organizations can deploy tailored AI roles, such as analysts, compliance officers, or automation agents, ensuring AI adapts dynamically to business needs.

The AI Human framework represents a pioneering architecture in artificial intelligence, conceived as a proactive, super-intelligent system that transcends traditional chatbots and robotic automation. At its core, the backend (HBE) is engineered to manage both real-time and long-term data through a dynamic memory system, thereby facilitating continuous data storage and retrieval. This infrastructure supports Retrieval-Augmented Generation (RAG) mechanisms to produce strategic recommendations and decision support. To accommodate diverse data types and high computational demands, the backend is constructed upon a scalable infrastructure capable of integrating additional models, data sources and processing modules as needed over time.

On the front end (HUI), users engage with highly customizable and interactive dashboards designed for intuitive human-AI collaboration. These dashboards feature natural-language-based interaction, which allows stakeholders to query and interpret complex analytics through conversational exchanges rather than rigid command structures. The drag-and-drop interface, complete with responsive components, further simplifies the exploration of data and the configuration of analytic workflows. Consequently, domain experts can focus on strategic objectives rather than navigating technical complexities.

The workflow protocol (HWP) ensures that task execution is managed dynamically by AI. This system orchestrates self-improving workflows that continuously optimize operational efficiency by learning from each iteration. Real-time performance tracking and reporting are integral to these protocols, offering transparency into process execution and enabling rapid adjustments in response to evolving conditions.

Fundamental to the AI Human framework are its scalable and adaptable design principles. Rather than adopting a monolithic structure, the framework employs a modular foundation that seamlessly integrates data processing, user interactions and AI-driven workflows. This modularity enables ongoing growth and improvement, ensuring that the system remains flexible and capable of incorporating new data sources, AI models and

strategic requirements over time. Within this architecture, the dynamic memory system balances immediate operational needs with the archiving of historical insights. An advanced speech and language module bridges spoken and written communication, guaranteeing clarity and naturalness in human-AI dialogue. Underpinning these capabilities is a robust user management and knowledge base, which securely handles user profiles and organizes data storage according to access privileges and relevance.

Deployment is streamlined through containerized micro services, which facilitate flexible integration with external tools and services. Each module ranging from the backend infrastructure to the interactive UI elements operates in harmony, minimizing compatibility issues and enabling rapid scaling across diverse operational contexts. In practice, the HUI views translate AI-generated data into intuitive visualizations and interactive components. Customizable layouts and advanced charting capabilities allow stakeholders to perform in depth analyses and tailor data exploration to specific needs. The inclusion of a natural language chat interface further democratizes access to insights, as users can engage with the system in everyday language rather than learning specialized query syntax. By uniting a powerful backend, an accessible front end and adaptive workflow protocols, the AI Human framework exemplifies a next-generation approach to integrated, intelligent governance and decision support.

Together with the self-improving workflow protocol (HWP) that orchestrates task execution and monitors system performance, the AI Human framework is positioned to continuously evolve, driving intelligent decision-making and operational excellence across diverse applications.

Kankanhalli *et al*. (2019) identify three clusters predictive analytics, natural-language processing and decision-support tools that embody "humanoid" capabilities without necessitating physical robots. Sun argues that "humanoid" AI in governance should encompass non–physical agents such as chatbots and predictive-analytics engines that emulate human cognition through natural-language processing and decision-support functions (Sun, 2019, pp. 581–583). Fong *et al*. (2003) note that the core "humanoid" attributes namely, human-like reasoning, interactive dialogue and adaptive decision-making equally apply to software-based agents that lack a physical form. Wirtz, B. W., Weyerer, J. C., & Geyer, C. (2019) emphasize that "humanoid AI" extends beyond robots to include back-office decision-support systems and multilingual chatbots, both of which enhance resource allocation and service delivery through human-like interaction modes.

Scholl and Scholl (2019) explore disembodied decision-support systems that mimic human reasoning through real-time data synthesis, highlighting design principles that ensure conversational transparency and maintain human oversight. Zhu and Chen (2021) investigate how machine-learning models and predictive simulations without anthropomorphic hardware exhibit "humanoid" cognitive functions in municipal planning, particularly through iterative policy-scenario dialogues.

Takacs and Ahn (2022) assess speech-enabled AI assistants deployed in rural community centers, emphasizing that these non-physical systems replicate "humanoid" traits by

facilitating two-way dialogue and contextualizing policy data for local stakeholders. Kane and Labianca (2021) examine how AI-mediated platforms employing deep-learning inference and NLP act as "humanoid" collaborators in co-producing policy, underscoring the importance of reciprocal transparency between human users and algorithmic systems.

Experimental research illuminates the dual impact of AI integration. Alon-Barkat and Busuioc (2022) find that public officials exhibit automation bias uncritically accepting algorithmic advice while also practicing selective adherence by dismissing recommendations that conflict with their expertise. Their vignette experiments demonstrate that, although AI can accelerate routine decisions and improve consistency, unchecked reliance may compromise both accuracy and accountability. Accordingly, they advocate embedding clear accountability frameworks, transparency protocols and ongoing training to temper cognitive biases without negating AI's operational benefits.

Empirical case studies by Kulal *et al*. (2023) further validate AI's efficiency gains across tax administration, social-welfare targeting and urban-transport oversight. Deploying machine-learning models and NLP tools, these applications reduce processing times by up to 40% and cut error rates by one-third, contingent on robust data infrastructures, ethical transparency guidelines and systematic capacity-building. The authors propose a "human-in-the-loop" governance architecture that marries computational agility with professional judgment. Foundational taxonomies by Fong, Nourbakhsh, and Dautenhahn (2003) categorize humanoid AI into androids, anthropomorphic robots and morphology-based variants, while Willems *et al*. (2022) distinguish embodied service robots from back-office algorithms and chatbots, examining each modality's implications for transparency, accountability and user trust. Willems and colleagues (2022) contrast *embodied service robots* (humanoid or otherwise) with *disembodied AI tools* such as back-office algorithms and chatbots, analyzing how each modality affects transparency, accountability and user trust in government settings.

Collectively, these studies reveal that integrating human AI whether physical or virtual can enhance administrative efficiency, transparency and responsiveness, provided that ethical safeguards, participatory design and continuous learning are integral to deployment. As public administrations adopt these technologies, they must concurrently strengthen governance frameworks to ensure that AI serves as a tool for inclusive, accountable and effective public service.

Advances in artificial intelligence are increasingly reshaping public administration by clustering applications into three core domains. Predictive analytics supports anticipatory policymaking such as forecasting crime hotspots or detecting fraudulent behavior while natural-language-processing (NLP) tools automate citizen interactions and extract insights from unstructured administrative records. Decision-support systems then furnish real-time recommendations to frontline officials, enhancing both accuracy and responsiveness in service delivery (Kankanhalli *et al*., 2019). Nevertheless, the authors caution that transparency, accountability and data quality must be rigorously managed if these benefits are to be realized.

The ethical and governance dimensions of AI in government have drawn particular scrutiny. Zuiderwijk, Chen and Salem (2021) argue that algorithmic decision-making can fundamentally recast notions of transparency and public trust unless accompanied by safeguards such as audit trails, explain ability mechanisms and participatory oversight. Similarly, Janssen and van den Hoven (2015) highlight AI's potential to accelerate information processing and improve decision quality in sectors ranging from urban planning to social services, but they stress that ethical frameworks are indispensable for ensuring equitable outcomes.

*Human AI assistants* constitute a distinct category of systems characterized by their ability to engage in context-aware dialogue and offer personalized recommendations. In contrast to traditional rule-based algorithms, these assistants employ machine-learning techniques and natural-language processing to emulate aspects of human cognition. By continuously processing large volumes of real-time data, they furnish decision-makers with nuanced, evidence-based insights that enhance the formulation and implementation of public policy. Goodfellow, Bengio and Courville (2016) further note that AI's aptitude for uncovering latent patterns in longitudinal data can yield insights beyond human discernment, thereby strengthening evidence-based administration.

The Smart Village Initiative at UC Berkeley, led by Solomon Darwin (2019), exemplifies how AI can underpin sustainable rural governance. By embedding human AI into local decision-making, the programme addresses resource constraints, information asymmetries and infrastructural shortcomings. Its Humanoid solution integrates data analytics, decision support and stakeholder engagement demonstrating that when paired with robust digital infrastructure, community participation and entrepreneurial facilitation, AI can become a transformative pillar of inclusive, transparent and efficient public administration. Our new concept human AI is not directly connected with robotics.

*The main objective* of this article is to facilitate the understanding of the generation process of the most recent and innovative human AI assistant App for public administration. The objective of this article is to explore and clarify the conceptual foundation, development process, and institutional deployment of one of the most innovative applications of human AI in public administration to date namely, the Human AI Assistant designed for the Maharashtra government's Smart Village Programme. The study aims to elucidate how this cognitive, agentic AI system was conceived, prototyped, and scaled into a fully functional application that integrates machine learning, natural language processing, and advanced decision-support protocols into daily governance processes. More specifically, the article seeks to facilitate a deeper understanding of how Human AI redefines the relationship between technology and public service delivery by embedding super-intelligent, proactive, and integrated AI workers into government workflows. It investigates how this system is not just a technological add-on, but a transformative governance partner that enhances transparency, operational efficiency, and citizen engagement. By combining theoretical analysis with empirical case study data, including field observation, document review, and unstructured interviews conducted during the development phase, the article offers a replicable

model and strategic framework for the integration of AI-driven assistants in complex, resource-constrained public sector environments. This research contributes both a conceptual breakthrough by expanding the notion of Human AI beyond robotics and a practical guide for deploying ethically grounded, context-aware AI governance solutions.

**Research methodology.** This article adopts a qualitative paradigm and uses the case study to determine how human AI is being integrated into public administration and the *Maharashtra government*. The case study involves the qualitative document analysis of scientific reports, workshop reports and institutional reports and three exploratory unstructured interviews (notes transcripts attached in Annex 1) performed by one of the authors of the article, while developing the AI application Human AI, for the Indian Government.

The qualitative component presents a case study, *Human AI in rural governance in India* with the following structure: *conceptual and theoretical framework, empirical context: India's rural and economic landscape (2019–2023), AI implementation in the smart village programme (2019–2023), case focus: the smart village humanoid solution*, *evaluation and impact assessment, challenges and ethical considerations, policy implications and scalability, the future of artificial intelligence within the sphere of public administration: toward cognitive and context-aware governance.* The quantitative component analyzes data from sources such as the World Bank and OECD, Ministry of Finance, Government of India, focusing on regions in India from 2019 to 2023. Secondary data analysis offers a rigorously economical means of leveraging existing, high-quality datasets to generate longitudinal or cross-sectional insights that would be impractical to obtain through primary data collection alone. The study ensures ethical data handling and acknowledges limitations related to selection bias and data availability, addressing them through strategic methodologies. By combining qualitative and quantitative findings, this research offers a comprehensive understanding of how AI enhances public administration within the Smart Village framework.

***Qualitative Document Analysis.*** The empirical foundation of the case study rests, in part, on an extensive qualitative document analysis. This included a systematic review of scientific publications, workshop proceedings, and institutional reports related to the Smart Village Programme and AI integration in Indian rural governance between 2019 and 2023. Sources analyzed included peer-reviewed journal articles on digital governance and AI ethics, policy white papers issued by Indian ministries (e.g., the Ministry of Electronics and Information Technology and the Ministry of Panchayati Raj), and technical documentation from multilateral workshops involving government agencies, private AI vendors, and civil society stakeholders. The analysis employed inductive coding techniques to identify recurring themes related to AI deployment, decision-support systems, digital infrastructure, and participatory governance. Emphasis was placed on extracting both strategic policy insights and implementation-level evidence regarding the integration of AI into village administrative functions. This component provided the contextual and normative scaffolding for understanding the rationale, design, and anticipated impact of human AI

solutions within rural governance systems (Aziiza, 2020; Holmes, 2017; Incrisat, 2016; Darwin 2019). Integration of human AI in government services is not just a technical deployment but a socio-cultural change in how citizens perceive public service interactions. Ethical design and public acceptance are critical to successful implementation of AI in public administration. The literature suggests that human AI can transform public administration by making some services more efficient and accessible, but its success largely depends on ethical implementation, transparency (Yazhu 2024; etc.).

***Unstructured Interviews.*** A highly unique source of data came from unstructured interviews conducted by Răzvan Costin, one of the article's co-authors and a lead developer of the Human AI assistant implemented as part of the Maharashtra government initiative. During the development and deployment phases of the AI application for the Indian government, Costin engaged in three informal yet substantive discussions with a wide range of stakeholders, including panchayat officers, state-level digital governance officials, AI vendors, and community members.

These interviews provided insider perspectives on institutional readiness, technical constraints, data governance challenges, and user perceptions of human AI. Although unstructured in form, the interviews were documented and thematically clustered around key areas such as ethical concerns, trust in automation, participatory design, and the scalability of AI governance models. The dual role of Costin as both researcher and practitioner allowed for a rare integration of experiential knowledge into the academic analysis, deepening the study's interpretive and analytical dimensions.

The unstructured interview (Fontana and Frey, 2005, Punch, 1998) is a qualitative research method that does not rely on a predefined interview guide, but rather starts from a general theme or an initial open-ended question. It allows the discussion to evolve organically based on the respondent's perspectives and experiences. This type of interview is particularly valuable when investigating topics that are relatively new or insufficiently explored in prior research. In the context of the article *"The role of human AI in transforming public administration"*, the unstructured interview method proved especially useful. Given the novelty of the subject and the limited existing literature, it enabled researchers to explore perceptions, concerns, and expectations surrounding the use of human AI in governance without constraining the dialogue to predetermined categories. This approach provided richer insights and helped surface emergent themes that might have been overlooked using more structured formats.

***Main findings.*** The empirical findings of this case study emerged through a qualitative methodology, combining document analysis and unstructured interviews conducted by one of the authors, Răzvan Costin, during the development and field deployment of the Human AI assistant for the Indian Government. Each method contributed distinctive insights, together forming a robust foundation for the analytical structure and conclusions of the study.

The document analysis phase involved the review of scientific literature, policy white papers, institutional reports, and workshop summaries related to the Maharashtra government initiative and broader national strategies on artificial intelligence in governance. This examination revealed a clear alignment between the Smart Village architecture and India's overarching digital public infrastructure strategy. In particular, it confirmed that the federated data models and human-in-the-loop decision frameworks used at the village level were not isolated innovations but intentional applications of principles embedded in national policy documents, such as those issued by the Ministry of Electronics and Information Technology and the NITI Aayog. The analysis also highlighted a strategic prioritization of sectors namely agriculture, healthcare, and welfare for early AI integration, a finding that guided the structuring of sector-specific applications in the case study.

Moreover, the policy documents and workshop reports identified recurrent concerns around regulatory gaps and ethical governance. They emphasized the urgency of developing safeguards for algorithmic accountability, data privacy, and equity, especially in low-capacity rural contexts. These concerns helped inform the analytical sections addressing challenges and ethical risks. In addition, the inclusion of performance metrics in state-level monitoring documents such as improved grievance redressal times, fiscal efficiency, and citizen satisfaction provided quantitative markers that could be used to frame and validate the impact narratives developed later in the case. While the documentary corpus offered a strategic and policy-level view, unstructured field observation provided ground-level, real-time insights into how AI was actually being used, received, and interpreted in village governance settings. Conducted in a selection of gram panchayats across Maharashtra, the observational work captured the day-to-day interactions between citizens, local officials, and the Smart Village Humanoid system. It became clear through these observations that AI-generated dashboards and interfaces were not peripheral tools but central instruments in the conduct of routine administrative practices. Officials routinely referenced AI outputs during panchayat meetings, budget planning, and beneficiary selection processes. The fieldwork also underscored the importance of digital literacy as a critical enabler of successful AI adoption. In Maharashtra, for instance, high levels of baseline digital competency correlated with greater trust in and use of the humanoid assistant. In contrast, villages with limited exposure to digital tools struggled more with interpreting AI recommendations, sometimes relying excessively on the system without fully understanding its rationale. These interactions reaffirmed the essential role of capacity-building initiatives, not only in improving technical fluency but in fostering a healthy level of skepticism and human discretion in automated systems.

The observational process further revealed subtle yet significant dynamics in citizen perception of algorithmic legitimacy. Villagers were more likely to accept AI-generated decisions when they were explained or endorsed by elected panchayat members, especially when the outputs were made visible through simplified dashboards or visual aids. This finding supported the case study's broader argument regarding the necessity of transparency and co-interpretation in human-machine interaction. Equally important was the

observation that human actors did occasionally override algorithmic recommendations, drawing on experiential or locally specific knowledge. This behavior highlighted the value of preserving deliberative capacity within AI-assisted governance, reinforcing the human-in-the-loop model as both a technical and democratic necessity.

These layers of insight were further deepened through unstructured interviews conducted by Răzvan Costin during the Human AI development process. Engaging with a diverse group of stakeholders including developers, bureaucrats, elected officials, and local users Costin documented a wide spectrum of institutional motivations, constraints, and adaptive practices surrounding AI deployment. From discussions with senior administrators, it became clear that the adoption of human AI was driven not solely by an ambition for efficiency, but by a strategic interest in restoring credibility to local governance through enhanced service responsiveness. In this sense, AI was not only a technological tool but a political instrument, used to recalibrate trust between citizens and the state.

Technical stakeholders and field-level officers frequently raised concerns about infrastructural reliability, data quality, and algorithmic fairness. These interviews revealed an acute awareness among practitioners of the ethical and operational trade-offs inherent in AI governance. Notably, developers spoke of tensions between optimizing systems for speed and accuracy versus ensuring interpretability and inclusiveness. These insights validated and enriched the analytical treatment of challenges in the case study, lending weight to its argument for algorithmic audits and explainable AI features. Perhaps most illuminating were the reflections from village-level actors and community users, who emphasized the importance of cultural relevance and interface design in shaping their willingness to engage with AI. Systems that offered localized language options, intuitive feedback mechanisms, and narrative interaction modes were consistently rated as more trustworthy and useful. These testimonies reaffirmed the argument, developed throughout the case study, that effective AI deployment requires not just technical proficiency but socio-cultural alignment and participatory co-design. Together, these findings substantiate the empirical core of the case study, grounding its analytical structure in diverse and complementary sources of evidence. The document analysis established the strategic and policy rationale for AI in rural governance, the field observations illuminated the operational realities of implementation and the interviews revealed the institutional learning and negotiation processes occurring within and around the deployment of the Smart Village Humanoid system. In unison, they offer a multi-layered account of how artificial intelligence is reshaping the possibilities and limitations of governance in the world's largest rural democracy.

These findings offer a solid empirical foundation for the structure and conclusions of the case study. Each method contributed complementary insights: document analysis grounded the research in policy context and sectoral frameworks; and unstructured interviews provided practitioner-level and end-user reflections.

## Case-study: Human AI in rural governance in India: a transformational pathway toward inclusive development – Maharashtra government initiative

*1. Introduction.* Maharashtra government initiative exemplifies the critical juncture between technological innovation and governance in the world's largest democracy. Although urban areas have rapidly modernized, rural regions still suffer from inadequate infrastructure and substandard public services. Launched to address these disparities, the programme integrated human AI systems into administrative processes across Maharashtra, between 2019 and 2023.

These interventions transcended mere technological upgrades, embedding predictive analytics, natural-language interfaces, and decision-support tools to improve responsiveness, efficiency, and equity in agriculture, healthcare, administrative services, and social protection. Drawing on empirical data, government reports, and scholarly sources, this case study evaluates how AI-enabled governance can mitigate rural underdevelopment while upholding principles of transparency, accountability, and inclusivity, offering a replicable model for decentralized, AI-driven reform in resource-constrained settings. All data, and materials about Maharashtra were provided by Maharashtra government and added as content in the application. The application use this materials and internet official souses in order to generate needed reports. The application can send e-mails, make phone calls and create charts. The application used by Maharashtra government in use to be more time and cost efficient.

*2. Conceptual and theoretical framework.* The conceptual underpinning of this study lies in the technological transition from digital access to AI-readiness within rural governance. This shift is grounded in the broader discourse on smart governance and digital public infrastructure, where AI is no longer viewed as a peripheral tool but as an embedded, decision-supportive system.

Early versions of rural digitalization emphasized basic infrastructure such as broadband access, mobile connectivity, and e-governance kiosks. However, the 2019–2023 cycle of the Maharashtra government marks a paradigmatic shift through the deployment of a three-tier AI architecture:

- *Edge-level data capture:* Utilizing IoT devices and sensor networks to track parameters such as soil moisture, water flow, and usage of public amenities in real time.
- *Cloud-based machine learning:* Processing the raw data to generate predictive analytics and operational insights, thereby enhancing the precision of policy interventions.
- *Human-in-the-loop decision-making:* Empowering local elected representatives and line officers through interactive dashboards that visualize AI recommendations, while allowing for contextual overrides informed by human judgement.

This AI architecture is deeply aligned with India's digital public infrastructure agenda, exemplified by initiatives like e-NAM (National Agriculture Market) and the Ayushman Bharat Digital Mission. The adoption of a federated data exchange model ensures that local

data autonomy is preserved, while enabling state-level coordination and benchmarking Theoretically, the study draws on the work of Gil-Garcia, Helbig, and Ojo (2014), who posit that smart city and governance initiatives leverage AI to enhance the analytic and decision-making capacity of public institutions. Additionally, it engages with the scholarship of Mergel, Edelmann, and Haug (2019), which argues for AI's potential to foster transparency and trust in public administration through objective, data-backed processes.

Other critical constructs include the notions of 'automation bias', 'algorithmic transparency', and 'equity-by-design,' which help frame the ethical dimensions of human AI deployment in vulnerable and underserved communities. The interplay between these theoretical components and the operational design of India's Maharashtra government programme constitutes the analytical lens for this case study.

*3. Empirical context: India's rural and economic landscape (2019–2023).* Between 2019 and 2023, India's integration of artificial intelligence (AI) into rural governance occurred against a backdrop of profound macroeconomic and socio-political change. The COVID-19 pandemic precipitated a 7.3% contraction in GDP in 2020, yet this shock was swiftly countered by rebound growth rates of 8.9% in 2021 and 7% in 2022, underpinned by a diversified economy and intensified public investment in digital infrastructure. Concurrently, the digital economy's share of GDP rose from 8% to 12%, driven by flagship programmes such as Digital India, the Ayushman Bharat Digital Mission and expanded e-governance platforms. (application output)These developments established the technological and institutional foundations for deploying AI where real-time analytics, predictive modelling and automated workflows promised rapid efficiency gains.

Agriculture, which employs nearly half of India's workforce despite a declining GDP share, illustrated AI's transformative potential. Meanwhile, the manufacturing sector's contribution to GDP increased from 15% to 17%, bolstered by Production-Linked Incentive and Make in India schemes that not only promoted exports but also strengthened domestic capacity in electronics and telecommunications critical components of an AI-ready infrastructure. (application output). The services sector, already accounting for over half of GDP.

Between 2019 and 2023, India's Maharashtra government program deployed a carefully calibrated AI governance model at the grassroots, combining technological innovation with bespoke institutional mechanisms. Central to this approach was the appointment of village-level data stewards, whose responsibilities included maintaining sensor networks, validating incoming data streams and flagging system anomalies. By ensuring high-fidelity inputs, these stewards mitigated risks such as model drift, hardware failure and data corruption, thereby anchoring AI recommendations in local realities. Recognizing that technological efficacy depends on human agency, the initiative also invested extensively in capacity building for elected panchayat members and local officials. Through a series of workshops, digital-literacy campaigns and peer-learning exercises, participants gained the skills to interpret AI dashboards, question algorithmic outputs and exercise informed

oversight. This human-in-the-loop design preserved deliberative autonomy, preventing passive reliance on automation and embedding AI systems within existing governance norms. The human AI application was strategically targeted across four key sectors agriculture and water management, primary healthcare, administrative services and social protection each yielding quantifiable benefits.

Embedded AI modules in portable X-ray and ultrasound devices further shortened diagnostic turnaround from several days to mere hours by flagging anomalies and uploading scans for centralized deep-learning analysis. The NLP system provided *"timely supporting information to decision-makers*," allowing officials to gauge citizen feedback in real time and incorporate those insights into policy responses. (Nagai *et al*., 2025). AI-powered BI can uncover patterns and make predictions much faster than manual analysis, thereby supporting real-time decision-making (Ebule *et al*., 2025). A recent survey of AI agent architecture (Krishnan, 2025) notes that modern AI agents are constructed by augmenting large language models with specialized modules for memory, planning, tool use, and action execution. The administrative domain saw the integration of multilingual NLP chatbots to manage welfare entitlements, land-record queries and grievance redressal. By automating sentiment and content classification, these chatbots expedited case resolution by 30% and broadened accessibility for non-English speakers. Meanwhile, AI-powered budgeting dashboards furnished panchayat officials with real-time expenditure forecasts, freeing an average of ₹1.2 crore per district for discretionary development projects. (application output)

Collectively, these sector-specific interventions illustrate how the Maharashtra government programme translated AI from abstract potential into concrete improvements in rural governance, combining scalable technological systems with deeply embedded local stewardship to realize inclusive, data-driven development.

*5. Case focus: The Maharashtra government human AI solution*. The Maharashtra government Humanoid represents a flagship innovation of India's Maharashtra government Programme, functioning as an AI-driven knowledge engine and interactive governance facilitator. Rather than serving solely as an automation tool, this cognitive assistant synthesizes multiple data streams including meteorological patterns, health metrics, agricultural yields and demographic trends to generate village-specific policy insights. Through integrated machine-learning algorithms, it predicts crop performance, detects emerging public-health risks and prioritizes infrastructure investments, thereby augmenting administrative capabilities without supplanting human decision-makers.

A defining characteristic of the Humanoid is its dialogue-based interface, which leverages natural-language processing and voice recognition to support two-way communication between local residents and panchayat officials. This functionality enhances accessibility for users with limited literacy or digital proficiency and embeds participatory governance in everyday administration by translating complex data into comprehensible recommendations. In practice, the system assists officials in subsidy allocation, case-file management for welfare entitlements and the automation of scheduling and documentation tasks, while

also enabling tailored interventions in healthcare and education based on real-time epidemiological and usage data.

Transparency and accountability are integral to the Humanoid's design. All analytical outputs are published on public dashboards employing simplified visualizations, allowing both administrators and citizens to scrutinize decision-making processes. By operationalizing open-governance principles, the system fosters institutional trust and participatory oversight objectives that are often challenging to realize in resource-constrained rural contexts.

Empirical evidence from Maharashtra attests to the Humanoid's impact. In Maharashtra, the roll-out was accompanied by digital-literacy programmes that raised basic ICT proficiency among villagers from 55% to 80% between 2019 and 2023. (application output). This uplift facilitated widespread engagement with the platform, enabling citizens to access reports, interpret visual data and contribute to deliberations on village budgets, resource allocation and programme evaluation. Collectively, these outcomes demonstrate the Humanoid's capacity to translate AI innovation into tangible improvements in rural governance and citizen participation.

*6. The description of Maharashtra government human AI application*. The Human AI Assistant developed for the Maharashtra government represents a major advancement in the application of cognitive AI to governance. Designed around the "Jobs to be done" (JTBD) methodology, this assistant is not merely a data tool it is an intelligent, context-aware, agentic system that continuously interprets public needs, proposes actionable solutions, and supports government leadership in making timely, evidence-based decisions.

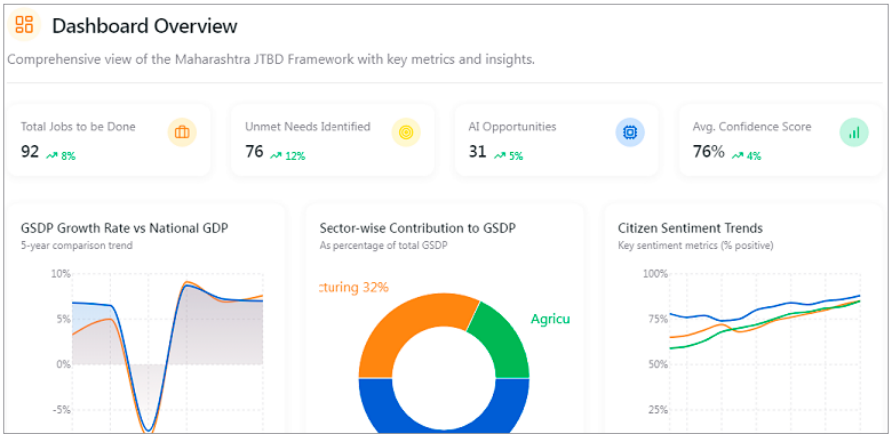


Image 2. India human AI assistant application-overview Maharashtra government

Source: created by authors

At the core of the system lies a dynamic dashboard that provides a real-time overview of governance priorities, visualized through key indicators. These include the total number

of jobs to be done (currently 92), the number of unmet needs identified (76), AI-based opportunities (31), and the average confidence score in data-based insights (76%). (application output). These metrics are not static; they evolve in real time, drawn from a multi-source data pipeline that includes citizen surveys, interviews, service interactions, and sentiment analysis. Each job to be done reflects a clearly articulated citizen goal such as accessing affordable education, starting a business with minimal bureaucracy, or receiving quality healthcare. The assistant contextualizes these jobs within the lived experiences of people across the state and assigns confidence scores that help prioritize action. For example, accessing affordable education for children scores a high 86% confidence, backed by both deep research and direct citizen interviews. (application output)

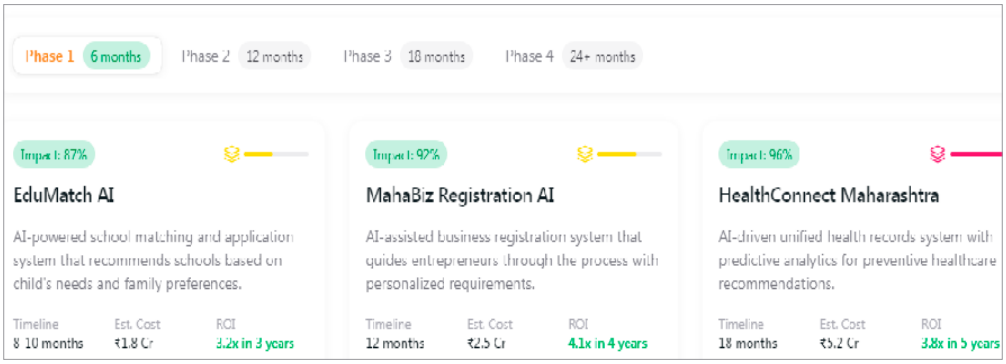


Image 3. India human AI assistant application-AI opportunities Maharashtra government

Source: created by authors

What makes this system intelligent is not just its ability to track needs, but to diagnose the structural barriers that prevent citizens from fulfilling them. These "unmet needs" are presented not simply as problems, but as actionable obstacles. The platform highlights, for instance, the lack of centralized school comparison tools as a major blocker to education access. Similarly, it identifies the fragmented nature of business registration requiring visits to multiple agencies as a core barrier to entrepreneurial growth. In healthcare, the absence of a unified health records system impairs service continuity, creating confusion and inefficiency. For each of these systemic gaps, the Human AI Assistant proposes targeted AI solutions. These are developed within an "AI opportunities" module that matches identified problems with specific, high-impact interventions. Among the leading solutions proposed are EduMatch AI, an adaptive school-matching platform based on student and family needs; MahaBiz Registration AI, which guides entrepreneurs through a streamlined registration process; and HealthConnect Maharashtra, a predictive, state-wide digital health record system. Each of these is detailed with a proposed implementation timeline, budget estimate, and projected return on investment. In addition to need identification and solution design, the assistant includes spatial intelligence tools, such as a regional map that visualizes data distribution across key urban centers like Mumbai, Pune, Nagpur, and

Nashik. This geo-layer enables regional comparisons and targeted interventions based on localized needs and capacities.

Another key feature is the "Brain Map," a visual neural diagram that links jobs to their corresponding categories education, healthcare, economic development, and transportation and connects them to the unmet needs that block them. It allows government officials to explore interdependencies across sectors and trace how one problem might be affecting several outcomes simultaneously.

The benchmarking module provides a comparative dimension, evaluating Maharashtra's performance against other Indian states. Here, the assistant highlights Maharashtra's strong rankings in process efficiency and AI adoption, while also identifying improvement areas in job completion rates and digital pain points. Unlike traditional dashboards that report on what has happened, the Human AI Assistant operates proactively. It serves as a cognitive co-pilot for decision-makers, including the Chief Minister and departmental leaders, by surfacing blind spots, generating data-backed recommendations, and even composing natural-language narratives for communication and policy briefs.

Fundamentally, this assistant redefines the interface between citizens and the state. It does so not by automating existing bureaucratic routines but by aligning AI development with the lived experiences, frustrations, and aspirations of people. The system foregrounds functional, emotional, and social jobs that citizens are trying to accomplish not just as abstract needs but as grounded realities shaped by culture, geography, and socioeconomic conditions. In doing so, the Human AI assistant offers a new paradigm for AI in governance: one that is participatory, adaptive, and deeply human-centered. It illustrates how AI can move beyond data processing into the realm of public value creation, acting as both a mirror and a guide for governments navigating complex developmental landscapes.

*6. Evaluation and impact assessment.* A 2023 mixed-methods evaluation of India's Maharashtra government programe integrating sensor logs, administrative micro-data and citizen satisfaction surveys demonstrates that AI deployment yields significant governance improvements. Citizen satisfaction scores rose from a mean of 2.9 in 2019 to 4.1 in 2023 on a five-point Likert scale, with the most pronounced gains observed in agricultural extension and primary healthcare services. (application output). These perceptions reflect tangible enhancements in service speed and accuracy enabled by explainable, participatory AI systems.

Operational efficiency likewise advanced: the introduction of natural-language-processing chatbots and predictive scheduling tools reduced average case-resolution times from 11.4 working days to 8.0 days a 30% improvement by automating triage and prioritization of service requests based on urgency, location and historical complaint patterns. Fiscal stewardship benefited from dynamic budgeting algorithms, which allowed panchayats to adjust spending priorities mid-year and realize ₹6.5 lakh in annual savings per village. These funds were redirected toward critical investments in sanitation and digital literacy, underscoring AI's role in reinforcing development objectives. (application output)

Crucially, AI integration also enhanced resilience and equity. During 2022's extreme weather events, predictive analytics guided pre-emptive fertilizer distribution, averting an estimated 8% yield loss among smallholder farmers. (application output). High adoption rates among socioeconomically disadvantaged groups indicate that context-sensitive AI designs can promote inclusive outcomes rather than exacerbate existing disparities.

Collectively, these findings provide robust evidence that embedding AI within a human-in-the-loop governance framework complemented by ethical oversight and capacity-building can markedly improve public-service delivery, fiscal efficiency and citizen engagement in rural settings. The integration of artificial intelligence technologies into governance structures represents a transformative approach, ensuring that current workflows are not just automated, but adapted in order to better address the needs of citizens and enhance decision-making processes, while maintaining an essential human judgement component and leveraging computational capabilities. The application of this technology in the delivery of public services, through electronic public services and addressing requests from citizens for the public administration would not only increase the efficiency of the process, but also lead to an increase in public satisfaction, by facilitating and enhancing a citizen-first approach in both the development, and the delivery of public services. Such an integration would also be in line with international standards in digital governance, as it would directly use technology in order to bring the government closer to citizens and businesses, in accordance with the Recommendation of OECD's Council from 2014, and consequently with the OECD's Digital Government Policy Framework, specifically, Pillar 1 – *Digital by design*, Pillar 2 – *Data Driven* and Pillar 3 – *Government as a platform* as public services would not just be automated, but re-conceptualized in order to enhance its impact for the beneficiaries, they would use a data-driven, citizen-first approach in order to meet the needs that the public service addresses, while also facilitating a convenient way for the beneficiary to access the server from a single place.

*7. Challenges and ethical considerations.* Despite demonstrable gains, the Maharashtra government Smart Village Programme's human AI integration faced significant technical and ethical challenges that inform future deployments. Inconsistent sensor coverage and calibration exacerbated by unreliable connectivity compromised data quality, at times yielding suboptimal model outputs. State-level AI mission cells responded with continuous recalibration protocols and synthetic data augmentation, though persistent infrastructure gaps remain a structural constraint. Algorithmic opacity also provoked resistance: panchayat officials were uneasy with "black-box" recommendations lacking explanation. The introduction of SHAP-based interpretability layers into AI dashboards proved critical in restoring trust, enabling users to visualize variable importance and engage substantively with model outputs.

Digital exclusion and uneven skill acquisition further complicated adoption. To counteract automation bias, the programme institutionalized regular training sessions and peer-learning forums, bolstering both technological proficiency and critical engagement with AI tools.

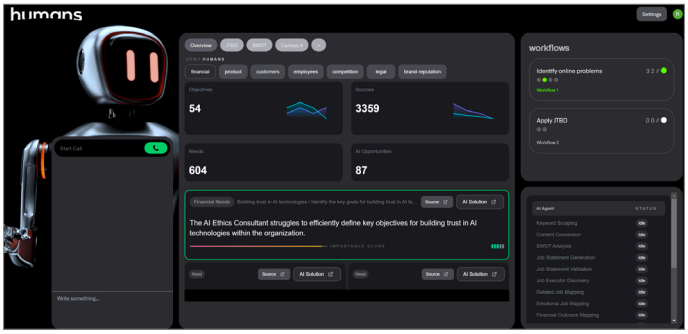


Image 4. India human AI assistant application

Source: created by authors

Perhaps most ethically fraught is the potential for algorithmic bias in India's heterogeneous sociocultural landscape. Training data must encompass diverse linguistic, caste, gender and regional identities an exacting requirement addressed through rigorous collection protocols, stratified sampling and periodic bias-detection audits. Simultaneously, taking into consideration the increased level of diverse sociocultural landscape within the dimensions mentioned, training methods for AI tools on data should follow a structured, supervised approach so as to ensure that the level of bias of these tools is minimal, that the data is interpreted in accordance with ethical and responsible processes, and that rules are set in place to limit or moderate the output of the AI systems. Although these measures represent important strides toward fairness, they underscore the necessity for ongoing ethical reflexivity in public-sector AI design.

Collectively, these challenges illustrate the intricate interplay between technological innovation and socio-institutional context. They reinforce that AI systems must be designed not merely for efficiency but for transparency, inclusivity and human-centered oversight. India's experience offers vital lessons for integrating AI in resource-constrained governance environments while safeguarding democratic accountability and social equity.

*8. Policy implications and scalability.* The Maharashtra government Smart Village Programme's empirical results substantiate the viability of artificial intelligence within rural governance and elucidate critical preconditions for its effective adoption and replication. Central to scalability is the establishment of interoperable data standards through federated architectures that preserve local data ownership while enabling statewide benchmarking. This arrangement reconciles the efficiencies of centralized analytics with the contextual autonomy of gram panchayats, offering a template that can be institutionalized across diverse administrative settings.

Equally consequential is the programme's performance-linked procurement mechanism, which ties vendor remuneration to demonstrable improvements in service metrics rather than merely technical specifications or cost considerations. By aligning market incentives with public-sector outcomes, this model fosters continual innovation and

accountability: underperforming systems can be iteratively refined or replaced via transparent performance audits. Embedding such outcome-oriented contracts within national e-governance policies could catalyze a more dynamic and responsive ecosystem for technology deployment.

Moreover, the initiative's commitment to community co-design underscores the indispensable role of participatory implementation. Engaging elected representatives, citizen groups and local technicians in the co-creation and interpretation of AI outputs not only enhanced the relevance of recommendations but also mitigated resistance to technological change. Formalizing mandates for stakeholder involvement in rural-development programmes would institutionalize this participatory ethos, ensuring that AI tools reflect indigenous knowledge and social priorities.

This policy framework is expected to include standards for data governance, ethical AI deployment, capacity building, and interoperability, thus laying the groundwork for a federated and scalable AI governance infrastructure.

For other developing countries facing similar challenges of rural marginalization and institutional inefficiency, the Indian model provides both a conceptual roadmap and an operational template. It demonstrates that rural local bodies often assumed to be technologically unprepared or administratively inert can not only absorb but also innovate with cutting-edge digital tools when supported by coherent policy design, adequate infrastructure, and participatory governance frameworks. Thus, the case of India's Maharashtra government program may serve as a keystone in the global discourse on AI-enabled development and decentralized digital transformation.

*9. The future of AI in public administration: toward cognitive and context-aware governance.* Although the incorporation of AI technologies within governmental operation remains in its formative stages, the Maharashtra governmental India offers a compelling preview of what future governance could look like in an AI- Smart Village Human AI augmented state. The deployment of human AI assistants, particularly through cognitive tools such as the, signals the beginning of a shift from reactive bureaucratic models to adaptive, anticipatory governance systems. As AI technologies evolve in sophistication combining real-time data processing with context-aware learning capabilities they stand ready to perform a transformative function within shaping not only how governments function, but also how they relate to citizens, maximizing efficiency in output that directly addresses the needs of citizens, leading to simplified, more engaging and a more citizen-oriented approach in the process of delivering or performing public services or addressing requests from the beneficiaries of these services.

The existing implementation has already demonstrated the feasibility of embedding AI within the everyday operations of rural governance. State-level AI mission cells, performance-linked vendor ecosystems, and village-level data stewardship collectively provided the structural foundation for ethical and effective AI deployment. Furthermore, the Smart Village Humanoid, described in Section 5, illustrates the practical utility of AI as

both a technical assistant and an interactive governance partner. Its success in increasing crop yields, reducing healthcare response times, and enhancing fiscal management attests to AI's potential to resolve long-standing inefficiencies in public service delivery. These achievements mark the beginning of a longer-term transition toward more predictive and participatory forms of local administration.

Looking forward, the future of AI in public administration is expected to move beyond operational support toward *cognitive governance* a mode in which AI systems do not simply automate existing workflows, but actively support reasoning, scenario planning, and adaptive decision-making. This evolution will depend on the development and integration of *AI-based cognitive research solutions*, which are already being piloted in certain regions. These tools use sophisticated machine-learning algorithms and natural-language-processing methodologies to derive behavioral insights from large, complex data sets, such as community health trends, migratory patterns, educational attainment, and environmental vulnerability.

The next phase of the Maharashtra governments expected to incorporate such solutions more systematically. By enabling village administrators to model the implications of policy choices, anticipate emerging needs, and tailor interventions to specific demographic or geographic contexts, cognitive AI systems will move beyond descriptive analytics toward prescriptive and even generative governance tools.

Importantly, this future vision is not technologically deterministic. The success of AI integration in governance depends not only on technical capacity but also on *robust ethical frameworks, inclusive policymaking, and iterative stakeholder engagement.* Without safeguards for data privacy, algorithmic transparency, and social equity, the same technologies that promise to democratize governance could also deepen existing inequalities. Thus, any scaling of cognitive AI must be accompanied by an expanded governance architecture that includes regular algorithmic audits, participatory design practices, and clear lines of accountability for digital interventions.

Finally, the future of AI in public administration will hinge on *sustained public dialogue.* Building trust in AI-assisted governance requires more than technical performance; it demands that citizens understand, influence, and co-create the systems that govern them. The Smart Village Human AI has already made strides in this direction, transforming the citizen from a passive recipient of services into an active participant in deliberative governance. As these technologies evolve, ensuring that they remain accessible, explainable, and responsive will be critical to maintaining democratic legitimacy in the digital age. At the same time, while active involvement of citizens as an act of self-governance through Human AI systems is crucial, just as important is addressing the digital divide and digital literacy amongst citizens in order to maintain a democratic integration of such systems, which implies that governance is understood and performed by the entire community. In order to address this issue, as presented in the case study on Smart Village framework, training programs need to be developed in order to ensure that the AI systems and their outputs are well understood and used within the public administration, complementing the

activity of the administration, while maintaining the human-in-the-loop approach in order to moderate and determine the relevance and use of the output generated.

In sum, India's Maharashtra government programe offers more than a developmental success story it functions as a prototype for a future governance paradigm in which artificial intelligence is deeply embedded within the institutional, cognitive, and participatory layers of the public sector. If harnessed with care and foresight, human AI systems could become the connective tissue of a governance model that is not only more efficient, but also more humane, transparent, and adaptive to the complex realities of twenty-first-century societies.

**Conclusion and proposals.** The findings of this study demonstrate that the integration of human AI systems within India's Maharashtra government programe through the new application presented in this article human AI has fundamentally reconfigured rural governance, advancing it from basic digitization efforts to a robust, data-driven model of administration. Between 2019 and 2023, the deployment of AI-enabled analytics and conversational interfaces produced measurable improvements across multiple service domains: agricultural yields increased significantly, clinical referral intervals were shortened, and complaint resolution became markedly faster. Concomitantly, dynamic budget-forecasting platforms liberated substantial discretionary funds for local development, and citizen satisfaction metrics climbed from an average of 2.9 to 4.1 on a five-point scale, thereby substantiating the claim that algorithmic efficiency when implemented transparently can bolster public trust. (application output)

Yet these operational successes cannot be ascribed to technological innovation alone. Rather, they reflect a deliberately crafted institutional ecosystem that marries state-level AI mission cells and outcome-based procurement contracts with locally appointed data stewards and continuous capacity-building for elected village councils. By preserving a "human-in-the-loop" mechanism whereby algorithmic recommendations undergo deliberative vetting this architecture mitigates risks of automation bias and safeguards against technocratic overreach. Ethical considerations are likewise embedded in the initiative's governance framework: explainable-AI modules based on SHAP values, routine algorithmic audits and a federated approach to data stewardship collectively uphold the normative pillars of transparency, accountability and social equity.

Building on these insights, the study advocates for several strategic directions. First, national policymakers should codify the programme's ad hoc governance instruments data-sharing standards, audit requirements and performance-tied contracting into a unified statutory framework, thereby ensuring consistency and facilitating cross-state replication without compromising local autonomy. Second, digital-literacy efforts must evolve into an ongoing, curriculum-based endeavor that combines technical training with exercises in ethical reasoning; such an approach is essential for nurturing a public-service workforce capable of interrogating algorithmic logic and preserving democratic oversight. Third, participatory design laboratories should be instituted to involve citizens directly in the

co-creation of AI tools, transforming end-users from passive recipients into active contributors and further legitimizing automated systems. Fourth, the evaluative apparatus should be strengthened through quasi-experimental and randomized designs to isolate AI's causal impacts on service efficiency and equity, yielding rigorous evidence to inform scaling decisions and budgetary allocations. Finally, research and development must pivot toward cognitive-scenario modelling capabilities that enable village administrations to anticipate demographic, environmental and fiscal shocks, thereby shifting governance from a reactive posture to one of proactive resilience.

Collectively, these proposals underscore the notion that human AI assistant application need not function as a mere technological adjunct; rather, when embedded within an ethical, human-centered governance framework, it can become the connective tissue of a more agile, participatory and equitable public-sector paradigm. However, realizing this potential will hinge on sustained attention to institutional capacity, regulatory clarity and citizen empowerment, lest the very technologies designed to democratize governance inadvertently reinforce new forms of exclusion or asymmetry.

*The Human AI assistant app* implemented in the governance architecture of *Maharashtra* stands as a compelling example of how artificial intelligence can be meaningfully embedded into public systems not as a peripheral utility, but as a cognitive actor within governance itself. Far from merely digitizing services, this assistant fundamentally reframes how government understands and responds to the needs of its citizens. Built upon the Jobs to be done (JTBD) framework, the system captures what people are trying to accomplish in their daily lives functional, emotional, and social aspirations and aligns AI capabilities to support these goals in practical, responsive, and strategic ways.

What distinguishes this assistant is its ability to contextualize data through adaptive intelligence. It does not simply process metrics; it interprets them through a human-centered lens. The assistant identifies these friction points and proposes tailored, AI-driven interventions with a clear understanding of public expectations, regional disparities, and institutional constraints. Its architecture combines real-time dashboards, geo-intelligence, brain mapping, confidence indicators, and impact estimation, forming a living ecosystem that evolves with governance priorities. This implementation offers a paradigm shift in how technology is integrated into public life. It challenges the conventional view of AI as a back-office analytics engine and instead presents it as an agentic actor capable of assisting, anticipating, and advising human decision-makers. This reframing opens new possibilities for citizen-centric policy design, participatory administration, and intelligent resource allocation.

Drawing from the experience in Maharashtra, a number of recommendations emerge that can inform the replication and refinement of similar systems in other regions or sectors. First and foremost, future applications of Human AI in governance must be anchored in a needs-centric design philosophy. Rather than retrofitting technology to existing administrative workflows, designers and policymakers must begin with a deep understanding of what citizens are trying to achieve. By focusing on outcomes over processes, governments

can deploy AI in ways that genuinely support human potential and wellbeing. Equally important is the principle of institutional co-creation. The Maharashtra model benefited from iterative collaboration between technologists, public officials, and community stakeholders. Such collective authorship is essential, not only for system legitimacy but for functional accuracy. AI systems must be trained, tested, and adapted in dialogue with those who use them and those they serve.

Moreover, it is crucial that these systems are embedded within strategic decision-making frameworks, rather than positioned as passive data platforms. The Human AI Assistant proved most effective when used not as a dashboard in isolation, but as a daily working companion to political and administrative leaders. Integrating the assistant into governance routines enables real-time responsiveness and ensures that insights are translated into meaningful policy actions. Finally, as governments move to adopt similar tools, they must resist the urge to replicate blindly. The success of such platforms depends heavily on local context cultural norms, institutional maturity, digital infrastructure, and levels of public engagement. Customization, rather than standardization, should guide deployment. Ethical considerations must remain central throughout: issues of data sovereignty, algorithmic transparency, inclusion, and human oversight cannot be addressed retroactively they must be embedded from the outset.

In closing, the *Human AI assistant developed for Maharashtra represents more than a successful deployment of advanced technology*, it illustrates the future contours of intelligent governance. It demonstrates how AI can work not just for government, but with government and, more importantly, with citizens. As the boundaries between digital systems and democratic institutions continue to blur, this assistant offers a powerful model for how to design AI that is not only smart, but wise; not only efficient, but just; and not only fast, but deeply attuned to the human experience of public life.

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## Annex 1. Interview transcripts

### *Interview 1: With the Prime Minister and the Minister of Digitalization*

Conducted by: Răzvan Costin (RC)
Purpose: Eliciting macro-level requirements for the AI-based advanced business intelligence system

RC: Prime Minister, to start us off, could you describe what the application should fundamentally include? What are its core components from your perspective?

PM: Absolutely. At the heart of the system is an AI-based advanced business intelligence engine. This engine must be capable of rapidly acquiring data, scraping multiple web pages per minute from a wide array of online sources. The speed and volume at which it processes information are critical. Beyond this, the system should incorporate advanced artificial intelligence and machine learning algorithms. These will help it generate meaningful insights and support complex, data-driven decision-making processes.

RC: So performance and intelligence are key. What about its infrastructure and compatibility with existing government systems?

PM: Yes, good point. The infrastructure must be sovereign, meaning the entire system should operate within a secure environment under full government control. Data management must respect the highest standards for privacy and security. Also, it's essential that the system integrates smoothly with other internal governmental platforms and systems. It must be accessible, flexible, and designed to enhance interdepartmental collaboration.

RC: Minister, from your point of view, how would you define the scope of this application? How do you envision its development stages?

MD: The scope is fairly comprehensive. The application is meant to significantly expand the government's capacity for data analysis. Using highly sophisticated AI algorithms and data processing techniques, the system should deliver valuable insights into a range of sectors that are relevant to national initiatives.

RC: Could you walk me through how this scope translates into actual development stages or priorities?

MD: Certainly. The first step involves setting up and configuring the system. That means building a robust infrastructure that respects government policies on data sovereignty. Then, we need to configure the system to gather data from various sources - public records, news outlets, social media, and other relevant platforms. Importantly, the algorithms and the user interface should be customized to fit the government's operational needs.

RC: Once that setup is complete, what comes next?

MD: The next step is data acquisition and processing. Here, the system will implement high-speed scraping functions to pull information quickly and effectively. Artificial intelligence will help organize this data cleaning it, summarizing it, and categorizing it so it's ready for use.

RC: After acquiring and processing data, how do you extract insights?

MD: That's where analytics and insight generation come in. A custom AI engine will be deployed to perform advanced queries and analyze the information. We're talking about using natural language processing and named entity recognition to deeply understand the content. There will also be strong visualization tools to help present this information clearly and meaningfully.

RC: And how will the system support strategic planning or decision-making?

MD: Through a set of strategic analysis tools. For instance, the system will be able to conduct SWOT analyses to help evaluate government programs and initiatives. It will also assess the "jobs to be done" - identifying what people need but aren't getting yet. It should be able to track how topics, opportunities, or threats evolve over time, and detect emerging themes across various channels. All of this supports proactive governance.

RC: Finally, how will you ensure adoption and continuous improvement?

MD: Integration and training are critical. The system must be compatible with existing databases and platforms. Comprehensive training for government personnel will be required how to enter data, navigate the system, and interpret results. And we'll implement regular feedback loops and updates to keep the system aligned with technological advancements and user needs.

### *Interview 2: With the Minister of Digitalization and his Advisors*

Conducted by: Răzvan Costin (RC)
Purpose: Eliciting functional requirements and advisor-level input

RC: Minister, moving from the macro to the functional level how would you describe the product's intended functionality? What is its main role?

MD: The AI-based business intelligence system is designed as a powerful tool to support decision-making. It will harness artificial intelligence to process vast volumes of data and generate actionable insights. The goal is to ensure the government makes well-informed, timely, and effective decisions based on concrete evidence from a multitude of sources.

RC: Could you specify some of the actions or tasks the system should be able to perform?

MD: Certainly. The system must use scraping technologies to collect data from numerous platforms websites, news outlets, social media, and more. Then, it will apply custom AI algorithms to interpret this data and extract nuanced insights. Visualization will also be a strong feature: the platform must help users see patterns and relationships through graphical representations. It should also provide historical analyses how issues or themes evolve over time and perform strategic evaluations like SWOT or JTBD analysis.

RC: That's very clear. Could I now turn to your advisors for more technical insights into how the platform would actually work?

MDA: Of course. Technically, this system is built on a highly advanced business intelligence platform. Its primary role is to transform how we research and generate insights across public sectors.

RC: Let's go step by step. What's unique about the research capabilities?

MDA: The platform includes a custom AI research engine. This engine can craft complex queries, including follow-ups, and dig deep into relevant content. It offers us a much broader and more detailed picture of any topic.

RC: How does it handle data collection?

MDA: The scraping technology is very advanced. It can scan and extract data from numerous pages every minute, across websites, forums, social media and even gated platforms. It uses residential IP addresses to mimic human behavior and bypass access restrictions across geographical zones. After collection, the content is automatically cleaned and summarized.

RC: And once the data is ready?

MDA: Then come the AI layers. The system uses customized named entity recognition and natural language processing algorithms. These help it categorize entities, highlight connections, and visualize relationships. The graphical representation of those links is a major asset it helps us understand complex networks quickly.

RC: How does the system handle multi-domain insights?

MDA: The AI draws from a wide range of fields finance, law, business competition, and more. It builds a multidimensional view that reflects the full business or governance landscape.

RC: What about emerging issues and trends?

MDA: The system includes advanced topic analysis. It constantly monitors discussions across media to identify what's trending. Then, it quantifies and interprets the significance of those topics through visualization.

RC: And in terms of strategic thinking how does it assist?

MDA: Through SWOT analysis, the system identifies strengths, weaknesses, opportunities, and threats in any context. It also performs JTBD analysis, digging into what people are trying to achieve both functionally and emotionally. Using this, the system helps design services or features to meet unmet needs. It's a very user-centered approach to strategy.

RC: Can the system monitor long-term changes?

MDA: Yes. It includes timeline analysis tools that track how discussions and topics evolve over time, across different platforms and sources. It doesn't just capture a moment it builds a full historical perspective.

*Interview 3: With the Technical Infrastructure Advisor*

Conducted by: Răzvan Costin (RC)
Purpose: Eliciting operational and security requirements

RC: Let's talk now about the foundation. From an infrastructure standpoint, what are the key requirements to ensure the platform runs securely and efficiently?

TIA: First and foremost, the system must operate within a sovereign infrastructure. This means the government has full control over the data and the platform itself. Everything storage, processing, access must remain under state jurisdiction to ensure both security and privacy.

RC: What about reliance on external AI systems? Will the platform use commercial AI tools?

TIA: No, the AI models used here must be fully independent. They will not rely on any commercial platforms like ChatGPT or similar tools. This is crucial for maintaining data integrity and confidentiality.

RC: How about deployment efficiency? Will the system be able to scale?

TIA: Absolutely. The AI models are designed to be distributed across multiple nodes or locations. This allows for efficient load balancing, faster processing, and reliable service delivery even at scale.

Contents

The papers included in the following section of the volume were presented in the Hungarian panel of TICPA

Contents

# Az önkormányzati pénzügyek külső ellenőrzésének átalakítása Magyarországon

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**Absztrakt**

A magyar önkormányzati pénzügyek külső ellenőrzése a kontinentális közigazgatási rendszerek kettős modelljére épült: egyrészt az Állami Számvevőszékre, amely e pénzügyi kérdések szakmai ellenőrzéséért felelős, másrészt a vármegyei (fővárosi) kormányhivatalokra, amelyek az önkormányzatok pénzügyi tárgyú döntéseinek és eljárásainak törvényességi felügyeletét látják el. Ez a tanulmány azt elemzi, hogyan alakult át ez a szabályozási környezet és annak joggyakorlata, és hogyan erősödött az államigazgatási szervek ellenőrzésének súlya az elmúlt évtizedben. Az elemzés eredményeként az a következtetés vonható le, hogy elmosódnak a szakmai és a törvényességi felügyelet közötti, korábban élesen megrajzolt (jogdogmatikai) határok. A tanulmány ezen túl áttekinti a rendszer kiegészítő elemeit, mint például a Magyar Államkincstár ellenőrzési hatásköreit és az ügyészség vagyonkezelési ellenőrzési jogkörét.

**Kulcsszavak:** külső ellenőrzés, szakfelügyelet, törvényességi felügyelet, fővárosi és vármegyei kormányhivatalok, Állami Számvevőszék, központi költségvetési finanszírozás ellenőrzése.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 281–297

# The Transformation of the External Audit of Local Government Finances in Hungary

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**Keywords:** external audit, professional supervision, legality supervision, capital and county government offices, State Audit Office, audit of central budgetary financing.

* * *

## 1. Bevezetés: az önkormányzati pénzügyek a magyar rendszerben

A magyar önkormányzati pénzügyi rendszer változásait elsősorban a magyar önkormányzati rendszer átalakulása befolyásolja. Kiemelendő, hogy az önkormányzatok fogalma az új Alkotmány, Magyarország Alaptörvényének 2012. január 1-jei hatályba lépését követően alakult át, amely viszonylag széles szabályozási szabadságot engedett az önkormányzati jog területén. Bár az önkormányzati jog alapstruktúrája megmaradt, rövid időn belül új sarkalatos törvény született az önkormányzatokról. Ez az új önkormányzati törvény a Magyarország helyi önkormányzatairól szóló 2011. évi CLXXXIX. törvény (a továbbiakban: Mötv.). Az önkormányzati rendszer szabályozási átalakításának részeként mind az önkormányzás tárgyát, mind az önkormányzati típusokat a Mötv. határozza meg, nem pedig az alkotmányos szabályrendszer, ellentétben a korábbi megoldással. Így a hatályos jogban a helyi közügyek fogalmát már nem az Alaptörvényben, hanem az Mötv. sarkalatos rendelkezései között, az Mötv. 2. §-ában találhatjuk.

Ki kell emelnünk, hogy az elmúlt másfél évtizedben a helyi önkormányzatok általános hatáskörén alapuló modell részben átalakult. Így a területi önkormányzatok, azaz a vármegyei önkormányzatok gyakorlatilag nem rendelkeznek általános hatáskörrel. Az Mötv. 27. §-ával összhangban csak a törvényben meghatározott területfejlesztés, a területrendezés, a

vidékfejlesztés és egyéb koordinációs kérdések szerepelnek a vármegyék hatáskörébe tartozó feladatok között (Hoffman, 2014, 405–406).

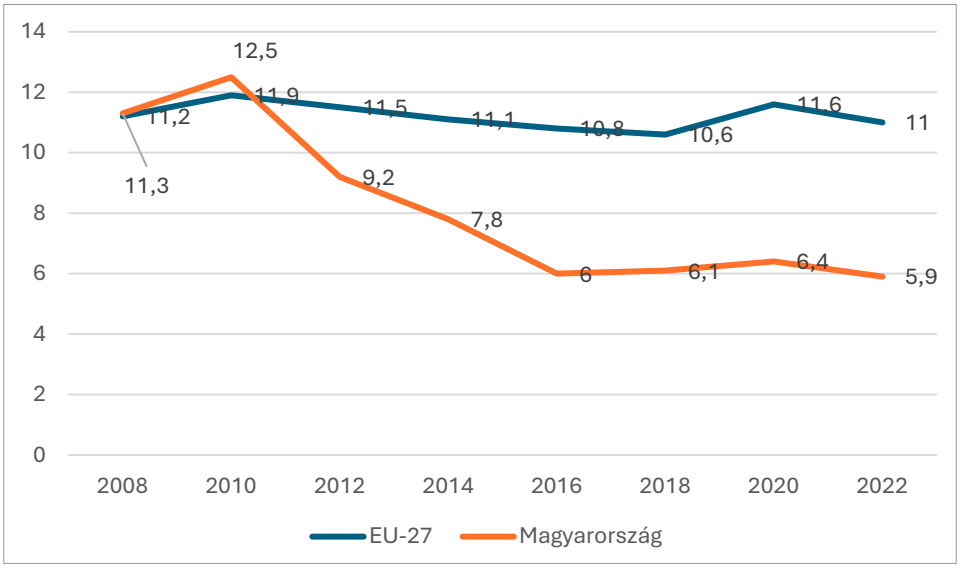
Az új Alaptörvény jelentősen átalakította a helyi-területi önkormányzatiság magyarországi kereteit. A korábbi Alkotmány az önkormányzatiságot a helyi és területi közösségek alapjogaként értelmezte, és a helyi önkormányzatok főbb hatásköreit és szabadságjogait is egyfajta alapjognak tekintették. Ki kell azonban emelni, hogy az önkormányzati jogok nem voltak azonosak a természetes személyek alapjogaival, azoknál gyengébb védelmet biztosított az Alkotmány 44/C. §-a, hiszen minősített (kétharmados) többséggel elfogadott törvényben lehetővé tette akmár a lényegi tartalmuk korlátozását, ellentétben a személyek alapjogaival (Bodnár & Dezső, 2010, 220–222). Ezt a koncepciót alakította át az Alaptörvény. Bár az Alaptörvény 32. cikke felsorolja a főbb önkormányzati hatásköröket, ezek a hatásköröket már nem önkormányzati alapjogokként határozzák meg, az Alaptörvény azt is egyértelművé teszi, hogy az önkormányzatok ezeket a hatásköröket csak „a törvények keretei között" gyakorolhatják.

A korábbi — Kjellberg tipizálását alapul vevő megközelítés (Kjellberg, 1995) szerinti — helyi autonómiára építő modellt követő paradigma így egyfajta integrációs modellé alakult át. Ezt hangsúlyozza az Alaptörvény 34. cikk (1) bekezdése, amely kimondja, hogy „[a] helyi önkormányzat és az állami szervek a közösségi célok elérése érdekében együttműködnek". Ez azt jelenti, hogy az önkormányzatok jogvédelme is meggyengült, hiszen az önkormányzatok nem rendelkeznek alapjogokkal, nem nyújthatnak be alkotmányjogi panaszt sem a azon törvényekkel és más jogszabályokkal szemben, amelyek álláspontjuk szerint az Alaptörvény rendelkezéseivel ellentétesen, azokat megsértve korlátozzák hatásköreiket.

Az új önkormányzati rendszer jellemzője annak erősen *centralizált* jellege. Az elmúlt időszak önkormányzati és ágazati jogalkotása a közszolgáltatások nyújtását központosította, megerősítette az államigazgatási szervek felügyeleti jogköreit (Szente, 2013, 178–180).

Ezek az átalakulások befolyásolták az önkormányzati költségvetés új koncepcióját, amely azóta is a közháztartás része. Ez azonban a központi költségvetéstől különálló alrendszer, bár az önkormányzati pénzügyek nagy hatással vannak az egész államháztartási rendszerre. Az önkormányzatok jelentős közszolgáltatók és a nemzeti gazdasági rendszerek fontos szereplői. Bár a magyarországi önkormányzatok gazdasági szerepe 2012 óta csökkent (Bencsik & Ercsey, 2020, 235; Siket, 2021, 274–275; Pál & Radvan, 2024, 213), a magyar GDP-ben még mindig jelentős részarányt képviselnek (lásd az 1. ábrát).

Az önkormányzati vagyonra és gazdálkodásra vonatkozó szabályozást így jelentősen befolyásolta a magyar önkormányzati rendszer átalakulása. Az önkormányzati vagyon gyakorlatilag „célvagyonná" vált, ez azt jelenti, hogy ha az önkormányzati feladatok államigazgatási feladattá válnak, vagy azokat egy másik önkormányzathoz telepítik, akkor az ehhez kötődő vagyon akár ingyenesen is átkerülhet a hatáskört átvevő szervhez. 2012 és 2017 között több fontos önkormányzati vagyoncsoportot államosítottak, például a korábbi önkormányzati kórházakat, bentlakásos szociális otthonokat, önkormányzati




1. ábra. Az önkormányzati kiadások aránya a GDP-ben az EU-ban és Magyarországon (2008–2022)

Forrás: Eurostat, 2024.

általános iskolákat, szakképzési intézményeket és gimnáziumokat (Szilágyi, 2016, 252–256). Emellett egy másik fontos változás is megvalósult, az önkormányzati hitelfelvétel kormányzati engedélyhez kötése, amihez az önkormányzati költségvetési hiányra vonatkozó korlátozó szabályozás bevezetése társult.

Bár a magyar önkormányzati rendszer 2011/12 óta jelentősen átalakult, az önkormányzatok, jóllehet feladataik egyre korlátozottabbak, azonban még mindig fontos szerepet játszanak a magyar közigazgatási rendszerben. Ennek következtében az önkormányzati pénzügyek törvényessége és biztonsága fontos kérdés az államháztartási rendszer számára (Feret, 2020, 89–91; Kostrubiec, 2021, 116–118). Ráadásul az önkormányzati pénzügyek biztonságát és jogszerűségét nemcsak az önkormányzati szervek védik, hanem a központi kormányzathoz tartozó más állami szervek, sőt más hatalmi ágak, például az igazságszolgáltatás is (Raudla *et al*., 2023, 393–395). Ezért ezen ellenőrzési és felügyeleti eljárások elemzésével az önkormányzati pénzügyi autonómia — sőt, maguknak az önkormányzatoknak az autonómiája — főbb jellemzői is megfigyelhetők (Radvan *et al*., 2018, 900–902).

Ebben a tanulmányban ezért a magyarországi helyzetet az önkormányzati pénzügyek feletti külső felügyelet és ellenőrzés főbb formáinak vizsgálatával értékelem (Jensen, 2005, 54–57). E tekintetben a szabályozásra és annak az államigazgatási szervek törvényességi felügyeleti feladatai és a kapcsolódó, elsősorban közigazgatási bírói gyakorlatára összpontosítok. Így, bár elsősorban a jogtudományok módszereit alkalmazom, elemzésemben a közigazgatás-tudományok megközelítését megjelenítem.

## 2. Törvényességi felügyelet és az azt követő bírósági eljárás

### 2.1 A törvényességi felügyelet hatálya

Az Mötv. 132. §-a értelmében az önkormányzati döntések törvényességét, beleértve a vagyongazdálkodással kapcsolatos döntéseket is, a vármegyei (fővárosi) kormányhivatalok felügyelik (Nagy & Hoffman, 2023, 571–774). Az Mötv. 132. § (4) bekezdése alapján a *képviselő-testület mérlegelési jogkörében hozott pénzügyi döntéseire nem terjed ki a kormányhivatalok törvényességi felügyelete.* Az Mötv. 132. § (5) bekezdése azonban fontos kivételt vezet be: a vármegyei és fővárosi kormányhivatalok mérlegelési jogkörben hozott döntésekkel kapcsolatban is vizsgálhatják azonban *a döntéshozatali eljárás* jogszerűségét, így a kivétel alóli alkivételként ebben az esetben visszatér a főszabály, azaz a törvényességi felügyelet alkalmazhatósága (Gyurita, 2020, 26–27).

Továbbá a felügyelet jogi eszközeit az Mötv. 132. § (1) bekezdése tartalmazza. Ez a rendelkezés megerősíti, hogy a kormányhivatal a tájékoztatás kérésén és javaslattételén túl, sikertelen megkeresés esetén közigazgatási per vagy egyéb közigazgatási bírósági eljárást kezdeményezhet az önkormányzati döntések felügyeletére illetékes bíróságoknál — elsősorban a Kúriánál (a Legfelsőbb Bíróságnál) és a közigazgatási kollégiummal rendelkező törvényszékeknél (Rozsnyai, 2023, 361–363). Továbbá a pénzügyi gazdálkodással kapcsolatban az Mötv. kifejezetten rögzíti, hogy a kormányhivatal eljárást kezdeményezhet az Állami Számvevőszéknél. Azokban az esetekben, amikor a kormányhivatal törvényességi felhívást ad ki, és az önkormányzati képviselő-testület nem ért egyet a megállapításaival, a közigazgatási kollégiummal rendelkező törvényszéknek van hatásköre az önkormányzati határozat jogszerűségének felülvizsgálatára. Az önkormányzati rendeletek és határozatok felülvizsgálatára egyaránt a közigazgatási perrendtartásról szóló 2017. évi I. törvény (a továbbiakban: Kp.) szabályait kell alkalmazni, azzal, hogy a rendeletek, valamint az önkormányzati normatív határozatok jogszerűségét, valamint azok megalkotásának jogszerűtlen elmulasztását egy sajátos, a Kp. XXV. fejezete szerinti különleges közigazgatási eljárásban kell felülvizsgálni.

### 2.2 A helyi önkormányzatok döntéshozatali eljárásának jogszerűségére vonatkozó bírósági felülvizsgálat

Az önkormányzati pénzügyekkel kapcsolatos bírósági eljárások elsősorban az adókra és egyéb közbevételekre vonatkozó helyi szabályozásra összpontosítanak. Bár e témában több kiemelkedő fontosságú ügyet is kiemelhetünk, ezek részletes elemzése meghaladja e tanulmány kereteit.

A kormányhivatalok törvényességi felügyeleti eszközeinek a jelen fejezet előző, 2.1. pontjában jelzett korlátai miatt a bírósági gyakorlat ezen a területen viszonylag korlátozott. Az önkormányzati pénzügyek területén azonban a bírói gyakorlat több kulcsfontosságú kérdéssel foglalkozik. Mindenekelőtt Magyarország Alaptörvénye bevezette a Kúria speciális eljárását azokra az esetekre, amikor egy önkormányzat nem teljesíti az önkormányzati rendeletek megalkotásával kapcsolatos kötelezettségeit. Ilyen esetekben a kormányhivatal

mulasztási eljárást kezdeményezhet a Kúriánál. Amennyiben a Kúria megállapítja, hogy mulasztás történt, és az önkormányzat továbbra sem alkotja meg a rendeletet, a kormányhivatal vezetője, a főispán jogosult az önkormányzat nevében a rendeletet megalkotni. Ehhez kötődően a Kúria több olyan döntést hozott, amelyben megállapította, hogy az önkormányzati költségvetés vagy a zárszámadás megalkotására jogszerűtlenül nem került sor, s végső soron, ha azt a képviselő-testület nem pótolta, lehetőséget biztosított a kormányhivatal vezetőjének (akit 2022-ig kormánymegbízottnak neveztek) a rendelet megalkotására (Kúria Köm.5.028/2023/5., Köm.5.027/2023/6., Köm.5.020/2023/7., Köm.5.019/2019/4., Köm.5.012/2018/3., Köm.5.016/2017/4. és Köm.5.072/2013/3. határozatai).

Az önkormányzati pénzügyek felügyelete kapcsán a döntések másik csoportját az éves költségvetés jogszerűségéről és az önkormányzati költségvetési kérdésekről szóló döntések alkotják. A Kúria megállapította, hogy az önkormányzatoknak széleskörű önállóságuk van a pénzügyeik megszervezésében és eldöntésében. Egyben hangsúlyozta, hogy az önkormányzati által meghatározott költségvetési és pénzügyi szabályok és eljárások betartása az ügyek érdemére kiható, és a döntés jogszerűségéhez kötődő fontos kérdés. Így azok a döntések, amelyek a pénzügyi tervezés betartásával kapcsolatosak, és összhangban vannak a helyi önkormányzatok szervezeti és működési szabályzatával, nem értelmezhetőek jogsértő cselekményekként (Kúria Köf.5.024/2023/7. határozata). A Kúria a rendeletek bírósági felülvizsgálatának mérlegelési jogkörön és mérlegelési mozgástéren alapuló korlátai miatt az önkormányzati pénzügyi rendeletek hatályon kívül helyezésével kapcsolatban restriktív megközelítést alkalmazott. Hangsúlyozta, hogy csak a legsúlyosabb jogsértések eredményezhetik a rendelet megsemmisítését. Ha például egy éves költségvetést a képviselő-testület (az önkormányzati képviselő-testület) zárt ülésen fogadott el, az az egész éves költségvetésről szóló rendelet megsemmisítésére adhat okot, mert ez több fontos alapelvet sért, különösen az éves költségvetés elszámoltathatóságát, valamint az önkormányzat nyílt és demokratikus döntéshozatalát, így mindezek közjogi érvénytelenséghez vezetnek (Kúria Köf.5.040/2013/4. határozata). Hasonlóképpen, ha az önkormányzat olyan pénzügyi döntéshozatali struktúrát fogad el, amely sérti a központi jogalkotásban meghatározott államháztartási és önkormányzati szervezeti előírásokat, akkor az éves helyi költségvetés ezen rendelkezéseit meg kell semmisíteni (Kúria Köf.5.067/2012/4. határozata).

Így egyértelmű, hogy az önkormányzati vezetés bírósági ellenőrzése a döntéshozatali és eljárási kérdésekre összpontosított, az Mötv. törvényességi felügyeletére vonatkozó eredeti koncepció szerint.

Mint már jeleztem, az Mötv. értelmében a kormányhivatalok, mint a törvényességi felügyeletért felelős szervek, kiterjesztették hatáskörüket az önkormányzatok szervezetének, működésének és döntéshozatali eljárásainak vizsgálatára. Ez magában foglalja az önkormányzatok azon szerveinek és tisztségviselőinek döntéshozatali eljárásainak vizsgálatát is, amelyekben az önkormányzatok magánjogi döntéseket hoznak.

A döntéshozatali folyamat szabályossága — ahogyan már korábban is jeleztem — számos pénzügyi, különösen a vagyonkezeléssel kapcsolatos döntések esetében kulcsfontosságú tényező. Ennek oka, hogy a jogszabályokban meghatározott döntéshozatali szabályok betartása elengedhetetlen a vagyon védelme és a vagyonnal kapcsolatos döntések átláthatóságának

biztosításához. Ezért mind a kormányhivatalok — és azok jogelődjei —, mind a bíróságok jelentős hangsúlyt fektetnek a vagyonkezelési döntésekkel kapcsolatos eljárási szabályok betartására. A gyakorlatban a bíróságok általában nem tekintették a korábbi eljárásokban az ülések nyilvánosságára vonatkozó szabályok megsértését elegendő oknak egy határozat jogellenessé nyilvánítására. Ha azonban az önkormányzati határozatok meghozatalára vonatkozó egyéb eljárási szabályokat — így különösen a véleményezésre vagy a kötelezően alkalmazandó pályázati eljárásra vonatkozó vagy az önkormányzat által meghatározott más eljárási szabályokat — megsértették, a bíróságok ezen a jogsértéseket a vagyongazdálkodási döntés megsemmisítésére okot adó körülményként értékelték (Hoffman, 2010). A bíróságok a meglévő, hatósági ügyekben kialakult ítélkezési gyakorlatot analógia útján alkalmazták az önkormányzati nem hatósági ügyekben elkövetett eljárási hibákra, az ilyen eljárási jogsértéseket az ügy érdemére kihatóként, lényeges szabálysértésként értelmezve helyezték hatályon kívül a nem hatósági jellegű önkormányzati határozatokat is. Így például a Heves Megyei Bíróság a 3.K.30.154/2008/8. számú ítéletében jogellenesnek minősítette azt a pályázati döntést, amelyben a megyei közgyűlés annak ellenére nyilvánított sikeresnek egy pályázatot, hogy az ajánlattevő nem csatolta a pályázati felhívásban előírt mellékletek egyikét.

### 2.3 A törvényességi felügyelet és a szakmai ellenőrzés között: az Mötv. 2023-ban módosított és 2024. október 1-jén hatályba lépett rendelkezéseinek rendszere

Elöljáróban ki kell emelni, hogy a helyi önkormányzatok tevékenységének magyarországi kontrolljára a Helyi Önkormányzatok Európai Chartáját kell alkalmazni, valamint, hogy a magyar gyakorlatra és szabályozásra nagy hatással van a német jogalkotási és bírósági gyakorlat, valamint a német jog- és igazgatástudományok elméleti megközelítései (Hoffman, 2015, 242–243). A Helyi Önkormányzatok Európai Chartája 8. cikkének (2) bekezdése szerint az önkormányzati tevékenységek felügyelete elsősorban a törvényességi kontrollon alapul. Az önkormányzati szervek tevékenységének szakmai ellenőrzését azonban kivételesen a Charta megengedi. A magyar rendszerben ez a szakmai ellenőrzés elsősorban az önkormányzatok szervei és tisztségviselői által ellátott átruházott államigazgatási hatáskörök körében jelenik meg, ahol a kormányzati igazgatásról szóló 2018. évi CXXV. törvény (a továbbiakban: Kit.) 44. § (1) bekezdésére figyelemmel főszabály szerint a fővárosi és vármegyei kormányhivatalok látják el az általános közigazgatási rendtartásról szóló 2016. évi CL. törvény (a továbbiakban: Ákr.) szerinti felügyeleti szervei, azaz jogorvoslati feladatokat. Így a rendszer elsősorban a német *„Rechtsaufsicht"* (törvényességi felügyelet) és *„Fachaufsicht"* (szakfelügyelet) koncepciójára épül (Schmidt, 2022, 145–160). Mint fentebb említettük, a kormányhivatalok gyakorlata a jogszerűségre, különösen az eljárási jogszerűségre összpontosított, ami a törvényességi felügyeleti hatáskörük előzőekben jelzett, a Mötv. által meghatározott korlátaiból adódott.

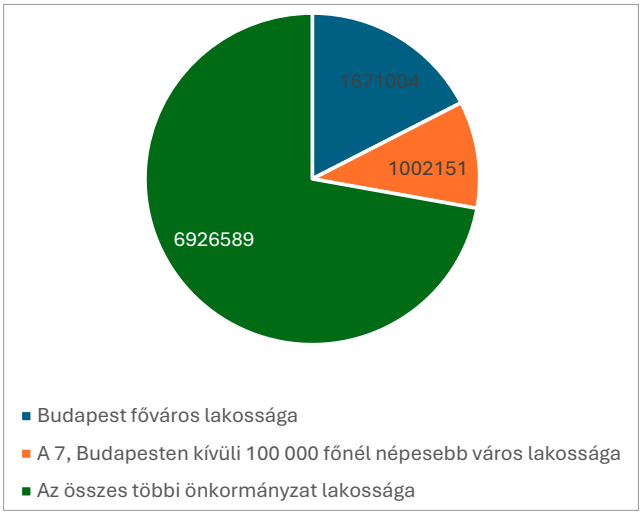
Ez a hagyományos megközelítés azonban 2024-ben megváltozott. A 2023. évi CXIV. törvény módosította az Mötv. 111. §-át, és új megközelítést alkalmazott. Az új szabályozás, amely az új, 2024–2029-es önkormányzati ciklus kezdetével (azaz 2024. október 1-jén) lépett hatályba, az önkormányzati bevételekre, ennek keretében az önkormányzati vállalatok

támogatására is összpontosít. Az új rendszerben a vármegyei és fővárosi kormányhivatal ellenőrizheti az önkormányzati bevételek valós fedezetét, különösen akkor, ha a tervezett bevételeket jelentősen (20%-kal vagy 1 milliárd forinttal — mintegy 2,5 millió euróval) megemeli az önkormányzati költségvetési rendelet. Ilyen esetekben a kormányhivatalok jogosultak ellenőrizni az önkormányzatok bevételeit, beleértve azt is, hogy a tervezett önkormányzati bevételeknek van-e valós és tényleges fedezete. A módosítás indoklása az Mötv. által meghatározott működési hiány tervezését tiltó szabályozás hatékony érvényesítése volt. A kormányhivatalok hatáskörrel rendelkeznek arra is, hogy egyfajta csődbiztost rendeljenek ki egy önkormányzathoz, ha úgy találják, hogy az önkormányzat megalapozatlanul járt el a költségvetési bevételek tervezése során, vagy ha az önkormányzat a fent említett (felügyeleti) eljárások során megszegte együttműködési kötelezettségét. A csődbiztos az önkormányzat tényleges pénzügyi gyámjának tekinthető, mert hozzájárulása nélkül nem lehetséges az érvényes (költségvetési) kötelezettségvállalás. Ezért az önkormányzat pénzügyi autonómiája ténylegesen megszűnik e biztos kinevezésével. A biztos kinevezése bírósági ellenőrzés alatt áll, de a túlzottan általános szabályozás miatt a jogszerűségi kontroll jelentős nehézségekbe ütközik, ugyanis az Mötv. 111. § (4c) bekezdése is „közgazdasági megalapozottságról" beszél, amely egy bírósági, a döntés jogszerűségének kontrolljára alapuló eljárásban nehezen kezelhető fordulat, úgy tűnik, ilyenkor a végső soron nem törvényességi, hanem szakmai felügyeletre kerül sor, ahogy ezt később részletesen kifejtem. Mindezek mellett az is egyértelmű, hogy nem megalapozott költségvetési tervezés esetén az önkormányzati pénzügyi autonómiát az államigazgatási szervezetrendszer lényegében az adott költségvetési évre felfüggesztheti.

E szabályozásnak a törvényességi felügyeletbe történő illeszkedése — miként az előbbiekben jeleztem — erősen kérdéses. A szabályokat, jóllehet az Mötv. határozza meg, azonban azok tartalma nem jogszerűségi jellegű, hanem gazdasági ellenőrzési tevékenységen alapul, hiszen az önkormányzati bevételek fedezetét kell ellenőrizni, tehát legalább részben az önkormányzati tevékenység szakmai ellenőrzéséről van szó (Schmidt, 2022, 159–160). Így nem sorolható egyértelműen a törvényességi felügyelet jogintézményei közé, azaz részben szakfelügyeleti eszközként értelmezhető. Mint azt a későbbiekben részletesebben kifejtem, az önkormányzati pénzügyek szakmai ellenőrzésére van lehetőség, bár ezeket a feladatokat eddig az Állami Számvevőszék látta el. Ez a szabályozás az önkormányzati autonómia elvén alapult, hiszen az Állami Számvevőszék a törvényhozó hatalomhoz tartozik: az Országgyűlés szakosított ellenőrző szerve, amely független a végrehajtó hatalom központi szerveitől is. Így értelmezhető a törvényhozó hatalom ellenőrző mechanizmusaként a végrehajtó hatalom felett, hiszen a magyar alkotmányos rendszerben az önkormányzatokat a végrehajtó hatalom részét képező közigazgatási rendszer autonóm alrendszerének tekintik (Nagy & Hoffman, 2024, 542–548). Az új szabályozás úgy értelmezhető, mint szakítás ezzel a korábbi, dogmatikailag egyértelmű modellel. Az államigazgatás egy szerve kap szakmai felügyeleti feladatot az önkormányzatok felett. Bár, ez egy korlátozott, és kivételesnek tűnő, megoldás, de mégis idegen az önkormányzati autonómia védelmét képező dogmatikailag tiszta korábbi megoldásoktól. Az elmúlt 13 év során a szabályozás állandó átalakításával a központi kormányzat és szervei befolyása az önkormányzati pénzügyi autonómiára erősödött (Bencsik, 2017, 67).

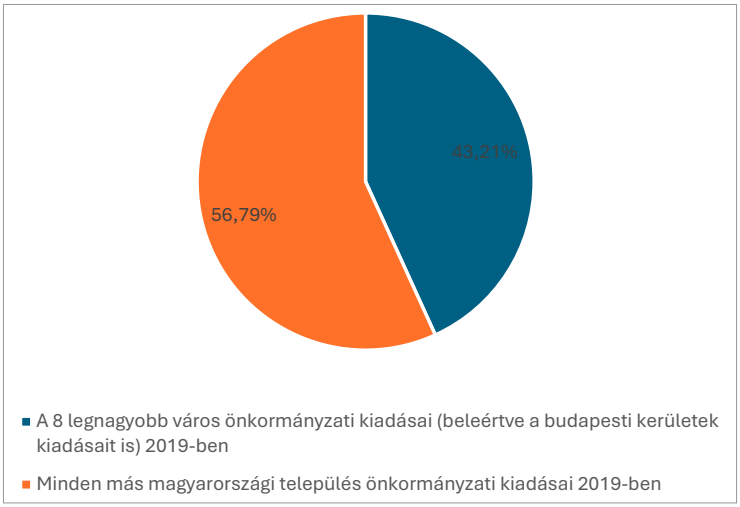
Következésképpen ez az új szabályozás egy újabb óriási lépés a magyar önkormányzatok közigazgatási gyámság alá rendelése felé.

A szabályozás másik problémás pontja, hogy a szabályozás célzottnak tűnik. A nagyobb, városi, megyei jogú városi, fővárosi és fővárosi kerületi önkormányzatok a legnagyobb önkormányzati cégek meghatározó tulajdonosai (Horváth M. 2015, 24–26) és a helyi adóbevételek többségével is ők rendelkeznek (Hulkó & Fehér, 2021, 162–165) (lásd 2–4. ábra).



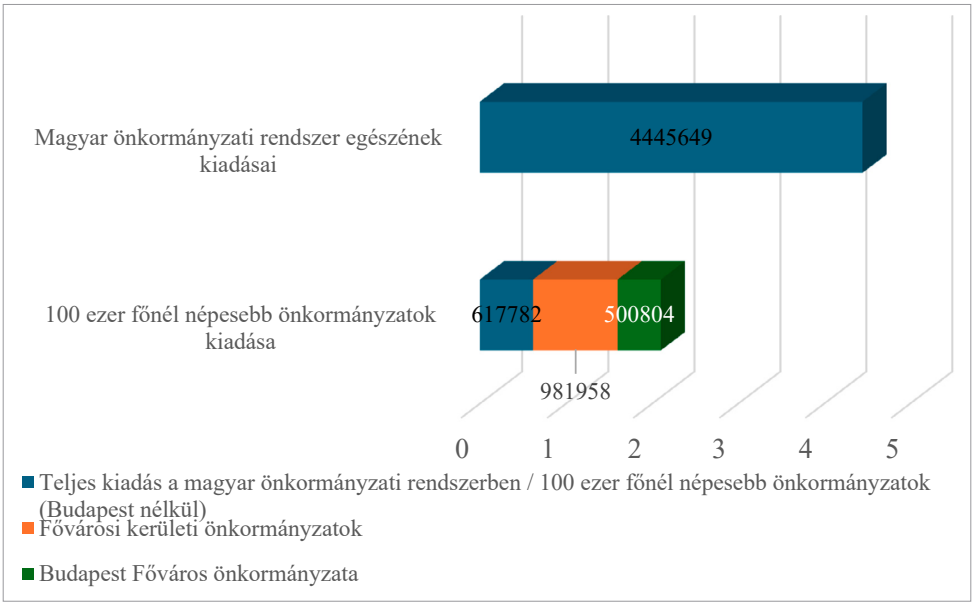

**2. ábra.** A legnagyobb (100.000 főnél) népesebb önkormányzatok aránya Magyarország népességén belül

**Forrás:** Központi Statisztikai Hivatal (ksh.hu)




**3. ábra.** A legnagyobb magyarországi települések önkormányzati kiadásainak aránya a 2019. évben

**Forrás:** Eurostat, 2024 és a zárszámadásról szóló önkormányzati rendeletek.




**4. ábra.** Önkormányzati kiadások (millió forintban 2024)

**Forrás:** Eurostat, 2024 és a zárszámadásról szóló önkormányzati rendeletek.

Ez a szelektivitás azonban indokolt lehet, mivel a nagyobb települések jelentősebb hatással vannak az állami háztartás adósságállományára. Ugyanakkor a bevezetésnek más okai is lehetnek, amelyek nem az közigazgatási és jogi, hanem politikai megközelítésen alapulnak, ugyanis ezen önkormányzatok között nagyobb arányban vannak a politikatudományi szakirodalom elemzése alapján ellenzéki vezetésű önkormányzatok (Deets, 2023, 5–7).

## 3. Az Állami Számvevőszék külső ellenőrzése

Az alkotmányos szabályozás szerint az Állami Számvevőszék (a továbbiakban: ÁSZ) feladata a magyar önkormányzatok gazdálkodásának ellenőrzése. Ez a megközelítés az Állami Számvevőszékről szóló 2011. évi LXVI. törvény (a továbbiakban: Ásztv.) 1. § (3) bekezdésének szabályozásán alapul, miszerint „[a]z Állami Számvevőszék általános hatáskörrel végzi a közpénzekkel és az állami és önkormányzati vagyonnal való felelős gazdálkodás ellenőrzését”, valamint azon, hogy az Mötv. 132. § (1) bekezdés j) pontja szerint a kormányhivatal kezdeményezheti az ÁSZ vizsgálatát az önkormányzat gazdálkodásával kapcsolatban.

Ezzel összefüggésben azonban a Legfelsőbb Bíróság Közigazgatási Kollégiuma — mint a Kúria jogelődje — a KGD 1996/1. számában közzétett döntésében kimondta, hogy a 2011/12-ig hatályos, a helyi önkormányzatokról szóló 1990. évi LXV. törvény (a továbbiakban: Ötv.) 98. § (3) bekezdés a) pontja és 99. § (2) bekezdése alapján az önkormányzati intézkedések törvényességi ellenőrzésére hivatott szervek a törvénysértő önkormányzati döntések ellen keresetet indíthatnak. Vagyis a Kúria jogelődje megállapította, hogy e rendelkezés nem

zárja ki, hogy a közigazgatási hivatalok — a jelenlegi kormányhivatalok jogelődjei — felülvizsgálják az ilyen döntés jogszerűségét. Ennek következtében e szabályozási keret alapján a kormányhivatalok által gyakorolt ellenőrzés *tisztán* törvényességi jellegű volt, azaz csak a jogszabálysértések esetén járhattak el. Míg a Kúria jelenlegi gyakorlata továbbra is lehetővé teszi a törvényességi felülvizsgálatot ilyen esetekben, a Kúria a BH2023.206. számú iránymutató határozatában hangsúlyozta, hogy az egyedi költségvetési jogviták — mint például a közös önkormányzati hivatalok működési költségeihez való hozzájárulásról szóló megállapodásokból eredő jogviták — kívül esnek a normakontroll jellegű eljárások körén. Ezenkívül az ÁSZ az Ásztv. 1. § (3) bekezdése és III. fejezete alapján nemcsak törvényességi, hanem az önkormányzati gazdálkodás célszerűségi és eredményességi vizsgálatára is jogosult. Mint korábban említettük, ez a megközelítés a német jogdogmatikai megközelítésen alapul, amely élesen elkülöníti egymástól — mind eljárási, mind szervezeti oldalról — az önkormányzati tevékenység törvényességi és szakfelügyeletét. Így míg a kormányhivatalok tevékenysége a törvényességi felügyeletre épít, addig az ÁSZ ellenőrzési jogköre a szakmai szempontokra is kiterjed, a vagyoni és költségvetési kérdések szakmai ellenőrzését ellátva.

Az ÁSZ eljárásának részletes szabályait az Ásztv. határozza meg. E szabályok alapján az ÁSZ széleskörű vizsgálati hatáskörrel rendelkezik, amelyet részletesen a Ásztv. III. fejezete rögzít. A széles körű vizsgálati hatáskörök mellett az Ásztv. egy ellenőrzési alapú megközelítést alkalmaz, azaz az az ÁSZ nem hozhat döntéseket, csak eljárást kezdeményezhet a hatáskörrel rendelkező és illetékes hatóságoknál. Továbbá az ÁSZ ellenőrzési jelentéseivel szemben nincs külön jogorvoslati jog, de az ellenőrzött szerv és annak vezetője jogosult észrevételeket tenni. (Árva, 2013, 444–445). Azonban ez értelemszerűen nem zárja ki azt, hogy az ÁSZ kezdeményezése alapján indított eljárásokban az önkormányzatok az azon rezsimekben meghatározott jogorvoslati jogukkal éljenek.

## 4 Az egyéb, a kormányhivatalon kívüli államigazgatási szervei külső ellenőrzése feladatai az önkormányzati rendszer pénzügyi kérdéseinek tekintetében

### 4.1 A központi költségvetés önkormányzati feladatellátáshoz kapcsolódó támogatásainak megállapítása és ellenőrzése

A magyar pénzügyi rendszerben az önkormányzati bevételek részben saját bevételeikből származnak, különösen a helyi adókból és a vagyongazdálkodásból származó bevételekből. Ugyanakkor a központi költségvetési támogatás szerepe is jelentős eleme a rendszernek. Ahogyan azt a magyar Alkotmánybíróság megállapította, ezt a támogatást az önkormányzati finanszírozás kötelező és szerves részének kell tekinteni (Kecső, 2016, 248–252). E források ellenőrzése tehát az önkormányzati pénzügyek külső ellenőrzésének egyik meghatározó szempontjaként értelmezhető.

A magyar jogrendszerekben ezt a pénzügyi támogatást a Magyar Államkincstár vármegyei és fővárosi igazgatóságai (a továbbiakban: vármegyei igazgatóságok) folyósítják. Míg több támogatási forma kiutalása a vármegyei igazgatóságok egyedi (hatósági) döntése

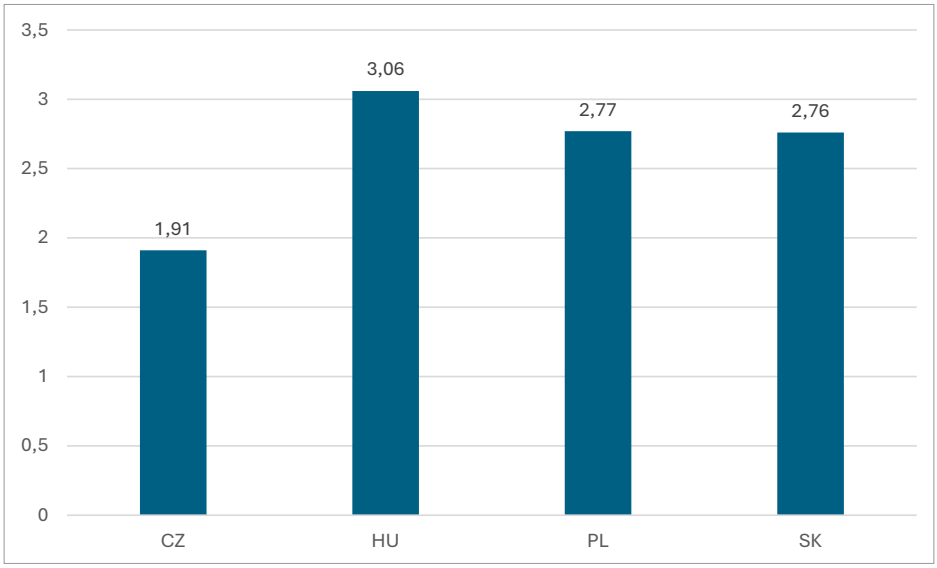
alapján történik, addig a támogatások többsége automatikusan kerül folyósításra. az önkormányzatok által szolgáltatott adatokra támaszkodva. Mindazonáltal az államháztartásról szóló 2011. évi CXCV. törvény (a továbbiakban: Áht.) speciális ellenőrzési eljárásokat vezetett be. Ezek az eljárások hatósági ellenőrzésnek minősülnek, és mint ilyenekre Ákr. rendelkezései vonatkoznak. Ezen túlmenően, az ezen alapokkal kapcsolatos gyors és végleges döntések szükségessége miatt az Áht. az eljárás felgyorsítása érdekében külön szabályokat határoz meg. Az Áht. két fő vizsgálati és ellenőrzési eljárástípust határozott meg. Először is, a Áht. 57. §-a rögzíti helyi önkormányzatok általános működéséhez és ágazati feladataihoz kapcsolódó támogatások igénylésével kapcsolatos eljárási szabályokat. Ezen eljárások során a vármegyei igazgatóságok ellenőrzik az egyes pénzügyi adatokat és így az önkormányzati támogatás jogszerűségét. Ha az adatszolgáltatást és a kifizetett támogatást nem találják megfelelőnek, akkor azokat határozatukkal módosíthatják. A vármegyei igazgatóság által hozott döntéssel szemben közigazgatási pert lehet kezdeményezni a közigazgatási határozatok felülvizsgálatáért felelős törvényszékeknél. Az Áht. a hatósági és a közigazgatási peres eljárások felgyorsítására külön szabályokat vezetett be. Egy másik eljárás a központi költségvetési támogatásról szóló éves költségvetési jelentések felülvizsgálatát foglalja magában. Az Áht. 60. §-a erre vonatkozóan külön felülvizsgálati eljárást vezetett be. A vármegyei igazgatóság határozatainak fontossága miatt kétfokú eljárást vezettek be (Nagy & Hoffman, 2023, 523). Ez azért értelmezhető speciálisnak, mert Magyarországon a közigazgatási eljárások alapvetően egyfokú eljárások, a kétfokú eljárások a kivételek közé tartoznak (Rozsnyai, 2021, 494–496).

Így az önkormányzati pénzügyek esetében létezik egy „hagyományos", az Ákr. hatálya alá tartozó, hatósági felügyeleti jellegű eljárás. E szabályozás hátterében az áll, hogy az önkormányzatok autonómiája miatt a központi kormányzati támogatás nem értelmezhető hierarchikus tevékenységként, hanem az az államigazgatástól elkülönült jogalannyal szemben, közhatalommal meghozott döntésnek tekinthető. Ezen jogi helyzetre figyelemmel döntött úgy a jogalkotó, hogy egy hatósági eljárást vezetett be a fenti támogatások jogszerűségének vizsgálatára (Nagy, 2017, 23–25).

### 4.2 Az uniós források felhasználásának külső ellenőrzése

Európai Unió szerepe — különösen az új tagállamokban — a területfejlesztési politikák körében is kiemelkedő. Az önkormányzati közszolgáltatások fejlesztésében az EU által társfinanszírozott projektek támogatása Magyarországon is nagy jelentőségű. Az Eurostat nemzeti számlákra vonatkozó adatai szerint az ezen országok által kapott ESZA-források GDP-jük 1,91-3,06%-át tették ki (lásd az 5. ábrát).

Ezért az uniós források ellenőrzési mechanizmusa a magyar önkormányzati finanszírozás fontos részét képezi. Először is, létezik egy európai keretrendszer a pénzeszközökkel kapcsolatos döntésekkel kapcsolatos jogorvoslatokra vonatkozóan. Az uniós szabályozás alapján a támogatási döntés ellen a kérelmező vagy a kedvezményezett panasszal élhet, amely a panaszjogból eredeztethető. Ennek értelmében a kérelmező vagy a kedvezményezett panaszt




**5. ábra.** Az ESIF éves uniós finanszírozása (2014–2020) a 2014–2020-as GDP átlagának arányában (folyó piaci árakon) (%)

**Forrás:** Eurostat nemzeti számlák 2014–2020 és https://cohesiondata.ec.europa.eu/countries

nyújthat be az uniós források felhasználásáért felelős miniszterhez (jelenleg a közigazgatási és regionális fejlesztési miniszter). A panasz olyan jogorvoslatként értelmezhető, amely a kérelmező alanyi jogait védi, így csak közvetve része az önkormányzati pénzügyek külső ellenőrzési mechanizmusának. Van azonban egy olyan eszköz, amely egyértelműen besorolható az önkormányzati gazdálkodás külső eszközei közé: a szabálytalanságkezelési eljárások. A szabálytalanságkezelési eljárás az uniós források felhasználásával kapcsolatos közigazgatási típusú szankciót jelenti (Nagy, 2012, 91–93). Magyarországon az uniós társfinanszírozású források kezelésének struktúrájából, az érintett források jellegére (a Területfejlesztési Operatív Program által nyújtott ellátásokról van szól elsődlegesen) adódóan elsősorban a Magyar Államkincstár vármegyei igazgatóságai felelősek ezért az ellenőrzésért (Hoffman, 2023, 36–40). A fent említett eszközök biztosítják, hogy az uniós források hazai koordinációjáért felelős szervek egyrészt ellenőrizni tudják az EU által társfinanszírozott önkormányzatok döntéseit. Másrészt biztosítják, hogy a támogatást igénylők és a kedvezményezettek megfelelő jogi védelemben részesüljenek a döntéshozatali és ellenőrzési folyamatok során.

## 4. Az ügyész mint külső ellenőrző szerv

Emellett az ügyészségnek is van — bár korlátozott — szerepe az önkormányzati pénzügyek külső ellenőrzésében. A közigazgatási határozatok közvetett felülvizsgálatának sajátos esete volt a 2014. március 14-ig hatályos, a Polgári Törvénykönyv hatálybalépéséről és hatálybalépéséről szóló 1960. évi 11. törvényerejű rendelet (a továbbiakban: régi Ptké.)

36/A. §-ában rögzített ügyészi hatáskör. A régi Ptké. lehetővé tette az ügyészek számára, hogy a közérdekben okozott kár orvoslása érdekében érvénytelen szerződések megsemmisítése iránti keresetet nyújtsanak be. A fenti kérdés vizsgálata azért különösen érdekes, mert a 2014. március 15. óta hatályos, a Polgári Törvénykönyvről szóló 2013. évi V. törvény (a továbbiakban: Ptk,) 6:88. § (4) bekezdése szerint „[k]özérdekben okozott sérelem megszüntetése érdekében és uzsorás szerződés esetén az ügyész keresetet indíthat a szerződés semmisségének megállapítása vagy a semmisség jogkövetkezményeinek alkalmazása iránt", azaz az ügyésznek ez a magánjogi közérdekvédelmi feladatra az új Ptk. rendszerében is fennmaradt.

A Legfelsőbb Bíróság EBH2004.1043. számon közzétett határozata szerint a Ptké. 36/A. §-ának célja a közérdekből okozott kár orvoslása, ezért az ügyész akkor jogosult keresetet indítani, ha a szerződés semmissége a társadalom egészének vagy valamely közösségnek tényleges érdeksérelmet okoz. A Pécsi Ítélőtábla ítéletében hangsúlyozta, hogy a közérdeket a még hatályba nem lépett semmis szerződés is sértheti, ezért az ügyész kártérítési keresetindítási joga kiterjed a felfüggesztő feltételhez kötött, még hatályba nem lépett szerződés semmissége miatt indított keresetindításra is. A közhatalmat gyakorló és a közvagyont kezelő szervek törvényes működésébe vetett közbizalom az ilyen jogügyletek megkötésével is sérül. A fenti alapelvtől eltérően az elsőfokú bíróság a Somogy Megyei Főügyészség által a konkrét ügyben benyújtott keresetet elutasította, mivel a felek időközben felmondták a szerződést, így a közvagyont veszélyeztető szerződés nem jött létre. A fent említett ügy is jól mutatja, hogy a vagyonjogi szerződésekkel kapcsolatban milyen jelentősége van az önkormányzati képviselő-testületek döntésének. Így a bírósági ítéletek elismerik, hogy az ügyésznek hatásköre és jogköre is van ezen önkormányzati döntéseken alapuló szerződések megtámadására. Még akkor is, ha a szerződő felek az eljárás befejezése előtt megszüntették jogviszonyukat, az ügyész megtámadhatja a megszüntetett szerződést. E szabályok fényében az ügyész szerepe kivételes és kiegészítő jellegű, és az önkormányzatok magánjogi tevékenységeinek jogszerűségére összpontosít, különösen az önkormányzati vagyonkezelés területén.

## 5. Záró megjegyzések

A magyar önkormányzati pénzügyek többszintű külső kontrollrendszerrel rendelkeznek. A rendszer azonban követte a nagy kontinentális, különösen a német és részben a francia rendszert, ahol az önkormányzati pénzügyek szakmai ellenőrzését az ÁSZ végezte, a törvényességi felügyeletet pedig a vármegyei (fővárosi) kormányhivatalok látják el, ezek a szigorú határok elmosódtak. Mindenekelőtt ki kell emelni, hogy a Magyar Államkincstár az önkormányzatok központi támogatásának ellenőrzésében és vizsgálatában, valamint az uniós társfinanszírozású források felhasználásának ellenőrzésében vált meghatározó szereplővé. Hasonlóképpen a törvényességi és szakfelügyelet közötti határok is változtak, tulajdonképpen képlékennyé váltak a vármegyei kormányhivatalok által irányított költségvetési ellenőrzési eljárás bevezetésével, amely 2024. október 1-jén lépett hatályba. A rendszer kiegészítő elemeként az ügyészek is rendelkeznek bizonyos ellenőrzési hatáskörökkel a több magánjogi szerződés tekintetében. Az ellenőrzési rendszer tehát változik, és összefoglalóan

megállapítható, hogy az önkormányzati autonómia nem erősödött az utóbbi időben végrehajtott átalakításokkal.

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# A felsőoktatási intézmények döntéseivel szembeni jogorvoslatok — a magyar szabályozás tükrében

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**Absztrakt**

A felsőoktatási intézmények sajátos jogalanyai a magyar jogrendszernek. Nem közigazgatási szervek, ugyanakkor a közigazgatás intézményrendszerének részeként humán közszolgáltatásokat nyújtanak. Döntéseik jelentős része a közigazgatási perrendtartásról szóló 2017. évi I. törvény (Kp.) hatályba lépése óta általános jelleggel közigazgatási jogvita tárgyát képezhetik. A tanulmány azt vizsgálja, hogy meddig terjed, illetve meddig terjeszthető a közintézeti aktusoknak az a köre, amely belefér a Kp. közigazgatási jogvita fogalmába, különösen arra tekintettel, hogy a közintézeti jogviszonyokat egyre több magánjogi elem határozza meg. Annak megállapítása, hogy mely közintézeti aktusok előtt nyitott a közigazgatási jogvita, igen komplex kérdés, amelyet a magyar felsőbírósági gyakorlat is széttartóan kezel. A közintézeti aktusok csoportosítása, az intézeti jogviszonyok minősítése, valamint az intézet szolgáltatásainak jellege mind meghatározzák a problémakört, amelyre nehéz egyértelmű választ kínálni. Különösen komoly fejtörést okoznak a közintézetek nem (csak) a hallgatókkal kapcsolatos döntései; ezek ugyanis általában munkajogi aktusok, néhány esetben azonban felmerülhet, hogy az intézeti jogviszony és a közszolgáltatás jellege indokolttá teszi az alkalmazottak közjogi jogvédelmét is. Ennek elméleti és gyakorlati hátterét kívánja körüljárni jelen tanulmány.

**Kulcsszavak:** egyetem, aktus, közintézet, felsőoktatás, közigazgatási per, jogvédelem.

# Legal Remedies Against Decisions of Higher Education Institutions — in the Light Of Hungarian Regulation

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**Keywords:** university, act, public institution, higher education, administrative litigation, legal protection.

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## 1. Bevezetés

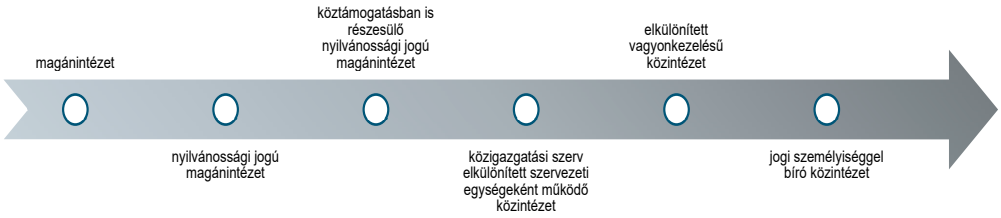
Nem túlzás azt állítani, hogy az elmúlt évek során gyökeres változásokon ment keresztül a magyar felsőoktatási rendszer. Korábban a felsőoktatási intézmények túlnyomó része költségvetési szervként működött, hallgatóik jó része állami ösztöndíjjal folytatta tanulmányait, oktatóit közalkalmazotti jogviszonyban foglalkoztatta, míg a nem állami fenntartó irányítása alatt álló egyetemek és főiskolák a felsőoktatási intézmények kisebb részét tették ki. Ezt az arányt jelentősen megváltoztatta a 2019-ben megkezdődött egyetemi modellváltás, amely mára oly mértékben előrehaladt, hogy a felsőoktatási intézmények nagyobb része az állami fenntartás alól közfeladatot ellátó közérdekű vagyonkezelő alapítványok (a továbbiakban: KEKVA) fenntartása alá került és a költségvetési szervként működő egyetemek ritka kivételt jelentenek a felsőoktatási szférában.[1] Bár a fenntartóváltás nem jelent változást a felsőoktatási intézmények jogi státuszát illetően, hiszen azok nemzeti felsőoktatásról szóló 2011. évi CCIV. törvény (a továbbiakban: Nftv.) alapján továbbra is jogi személyiséggel rendelkeznek (Nftv. 5. § (1) bekezdés), a polgári jogi logika alapján működő alapítványi fenntartói modell számos nem elhanyagolható változást hozott a felsőoktatási intézmények működésében, amely következtében a felsőoktatási intézmények által létesített közintézeti jogviszonyokban egyre több magánjogi elem jelent meg. A közintézeti jogviszonyok minősítése meghatározza a közintézeti aktusokkal szemben igénybe vehető jogorvoslatokat, azonban a

1 A tanulmány írásának időpontjában már csak az Eötvös Loránd Tudományegyetem, a Liszt Ferenc Zeneművészeti Egyetem, a Magyar Képzőművészeti Egyetem, a Nemzeti Közszolgálati Egyetem és az Eötvös József Főiskola működik költségvetési szervi formában.

közintézeti jogviszonyok jogági besorolása, valamint ennek alapján az igénybe vehető jogorvoslat meghatározása már a modellváltó reformok előtt sem volt egyszerű feladat. A felsőoktatási rendszer átalakulása óhatatlanul is kihat felsőoktatási intézmények mint közintézetek aktusaival szemben igénybe vehető jogvédelmi mechanizmusokra is. A tanulmány az elmúlt évek szervezeti és közigazgatási perjogi változásaira tekintettel elemzi az egyetemek és főiskolák aktusaival szemben rendelkezésre álló jogorvoslatokat néhány kúriai döntésen keresztül, és arra keresi a választ, hogy a felsőoktatási rendszerben végbemenő szervezeti változások mellett mennyiben van helye a közjogi jogorvoslatok fenntartásának.

## 2. A felsőoktatási intézmények jogállása

A felsőoktatási intézmények a közigazgatás intézményrendszerébe tartozó, bizonyos fokú önkormányzatisággal rendelkező humán közszolgáltatást végző közintézetek (Berényi, 2005a, p. 239). A hagyományos, Otto Mayer által meghatározott fogalom szerint a közintézet „a dologi és személyi eszközök meghatározott közcél tartós szolgálatára rendelt összessége a közigazgatási fenntartója kezében" (Fazekas, 2024, pp. 131–132). Látható, hogy e fogalom arra a koncepcióra épül, miszerint a közszolgáltatásokat a közigazgatás a saját maga által fenntartott intézményrendszer keretében, közintézetek útján nyújtja. A közintézet fogalmának meghatározása során megkerülhetetlen kérdés, hogy amennyiben létezik közintézet, létezhet-e magánintézet is. Más szóval vajon olyan átfogó fogalom-e az intézet, amely összefogja a közigazgatási és nem közigazgatási fenntartó irányítása alatt álló humán közszolgáltatásokat nyújtó jogalanyokat. Magyary Zoltán 1942-es Magyar közigazgatás c. tankönyvében az intézetek különböző típusainak megkülönböztetése során egyfajta skálát vázol fel aszerint, hogy az intézet fenntartója a közigazgatás vagy valamilyen más jogalany, illetve hogy az egyes intézetek milyen mértékben részesülnek állami támogatásban. Ennek megfelelően Magyarynál differenciáltan jelennek meg a magán- és közintézetek típusai (Magyary, 1942, pp. 217–218). Magyary a közigazgatás által fenntartott tisztán közintézeti státuszú szervezetek mellett aszerint osztályozza a magánintézeteket, hogy azok a közigazgatás működését egészítik-e ki, vagy sem. Előbbi esetben a magánintézetek közérdekű közszükségletet elégítenek ki, ezzel tulajdonképpen a közigazgatás feladatát ellátva olyan esetekben, amikor a közigazgatás nem a saját szervei útján biztosítja a közszolgáltatást, hanem a magánvagyon bevonásával (Magyary, 1942, pp. 217–218). Hasonlóképpen a francia jog is egy skálán jeleníti meg a közszolgáltatások ellátásában résztvevő jogalanyokat és




1. ábra. Az intézetek osztályozása Magyary tankönyvében (saját szerkesztés)

distinkciót tesz a közintézet, a magánintézet, valamint a közhasznú magánintézet között (Fazekas, 2024, p. 132).

A hatályos magyar jogban nem találunk közintézet definíciót és ennek megfelelően a magánintézet sem tételesjogi fogalom. Az elméleti tudományos munkákban a (köz)intézet gyűjtőfogalommal illetett szervek nem egy közigazgatási szervtípusként jelennek meg a tételesjogban, hanem többnyire költségvetési szervekként (Fazekas, 2024, p. 133). A nem költségvetési szervként működő humán közszolgáltatást nyújtó intézeteket ágazati jogszabály minősítheti sui generis jogi személlyé, ahogy azt a felsőoktatási intézmények esetén is láttuk. Tehát a nem közigazgatási fenntartó kezében lévő, magánintézetként működő felsőoktatási intézmények is a közjog alapján létrejött sui generis jogalanyok lehetnek.[2]

## 3. A felsőoktatási intézmények aktusainak csoportosítása

### 3.1 Mit értünk a felsőoktatási intézmények aktusai alatt?

A közintézetek, így a felsőoktatási intézmények aktusai a közigazgatási szervek aktusaihoz hasonlóan általánosságban két nagy csoportra oszthatók: normatív és egyedi aktusokra. Mielőtt ezek tárgyalásába fognánk, fontos tisztázni, hogy mit ért aktus alatt a közigazgatási jogtudomány és beszélhetünk-e egyáltalán közigazgatási jogi aktusokról a felsőoktatási intézetek esetében.

Az aktus az intézet fogalmához hasonlóan a jogtudomány által kimunkált elméleti koncepció, amely bár különböző kontextusokban megjelenhet a tételesjogban, de a fogalmat nem határozza meg hatályos jog. A közigazgatási perrendtartásról szóló 2017. évi I. törvény (a továbbiakban: Kp.) generálklauzulája ugyan a közigazgatási aktus elméleti fogalmából indul ki, a fogalmat magát azonban nem használja. A közigazgatási aktus fogalma az elméletben sem teljesen tisztázott, mert több szerző eltérő módon közelítette meg a problémakört, így aktustanaik többé-kevésbé eltérnek egymástól (Patyi, 2017, pp. 106–111). Az eltérések ellenére általánosan megjelenő elemei a különböző szerzők közigazgatási aktus fogalmainak, hogy az a közigazgatás alanyának olyan cselekménye, amely jogi hatás kiváltására irányul (Fazekas, 2020a, p. 83; Madarász, 1989, p. 303). Madarász Tibor következetesen elkülönítette egymástól az államigazgatási aktus és az államigazgatási jogi aktus fogalmát. Az előbbi alatt Madarász az államigazgatási szervek által kibocsátott aktusok összességét értette, ideértve a más jogági (polgári jogi, munkajogi, nemzetközi magánjogi stb.) aktusokat,

2 A számviteli törvény tartalmaz még említést a „magánok" által fenntartott egészségügyi, szociális, kulturális és oktatási intézményekről. Ld. 2000. évi C. törvény 3. § (1) E törvény alkalmazásában 1. gazdálkodó: a vállalkozó, az államháztartás szervezetei, az egyéb szervezet, a Magyar Nemzeti Bank, továbbá az általuk, illetve a természetes személy által alapított egészségügyi, szociális, kulturális és oktatási intézmény; Ha ehhez hozzáolvassuk a 2. pontban definiált „vállalkozót" és a 4. pontban felsorolt „egyéb szervezeteket", akkor pénzügyi jogi szempontból valahol itt találhatjuk meg a KEKVA modellben működő egyetemeket.

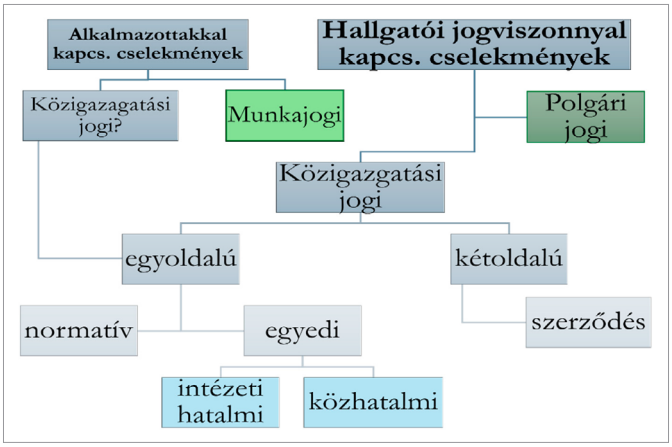
míg az utóbbi alatt az államigazgatási jog alapján kibocsátott aktusokat (Madarász, 1989, p. 304). Az aktusok osztályozása azonban nemcsak tárgyi szempontból, hanem szervi oldalról, kibocsátók szerint is differenciált, mert közigazgatási jogi aktusokat nem csak közigazgatási szervek bocsáthatnak ki, hanem a közigazgatási jog által aktus kibocsátására feljogosított más jogalanyok is. Erre a legeklatánsabb példát az általános közigazgatási rendtartásról szóló 2016. évi CL. törvény (a továbbiakban: Ákr.) hatóság fogalma szolgáltatja: „hatóság az a szerv, szervezet vagy személy, amelyet (akit) törvény, kormányrendelet vagy önkormányzati hatósági ügyben önkormányzati rendelet hatósági hatáskör gyakorlására jogosít fel vagy jogszabály hatósági hatáskör gyakorlására jelöl ki" (Ákr. 9. §). Következésképpen az Ákr. hatálya alá tartozó hatósági ügyekben közigazgatási hatósági aktus kibocsátására akár egy magánjogi jogalany is jogosult lehet. Ugyanez a felfogás tükröződik a Kp. közigazgatási szervre vonatkozó funkcionális fogalommeghatározásában, miszerint „közigazgatási szerv a jogszabály által közigazgatási cselekmény megvalósítására feljogosított egyéb szervezet vagy személy" (Kp. 4. § (7) bekezdés 1. pont e) alpont). Ahogyan korábban kifejtettük, a közintézetek nem közigazgatási szervek, ugyanakkor köztük és a közigazgatási jog által szabályozott szolgáltatásaikat igénybe vevők között közigazgatási jogi jogviszony jöhet létre, illetve a közszolgáltatás nyújtásának kereteit is meghatározza a közigazgatási jog. Ebből belátható, hogy e jogviszonyok során a közintézet is közigazgatási jogi aktusokat bocsáthat ki (Fazekas, 2020b, p. 113). Ezt erősíti meg a Kp. generálklauzulája is, amely a felsőoktatási intézményt, valamint annak önálló feladat- és hatáskörrel felruházott tisztségviselőjét vagy szervét törvényi fikcióval közigazgatási szervnek tekinti (Kp. 4. § (7) bekezdés 1. pont e) alpont), így az általuk kibocsátott közigazgatási jog által szabályozott, jogi hatással járó vagy azt eredményező cselekmények közigazgatási jogvita tárgyát képezhetik.

### 3.2 A felsőoktatási intézmények aktusai

A felsőoktatási intézmények közintézeti aktusai alatt Madarász nyomán a felsőoktatási intézmény minden jogi hatás kiváltására irányuló cselekményét értjük, így a más jogági aktusokat is, míg a felsőoktatási intézmények közigazgatási jogi aktusai szűkebb kategóriát képeznek és e csoportba csak a közigazgatási jog alapján kibocsátott aktusokat soroljuk.

A felsőoktatási intézmények aktusai közötti első elhatárolási szempont, hogy azt milyen egyetemi polgárral kapcsolatos jogviszonyban bocsátja ki a közintézet. Teljesen eltérő a felsőoktatási intézmény szolgáltatásait igénybe vevő hallgatók, valamint az egyetemmel, főiskolával közalkalmazotti jogviszonyban vagy munkaviszonyban állók helyzete. Az alkalmazottakkal kapcsolatos aktusok általában nem közigazgatási jogi, hanem munkajogi aktusok, azonban pl. a habilitációs eljárásban az oktatókkal szemben is sor kerülhet közigazgatási jogi aktus kibocsátására (F. Rozsnyai, 2017, pp. 345–347).

Az érvényesülési kör alapján megkülönböztethetünk normatív és egyedi aktusokat. Míg a normatív aktusok egy nyílt címzetti körre általános érvénnyel kötelező magatartási szabályokat tartalmaznak, addig az egyedi aktusok címzetti köre zárt (Jakab, 2020, p. 869) és a normatív aktusok aprópénzre váltását szolgálják. Más megközelítés az aktus célja oldaláról




2. ábra. a felsőoktatási intézmények aktusainak csoportosítása

Forrás: az ELTE ÁJK Közigazgatási Jogi Tanszéke ábrájának saját átdolgozása), 2024

ragadja meg a különbséget. E felfogás szerint a normatív aktusok a közigazgatás szabályozó aktusai, míg az egyedi aktusok az ezek realizálására szolgáló akaratnyilatkozatok (Berényi, 2005b, p. 297). A közintézetek, így a felsőoktatási intézmények esetén a normatív aktusok kibocsátásának szükségessége abból fakad, hogy azok rendelkeznek a szükséges szakismeretekkel az általuk végzett közszolgáltatás nyújtásával kapcsolatos részletszabályok meghatározásához (Kárász, 2022, pp. 5–6). Ismert olyan nézet is, amely az egyedi aktusok kategóriáján belül megkülönbözteti az egyoldalú és kétoldalú egyedi aktusokat, így a jogszabály alapján kötendő, közigazgatási szerződésnek nem minősülő szerződéseket is, pl. a hallgatói képzési szerződés (Fazekas, 2020b, p. 113).

További csoportosítás alapját képezheti, hogy a felsőoktatási szerv az aktust közhatalom vagy intézeti hatalom alapján bocsátja ki. Még ha szűk körben is, de vannak a felsőoktatási intézményeknek hatósági hatáskörei, pl. a felsőfokú tanulmányok befejezését igazoló oklevél kiállítása (Nftv. 51. § (4) bekezdés). Amikor ilyen hatáskörében jár el a felsőoktatási intézmény, akkor értelemszerűen közhatalom birtokában bocsát ki közigazgatási jogi aktusokat, egyéb esetekben viszont az aktuskibocsátás alapját az intézeti hatalom adja. Ezek azonban nem feltétlenül választhatók el ilyen élesen egymástól a gyakorlatban, ami megnehezíti az igénybe vehető jogorvoslat meghatározását.

### 3.3 A felsőoktatási intézmények aktusainak csoportosítása az igénybe vehető jogvédelmi eszközök szerint

A közintézeti aktussal szemben igénybe vehető jogorvoslat meghatározásának alapkérdése a közintézeti jogviszony minősítése. A közintézeti jogviszonyok ugyanúgy egy skálán helyezkednek el, mint a közintézettípusok, de besorolásuk talán még nehézkesebb, mert a magánjogi és közigazgatási jogi elemek rendkívül vegyesen vannak jelen az egyes

jogviszonyokban. Asbóth Márton kategorizálása nyomán a tisztán közjogi és tisztán magánjogi jogviszonyok között a felsőoktatásban leggyakoribbnak tekinthető vegyes, a polgári és a közigazgatási jog által egyaránt átszőtt közintézeti jogviszonyok a következő szempontok figyelembevételével helyezhetők el a skálán:

1. a szolgáltatás nyújtásának vagy igénybevételének kötelező vagy önkéntes jellege;
2. a szolgáltatás köz- vagy magánfinanszírozása;
3. a szolgáltatás igénybevételére vonatkozó aktus;
4. a szolgáltatás időtartama;
5. az intézeti hatalom intenzitása (Asbóth, 2024, pp. 138–144).

A kizárólag a polgári jog által szabályozott jogviszonyok esetén a (köz)intézet által nyújtott szolgáltatás során okozott jogsérelem kártérítési, illetve személyiségi jogi perekben orvosolható. Az olyan jogviszonyok esetén, amelyet részben vagy egészben a közigazgatási jog szabályoz, a közjog is biztosít számos jogvédelmi eszközt (Asbóth, 2024, p. 147). Ilyen a panaszokról, a közérdekű bejelentésekről, valamint a visszaélések bejelentésével összefüggő szabályokról szóló 2023. évi XXV. törvény (a továbbiakban: Panasz tv.) szerinti panasz, illetve a bárki által megtehető közérdekű bejelentés, azonban ezen eljárások során nem születik a jogsérelmet orvosló kötelező erővel bíró közhatalmi döntés (Hoffman, 2024, p. 212).

Ennél egy fokkal hatékonyabbnak tekinthető a fenntartói irányítás eszközeivel történő jogorvoslás. Amennyiben a fenntartó tudomására jut a jogsértés, hivatalból élhet irányítási eszközeivel. Ennek alapján a fenntartó törvényesség biztosítása keretében ellenőrzi az intézményi dokumentumokban foglaltak megtartását, jogszerűségét, a felsőoktatási intézmény működésének és a döntéshozatalnak a jogszerűségét (Nftv. 73. § (5) bekezdés). Amennyiben jogsértést tár fel, felhívja a felsőoktatási intézmény vezetőjét a jogszabálysértő döntés orvoslására, a szükséges intézkedés meghozatalára (Nftv. 74. § (1) bekezdés). A felsőoktatási intézmény köteles eleget tenni a fenntartó előbbi felhívásának (Nftv. 74. § (5) bekezdés).

Az előbbieken túl szóba jöhet még az ombudsmani jogvédelem, valamint annak egy egészen unikális válfaja, az oktatási jogok miniszteri biztosa által nyújtott jogvédelem. A magyar sajátosságnak tekinthető „oktatási ombudsman" akkor járhat el, ha az oktatási tevékenységet végző közintézet tevékenysége a gyermek, a tanuló, a szülő, a pedagógus, a hallgató, a kutató, illetve az oktató számára biztosított jogokat sérti, vagy a sérelem közvetlen veszélyét idézi elő (az Oktatási Jogok Miniszteri Biztosa Hivatalának feladatairól és működésének szabályairól szóló 40/1999. (X. 8.) OM rendelet 3. §). A miniszteri biztos hivatalból és kérelemre is eljárhat, azonban az alapvető jogok biztosához hasonlóan, kötelezően végrehajtandó intézkedéseket nem tehet, így bár kiegészítő jogvédelmi mechanizmusként fontos szerephez juthat ez az eljárás is, de nem pótolhatja a kötelező érvénnyel bíró jogorvoslati eszközöket. Szintén hasonló funkciót tölt be az egyetemi ombudsman intézménye, amely már több magyar felsőoktatási intézményben megjelent.[3]

3 Az ELTE példáját követve a Pécsi Tudományegyetem 2020-ban fogadta el az egyetemi ombudsmanról szóló szabályzatát.

A közjogi jogorvoslatok közül a leginkább hatékony típust azok a kérelemre induló jogorvoslati eljárások jelentik, amelyek során a közintézetre nézve kötelező döntés hozható. Az Nftv. lehetővé teszi, hogy a hallgató jogorvoslati kérelmet terjesszen elő, melyet a felsőoktatási intézmény köteles elbírálni. Ennek következtében a felsőoktatási intézmény által hozott — hallgatókra vonatkozó — döntés közvetlenül támadható meg bíróság előtt szemben pl. a nemzeti köznevelésről szóló 2011. évi CXC. törvényben intézményesített azon megoldással, miszerint a közintézet döntésével szemben jogorvoslatért a fenntartóhoz lehet fordulni és a fenntartó jogorvoslati kérelem tárgyában hozott döntése támadható meg bíróság előtt (F. Rozsnyai, 2010, p. 73). Amennyiben a hallgató jogszerűtlennek tartja a jogorvoslati kérelmet elbíráló döntést, azzal szemben terjeszthet elő keresetlevelet, amelyet a Kp. alapján a közigazgatási ügyben eljáró bíróság bírál el.

A következőkben a magyar felsőbírósági esetjog alapján vizsgáljuk meg, hogy a közintézetek és ezek aktusainak csoportosítása miként befolyásolja e speciális közjogi jogalanyok tevékenységével szemben igénybe vehető jogorvoslati utakat.

## 4. Jogvédelmi utak

### 4.1 Jogorvoslati dilemmák a felsőoktatási intézmények egyedi aktusai esetén a Kúria gyakorlata alapján

A felsőoktatásról szóló 1993. évi LXXX. törvény (a továbbiakban: Ftv.) tette lehetővé első alkalommal a magyar jogtörténet során, hogy a hallgató a hallgatói jogviszonyát érintő ügyben a bírósághoz fordulhasson. A közintézetek cselekményeinek kategorizálása ekkortól nyert komolyabb jelentőséget, így nem csoda, hogy a minősítés kérdése már a kezdetektől problémákat okozott. Az Ftv. koncepciója alapján a felsőoktatási intézmény a hallgatóra vonatkozó joghatást kiváltó döntéseit nem az államigazgatási eljárás általános szabályairól 1957. évi IV. törvény (a továbbiakban: Áe.) alapján hozta meg, azonban az Ftv. már előírta az Áe. egyes rendelkezéseinek „kölcsönvett" jogszabályként történő alkalmazását (Árva, 2024, p. 9). A felsőoktatási intézmények hallgatói jogviszonnyal kapcsolatos eljárásainak hatósági ügyként történő minősítése ekkoriban fel sem merült lehetőségként.

Ezzel kapcsolatos előrelépés csak a közigazgatási hatósági eljárás és szolgáltatás általános szabályairól szóló 2004. évi CXL. törvény (a továbbiakban: Ket.) idején történt, amikor a Kúria egy felvételi ügyben hozott határozatában (Kúria Kfv.III.37.693/2012/4.) foglalt nem egyértelműen állást a felsőoktatási felvételi eljárás Ket. alá tartozó hatósági ügy jellegéről. E határozatában azt egyfajta, a „Ket.-től különtartott közigazgatási eljárásként kezelte" (Asbóth, 2017, pp. 51–58), azonban az ítéletet elemző szakirodalmi álláspont szerint a felsőoktatási felvételi eljárás a Ket. hatálya hatálya alá tartozó hatósági ügynek volt tekinthető (Forgács, 2013, p. 31). A Ket. a Kúria ítéletét követően 2013-tól a saját hatálya alól kivett eljárások között nevesítette a felsőoktatási felvételi eljárást (2013. évi LXXXIV. törvény 55. § (1) bekezdés). Mindezek után az Ákr. indokolása egy egészen újszerű szempontot hozott be a kérdésről való gondolkodásba, miszerint a felvételi eljárás „természetéből fakadóan

nem kivett (hatósági) eljárás, hanem sui generis pályázati eljárás, így az nem tartozhat a törvény hatálya alá" (az általános közigazgatási rendtartásról szóló 2016. évi CL. törvény részletes indokolása a 8. §-hoz).

A magyar tételesjogban a hatósági ügy fogalmi alapjának lényeges elemei stabilak, hatósági ügynek minősülnek többek között az olyan ügyek, amelyek során a közigazgatási hatóság az ügyfél jogát, kötelezettségét, vagy jogsértését megállapítja (Ákr. 7. § (2) bekezdés; Ket. 12. § (2) bekezdés). Bár a közigazgatási hatóság eljárás fogalmának jellegadó elemei nem változtak, a közigazgatási per eljárási szabályai az önálló közigazgatási perrendtartás megalkotásával jelentős újdonságokat mutatnak. A közigazgatási perekre vonatkozó eljárási szabályokat a polgári perrendtartásról szóló 1952. évi III. törvény (a továbbiakban: régi Pp.) XX. fejezete tartalmazta, amely az indokoltnál sokkal szűkebbre szabva a közigazgatás cselekményeinek megtámadhatóságát, elsősorban csak a hatósági eljárás során hozott döntésekkel szemben teremtette meg a közigazgatási per lehetőségét, így a közintézeti aktusok csak külön jogszabályi rendelkezés alapján voltak peresíthetők (F. Rozsnyai, 2015, pp. 66–67). A régi Pp. közigazgatási perekre vonatkozó rendelkezéseit F. Rozsnyai Krisztina pozitív enumerációként jellemezte, amelyek „Prokrusztész-ágyba szorítják a közigazgatás feletti bírósági ellenőrzést" (F. Rozsnyai, 2010, p. 61). Ebből kifolyólag hatalmas jelentősége volt az elérhető jogvédelmi eszközök szempontjából annak, hogy egy közigazgatási cselekmény hatósági ügy során keletkezett-e, vagy ha nem akkor valamilyen törvény megnyitja-e a közigazgatási bírói utat vele szemben (F. Rozsnyai, 2017, pp. 345–347).

Összefoglalva az eddigieket azt állapíthatjuk meg, hogy a hatósági ügy fogalmi elemeinek lényeges változása nélkül három fázison ment keresztül a közintézeti felvételi eljárás minősítése, azonban ezek a változások nélkülöznek bármilyen komolyabb indokolást vagy mélyebb dogmatikai megfontolást. Nem tisztázott, hogy a jogalkotó miért jutott arra a következtetésre, hogy a Ket. hatósági ügy fogalmának talaján álló Ákr. rendszerében már nem minősül hatósági eljárásnak a felvételi eljárás, ezért nem szükséges azt kivenni a törvény hatálya alól, míg a Ket. rendszerében ez egy hatósági eljárás volt, noha a jogalkotó más jogszabály hatálya alá vonta. Mindezek alapján úgy tűnik, hogy a jogalkotó nem közhatalmon, hanem intézeti hatalmon alapulónak tekinti a felsőoktatási intézmény felvételi döntését. A törvényhez fűzött indokolás ugyanakkor nem írhatja felül a jogszabály által megfogalmazott jogi normák tartalmát, így ha a Ket. hatósági ügy fogalmából levezethető volt, hogy a felvételi eljárás hatósági ügynek minősül, tehát abban közhatalmi döntés születik, akkor így van ez az Ákr. rendszerében is (Asbóth, 2017, pp. 51–58). Mindezekre tekintettel igencsak bizonytalan, hogy közhatalmi vagy intézeti hatalmon alapuló döntésnek minősül-e a felvételi döntés a hatályos jogszabályi környezetben. A Kúria Kfv. 37.298/2021/5. számú határozatában a bíróság azt a felfogást tartja irányadónak, miszerint a felvételi ügyek nem hatósági ügyek és a „felvételi eljárás során az Ákr. szabályait csak akkor kell alkalmazni, ha azt az Nftv. egyértelműen és kifejezetten előírja." Nézetünk szerint ez az álláspont az Ákr. normaszövegéből nem vezethető le egyértelműen és a Kúria sem indokolta részletesen, hogy a hatósági ügy mely fogalmi elemeit nem látja megvalósulni a felsőoktatási felvételi eljárásban. Márpedig ha nem vezethető le egyértelműen valamelyik fogalmi elem hiánya és az Ákr.

sem nevesíti a kivett ügyek között, akkor nem lehet úgy tekinteni, hogy a felvételi eljárás ne tartozna az Ákr. hatálya alá.

Egy konkrét esetben a kérdés abban a formában jelentkezett, hogy a közintézetnek minősülő Central European University (a továbbiakban: CEU) által meghirdetett, a felnőttképzésről szóló 2013. évi LXXVII. törvény (a továbbiakban: Fktv.) hatálya alá tartozó képzésre való felvétel tárgyában hozott döntés mennyiben minősül hatósági döntésnek. Az ügy azért kuriózum, mert az annak során hozott felvételi kérelmet elutasító döntés közigazgatási jogi aktus jellege is kérdéses, hiszen a felnőttképzési jogviszony polgári jogi szerződés alapján jön létre, így tulajdonképpen egy polgári jogi szerződés megkötéséről dönt a közintézet. A felnőttképzési jogviszonyra vonatkozó törvény azonban nem szabályozza a felvételi eljárást és nem nyitja meg a közigazgatási bírói utat a felsőoktatási intézmény felnőttképzési ügyben hozott döntésével szemben. Az ügy további sajátosságát az adta, hogy a CEU intézeti belső szabályzatai a lehetővé tették az intézményen belüli jogorvoslati eljárást az Fktv. hatálya alá tartozó képzéseken résztvevő hallgatók ügyeiben hozott döntésekkel szemben is, illetve az Nftv. szabályait rendelték alkalmazni a belső szabályzat által nem érintett kérdésekben. Mindez azonban önmagában nem jelentette a közigazgatási bírói út megnyitását, hiszen egy belső szabályzat nem telepíthet hatáskört a bíróságra. Mivel a felvételi döntés az Fktv. hatálya alá tartozó ügyekben sem minősül hatósági ügyben hozott döntésnek, így ezen az alapon szóba sem jöhetett a közigazgatási per lehetősége. A Kúria amellett foglalt állást, hogy mivel a kérdéses felvételi döntést nem az Nftv. hatálya alá tartozó képzés vonatkozásában hozták és ezáltal az Nftv. szabályai nem alkalmazhatóak, így a döntés csak akkor lehetne közigazgatási perben felülvizsgálható, ha az Fktv. ezt kifejezetten lehetővé tenné; ez a kritérium azonban nem teljesült, így közigazgatási pernek sem volt helye. Ennek némileg ellentmond a Kúria egy későbbi ítélete, amelyben a bíróság arra a következtetésre jutott, hogy a hallgatói jogviszonyt a hatályos felsőoktatási törvény rendezi, amely vonatkozik a felsőoktatási intézménybe jelentkező, illetve a felvett hallgatókra is függetlenül attól, hogy felnőtt, vagy más képzésben vesznek részt (Kúria Kfv. 38.070/2017/8). Ha ezt elfogadjuk, akkor épp ellentétes eredményre juthatunk, mint amire a Kúria a CEU felvételi döntése kapcsán jutott, hiszen, ha az Nftv. rendezi a hallgatói — ideértve a felnőttképzési hallgatói — jogviszonnyal kapcsolatos, az Fktv. által nem szabályozott kérdéseket, akkor épphogy az Nftv. nyitotta meg a közigazgatási bírói utat a jogvita rendezésére. Ez azzal indokolható, hogy a felsőoktatási képzés állam által valamilyen formában történő elismerése közjogi elemeket sző az intézeti jogviszonyba. Az így létrejövő „vegyes" elemek által meghatározott jogviszony jellegéből fakadó szükségszerűség, hogy a fenntartótól független jogorvoslati lehetőségnek is kell a hallgatók rendelkezésére állnia.

### 4.2 A felsőoktatási intézmény normatív aktusaival szembeni jogvédelem

A felsőoktatási intézmények az egyedi aktusok mellett számos normatív aktust is kibocsátanak működésük során, amelyeket gyakran az egyedi aktusok meghozatala során alkalmaznak. A jogsértő normatív aktus tipikusan valamely egyedi aktuson keresztül fejt ki

jogsérelmet, de az is elképzelhető, hogy külön cselekmény nélkül, a közvetlen hatályosulása folytán közvetlenül fejt ki joghatást. A Kp. hatálybalépése előtt ezek a normatív közintézeti aktusok nem voltak közvetlenül megtámadhatók, az Nftv. csak az egyedi aktusokkal szemben adott jogorvoslati jogot az érintetteknek, így a normatív közintézeti aktusok csak ezen egyedi aktusokkal szemben indított közigazgatási perekben voltak felülvizsgálhatók, azonban a per tárgyát ilyenkor sem a normatív aktus, hanem az azt alkalmazó egyedi aktus felülvizsgálata képezte. Ennek következtében a jogsértő normatív aktus hatályon kívül helyezésére sem kerülhetett sor, hanem a bíróság az egyedi ügyben mellőzte annak alkalmazását, ezzel megvalósítva a közigazgatási per szubjektív jogvédelmi funkcióját, de mellőzve ennek objektív jogvédelmi síkját (Kárász, 2022, pp. 6–7). Ehhez képest a Kp. sokkal szélesebb körben kívánta megvalósítani az ilyen aktusokkal szembeni objektív jogvédelmet. Erre szolgál a generálklauzula keretében bevezetett egyedi ügyben alkalmazandó, a jogalkotásról szóló törvény hatálya alá nem tartozó általános hatályú rendelkezés (Barabás, 2018, pp. 83–84).

A Kp. tehát lehetővé tette a normatív aktusok közigazgatási perben való megtámadását akár közvetlenül, akár egy egyedi aktus útján okozott jogsérelmet és a bíróság a normatív aktust akár hatályon kívül is helyezhette vagy megsemmisíthette. E tekintetben a 2019. évi CXXVII. törvény hozott némi, a szubjektív jogvédelmet érintő változást. Megszüntette ugyanis annak a lehetőségét, hogy az érintettek a közvetlenül hatályosuló, jogsérelmet okozó normatív aktust egyedi aktus hiányában közigazgatási perben támadják meg. Erre azóta csak a törvényességi felügyeletet vagy törvényességi ellenőrzést gyakorló szerv, ennek hiányában az ügyész jogosult, továbbá megsemmisítésnek és hatályon kívül helyezésnek is csak ez említett privilegizált felperesi kör általi keresetindítás esetén van helye.[4] E törvénymódosítás jelentősen lerontotta a korábban hatékonynak tekinthető objektív jogvédelem lehetőségét azáltal, hogy csak egy szűk kör keresetindítása nyitja meg a bíróság számára a kasszációs jogkört. Tovább rontja a helyzetet, hogy e kör lehet, hogy a gondoltnál is szűkebb; nem egyértelmű ugyanis, hogy létezik-e a(z állami) felsőoktatási intézmények esetén törvényességi felügyeletet vagy ellenőrzést gyakorló szerv (Kárász, 2022, pp. 6–7).

Mindezen túl további bizonytalanságot jelent a bírói gyakorlat tükrében a Kp. magas absztrakciójú generálklauzulájának alkalmazása (F. Rozsnyai, 2019, pp. 542–543). Annak megállapításához, hogy a közigazgatási bíróságnak van-e hatásköre a jogvita elbírálására, először meg kell vizsgálni, hogy a generálklauzula fogalmi elemei fennállnak-e az adott esetben, így tisztázni kell, hogy a közigazgatási cselekményt közigazgatási szerv bocsátotta-e ki, azt a közigazgatási jog szabályozza-e és az azzal érintett jogalany jogi helyzetének megváltoztatására irányul, vagy azt eredményezi-e (Kp. 4. § (1) bekezdés; F. Rozsnyai, 2023). E körben a bíróságnak a közigazgatási jogi dogmatikára alapozva kell értelmeznie a tételes jog által meg nem határozott fogalmi elemeket, mint pl. a közigazgatási jog általi szabályozottságot, a joghatás kiváltását, illetve magát az általános hatályú rendelkezést (Kárász, 2025, p. 165).

4 A közvetett megtámadás esetén a keresetnek helyt adó ítélet csak kizárja az általános hatályú rendelkezés alkalmazhatóságát az adott ügyben.

### 4.3 A felsőoktatási intézménnyel fennálló jogviszony minősítése az egyetemi polgárok jogállására tekintettel

A Kúria Kfv.IV.37.266/2024/5. sz. végzésében a Budapesti Corvinus Egyetem etikai kódexe kapcsán foglalt állást arról, hogy az egyetem etikai kódexe mint normatív aktus lehet-e közigazgatási jogvita tárgya. A per előzményét képezi, hogy az egyetem egyik oktatója etikai eljárást kezdeményezett az egyetem dékánjával szemben egy, a tantárgyát érintő vizsgával kapcsolatos eljárása miatt. Az egyetem Etikai Bizottsága megállapította, hogy a dékán etikai vétséget követett el, azonban a dékán fellebbezése folytán eljárt rektorhelyettes az elsőfokú határozatot megváltoztatta és az eljárás alá vont személy ellen az etikai eljárást megszüntette. E másodfokú döntéssel szemben terjesztett elő keresetlevelet az etikai eljárást kezdeményező oktató. Az elsőfokú bíróság a felperes keresetlevelét visszautasította arra hivatkozva, hogy az egyetem etikai szabályzata nem a közigazgatási jog által szabályozott cselekmény, mert nincs olyan közigazgatási jogi norma, amely kötelezővé tenné a felsőoktatási intézmények számára az oktatókra vonatkozó etikai szabályzat megállapítását, ennélfogva az annak alapján hozott közintézeti aktus nem lehet közigazgatási jogvita tárgya. A felülvizsgálat során eljáró Kúria egyetértett ezzel a megállapítással.

Nézetünk szerint annak megállapítása során, hogy egy közintézeti cselekmény lehet-e közigazgatási jogvita tárgya, elengedhetetlen minősíteni a kérdéses közintézeti cselekményt aktustani szempontból. A per tárgyát képező közintézeti cselekmény egyedi aktus. Kérdés, vajon ez a közintézet közigazgatási jogi vagy más jogági aktusa. Erre csak úgy kaphatunk választ, ha megvizsgáljuk azt a normát is, amelyre az egyedi aktust alapították. Az etikai szabályzatot normatív aktusnak tekinthetjük, hiszen nyílt címzetti körre vonatkozó általánosan kötelező magatartási szabályokat tartalmaz. Jelentőséggel bír a címzetti kör is, ugyanis az etikai kódex hatálya az összes egyetemi polgárra, tehát az alkalmazottakra és a hallgatókra is kiterjed (a Budapesti Corvinus Egyetem Etikai Kódexe 6. pont). A következő lépés annak vizsgálata, hogy közigazgatási jogi vagy más jogági aktusnak tekinthető-e. A bíróság nem tekintette az etikai kódexet közigazgatási jogi aktusnak, mert az Nftv. nem írja elő, hogy a felsőoktatási intézmény szervezeti és működési szabályzata kötelezően tartalmazzon etikai eljárásra vonatkozó szabályokat. Ezzel kapcsolatban fel kell hívni a figyelmet arra, hogy a felsőoktatási intézmény az Alaptörvény X. cikk (3) bekezdése alapján szakmai autonómiával rendelkezik, így megilleti bizonyos mértékben a belső szabályozás és az önigazgatás joga (Nagy, 2013, p. 144). Ennek leképeződése az Nftv. azon rendelkezése, amely lehetővé teszi, hogy a felsőoktatási intézmény meghatározza a működésére és szervezetére vonatkozó azon szabályokat, amelyeket jogszabály nem zár ki vagy amelyről jogszabály felhatalmazása alapján más szabályzatban nem kell rendelkezni (Nftv. 11. § (1) bekezdés a) pont). Bár alapvetően egy alkotmányjogi normából fakad a felsőoktatási intézmény azon intézményi hatalma és joga, hogy a szervezeti és működési szabályzata keretében olyan etikai szabályokat határozzon meg, amelyekhez minden egyetemi polgárnak igazodnia kell az egyetem működése során, ezt az Nftv. konkretizálja, tehát az alkotmányjog és a közigazgatási jog együttesen szabályozzák a kérdést.

A Kúria azonban azt állapította meg, hogy nem teszi a szervezeti és működési szabályzat valamennyi rendelkezését közigazgatási jog által szabályozottá az, hogy annak megalkotására az Alaptörvény és az Nftv. ad felhatalmazást. E megállapításból azonban nem derül ki, hogy milyen kritérium teljesülését várja el a Kúria ahhoz, hogy egy cselekmény közigazgatási jog által szabályozottságát elismerje, így e fogalom tartalma továbbra is enigmatikus. Már csak azért is nehezen érthető ez az érvelés, mert az elsőfokú bíróság arra is alapozta a közigazgatási jog által szabályozottság hiányát, hogy nincs olyan közigazgatási jogi norma, amely kötelezővé tenné a felsőoktatási intézmények számára az oktatókra vonatkozó etikai szabályzat megállapítását. Következésképpen, ha a közigazgatási jog nem írja elő kötelezően egy normatív aktus meghozatalát, akkor az nem lehet közigazgatási jog által szabályozott, hiszen nem egy közigazgatási jogi jogszabályból nyeri el létezésének alapját. Ennek azonban ellentmond, hogy az Nftv. épphogy lehetővé teszi az ilyen normatív aktus meghozatalát, tehát ebből arra lehetne következtetni, hogy mivel közigazgatási jogi norma alapján jön létre a normatív aktus, így teljesül a közigazgatási jog által szabályozottság követelménye, azonban a Kúria ezt nem így látta. Mivel nem derül ki a bíróság érvrendszere a megállapítás indokolásának hiányában, így nem tudunk messzemenő következtetéseket levonni a tekintetben, hogy mikor minősülhet egy közigazgatási szerv aktusa közigazgatási jog által szabályozottnak. Ahogyan arra Kárász Marcell is felhívja a figyelmet, az ilyen „indokolás nélküli „kinyilatkoztatások" ellehetetlenítik az érvelés tartalmi helyessége feletti szakmai kontrollt, csökkentik a határozat meggyőző erejét, és ekként hosszútávon az igazságszolgáltatásba vetett közbizalmat is aláássák" (Kárász, 2025, p. 172). Nincs ez másként ebben az esetben sem, ugyanakkor elengedhetetlennek tartjuk, hogy a bíróság „kinyilatkoztatása" mögött meghúzódó érvrendszert részletesebb dogmatikai elemzésnek vessük alá.

Nézetünk szerint egy közigazgatási szerv aktusának közigazgatási jogi szabályozottságát nem csak az határozza meg, hogy milyen jogszabály rendezi a kibocsátásának szabályait (Kárász, 2024, pp. 750–751). A közigazgatási jog általi szabályozottságot az adott „életviszonyra vonatkozó teljes jogi szabályozás komplex vizsgálatával lehet megállapítani, olyan ismérvek szerint, mint a kogencia, a közigazgatási jogszabályban való rendezés, a közigazgatási szerv döntésének joghoz kötöttsége a diszkrecionális eljárással szemben, a jogszabály által használt terminológia, vagy a közigazgatási szervet a magánjogi jogalanyoktól eltérően megillető rendkívüli hatalom az adott jogviszonyban" (Barabás, 2018, pp. 69–72). Amennyiben ezt a vizsgálatot a bíróság elvégezte volna, azt a következtetést vonhatta volna le, hogy az etikai szabályzat egy kógens norma, egy közigazgatási szerv normatív aktusának része, amelyet közigazgatási jogi jogszabály felhatalmazása alapján (is) bocsátottak ki. Kérdéses, hogy a közigazgatási szervet a magánjogi jogalanyoktól eltérő rendkívüli hatalom is megilleti-e. Az Európai Unió Bíróságának gyakorlatában ez azt jelenti, hogy a közigazgatási funkciót megvalósító szerv olyan kötelezettségeket róhat hatalmánál fogva a magánszemélyekre (egyetemi polgárokra), amelyekhez nincs szükség a beleegyezésükre (Barabás, 2014, pp. 44–45). Mivel az etikai kódex az egyetemi polgárok beleegyezése nélkül ró rájuk kötelezettségeket, amely be nem tartása esetén a kódex szerinti intézkedéseket teheti (pl. írásbeli megrovásban részesítheti a vétség elkövetőjét), így álláspontunk szerint a közintézet

a közigazgatási funkciója megvalósítása körében a hallgatók tekintetében rendkívüli hatalommal rendelkezik, az etikai normák betartása kikényszeríthető. Az alkalmazottak vonatkozásában ugyanakkor az etikai kódex betartatásához szükséges hatalom minden munkavégzésre irányuló jogviszonyban, így a magánjogi munkaviszonyban is megvan, tehát az ő vonatkozásukban nem állapítható meg minden kétség nélkül a rendkívüli hatalom fennállta. Az említett kritériumok jelentős többségének megléte abba az irányba mutat, hogy az etikai kódex közigazgatási jogi jellegű, közigazgatási jog általi szabályozott, ami alapján képezhette volna közigazgatási jogvita tárgyát.

Figyelembe kell venni azt is, hogy milyen joghatást vált ki az aktus. Ismert olyan felvetés, miszerint az is előfordulhat, hogy a kérdéses aktus nem vált ki joghatást, mert az etikai szankció nem eredményezi az azzal érintett jogalany jogi helyzetének megváltozását, így ez zárja ki a közigazgatási jogvita lehetőségét (Kárász, 2024, pp. 750–751). A Kúria érdemben nem foglalkozott ezzel a kérdéssel, de a joghatás hiánya helyett inkább úgy tűnik, hogy más jogági joghatás kiváltásának a megvalósulására alapozta a bíróság a keresetlevél visszautasítását. E mögött az húzódhat meg, hogy az ügyben egy, az egyetemmel munkaviszonyban álló személlyel szemben indult az etikai eljárás, így felmerülhetne az is, hogy az etikai ügyben hozott döntés valójában nem közigazgatási jogi aktus, hanem a közintézet munkajogi aktusa. Amennyiben ez így van, akkor az etikai szabályzat az egyetem alkalmazottai tekintetében egy munkáltatói szabályzatnak, munkajogi terminológiával élve a munkáltató egyoldalú jognyilatkozatának minősülne, míg a hallgatók vonatkozásában normatív közigazgatási jogi aktusnak. A normatív közintézeti aktus tehát nem volna egységesen besorolható a közigazgatási jogi aktus/más jogági aktus kategóriába, hanem egyszerre töltené be mindkét funkciót és az egyedi ügyben attól függne a besorolása, hogy milyen joghatást vált ki. E koncepciót igazolja az is, hogy az Nftv. alapján a felsőoktatási intézmény szervezeti és működési szabályzatának részét képezi a foglalkoztatási követelményrendszer, amely sokkal inkább tekinthető munkajogi aktusnak, mint közigazgatási joginak már csak amiatt is, mert a felsőoktatási intézmények alkalmazottai néhány kivételtől[5] eltekintve nem közszolgálati jogviszonyban állnak. Bár az etikai kódex alapján alkalmazható intézkedések kapcsán felvethetők, hogy közvetlenül nem váltanak ki munkajogi joghatást, de az írásbeli megrovásban részesítés írásbeli figyelmeztetésnek minősülhet munkajogi szempontból, így a munkaviszony későbbi esetleges megszüntetésének jogszerűsége kapcsán jelentőséghez juthat (Kulisity, 2022, p. 243). Az ilyen munkajoginak minősített közintézeti normatív aktusokkal szemben rendelkezésre álló munkaügyi bírói jogvédelem alacsonyabb szintű, mint a közigazgatási bírói út által nyújtott, mert az általános hatályú rendelkezés megsemmisítésére, hatályon kívül helyezésére nem kerülhet sor, így az objektív jogvédelem nem valósulhat meg (F. Rozsnyai, 2018, p. 69); ez ugyanakkor közigazgatási perben is rendkívül szűk körben lehetséges csak. Egyéb tekintetben a normatív aktus csak közvetetten, az azt alkalmazó egyedi aktussal lehet

5 Pl. a Nemzeti Közszolgálati Egyetemen előfordulhat, hogy egyes oktatók közszolgálati jogviszony keretében végeznek munkát az egyetemnek.

mind munkaügyi, mind közigazgatási per tárgya. Mivel a tanulmány kereteit szétfeszítené, terjedelmi okokból nincs lehetőségünk ismertetni, hogy a két eljárási rezsim milyen eltérő módon kezeli a közvetetetten támadott normatív aktust, hanem csak arra utalunk, hogy végeredmény tekintetében nincs közöttük jelentős eltérés a szubjektív jogvédelem hatékonyságát illetően.

A perbeli esetben az etikai kódex egyedi alkalmazása nem munkajogi joghatást vált ki, mert az etikai eljárás megszüntetése tulajdonképpen azt nyomatékosítja, hogy a dékán az érintett vizsga, tehát egy intézeti hatalmi jogviszony kapcsán megfelelően járt el, így az ilyen eljárások a jövőre nézve is megengedhetőek. Tehát az etikai döntés a közintézet közigazgatási jog által szabályozott vizsgaszervezési, intézeti hatalmi viszonyaira irányadó erővel bír, az intézeti közjogi jogviszonyok később tartalmát befolyásolja, munkajogi jogvitának ilyen esetekben pedig aligha lehet helye. Bizonyos szempontból hasonló a helyzet a köztestületek etikai eljárását kezdeményező személy esetével, akinek szintén joga, de legalábbis jogos érdeke fűződhet ahhoz, hogy a kezdeményezése eredményre vezessen,[6] mert a köztestület életére az etikai ügyben hozott döntés kihatással van. A különbség, hogy a köztestületek etikai szabályzatai egyfajta közellenőrzési funkciót töltenek be az önfoglalkoztató köztestületi tagokkal szemben, habár ilyen funkció a nem önfoglalkoztató kamarai tagok kapcsán is megfigyelhető. E közellenőrző funkció alapját az képezi, hogy „a szolgáltatással érintettek számára elégtelenek a jogrendszerben fellelhető egyéb felelősségi alakzatok" (Fazekas, 2008. pp. 49–50). Ezek létjogosultsága abból származik, hogy „az érintett szakmák alapvető jogokhoz kapcsolódása és közérdekűsége miatt elvárt fokozott gondosság szükségessé teszi egy olyan további felelősségi alakzat intézményesítését, mely alkalmas a folyamatos szemmel tartásra, és a szolgáltatásokhoz kapcsolódó szubjektív felelősség érvényesítésére" (Fazekas, 2008. p. 50). Úgy gondoljuk, hogy a felsőoktatási szolgáltatások által érintett alapvető jogok, a szolgáltatás közérdekűsége és személyhez kötöttsége a szakmai kamarákhoz hasonló kiegészítő felelősségi alakzat szükségességét támasztja alá. Ebből következően elképzelhetőnek tartunk egy olyan érvelést, miszerint a közintézeten keresztül megvalósuló közellenőrzés kikényszerítéséhez közérdek fűződik, amennyiben a közintézet ezen funkciója valóban képes hozzájárulni a szolgáltatásnyújtás szakmai standardjainak betartatásához.

A kamarai etikai eljárásokkal kapcsolatos bírói gyakorlat ugyanakkor széttartó és nem jelenthető ki egyértelműen, hogy a kereshetőségi jogot minden esetben megalapozza az etikai eljárás kezdeményezése (Baranyi, Aszalós és Bakos, 2024, pp. 671–672). Jelen esetben az etikai ügyben hozott döntés egyedi és azon keresztül normatív következményt is von maga után. Az egyetemi autonómiából következően a közintézet a köztestületekhez hasonlóan saját maga alakíthat ki olyan alapvető etikai szabályokat, amelyet az intézeti jogviszonyok során érvényesíthet és ezek az eljárások „hordozzák a közigazgatási hatósági ügyek minden ismérvét" (Fazekas, 2008. p. 57). E megállapítás azt támasztja alá, hogy az egyedi jogvédelmen

6 Így például a Magyar Mérnöki Kamara Etikai-fegyelmi szabályzata az etikai eljárást kezdeményező panaszost kvázi ügyfélként kezeli.

túl objektív jogvédelmi igény is támasztható az etikai szabályokkal kapcsolatban, ami a közjogi jogorvoslati út létjogosultságát támasztja alá.

A hallgatók kapcsán az oktatókhoz képest egyértelműbbnek tűnik a helyzet, mert esetükben értelemszerűen nem beszélhetünk munkajogi aktusokról, az ő tekintetükben ezek az intézkedések a hallgatói jogviszonyukat befolyásolják, így az ő jogvédelmüket is szükséges megteremteni, amelyre a közigazgatási bírói út mellett a polgári peres eljárás is alkalmas lehet. A tanulmányban felvetett kérdés elsősorban nem is a hallgatói jogvédelem kereteit feszegeti, hanem azt, hogy mennyiben helyes a felsőoktatási intézmények szakmai szabályainak az alkalmazottakkal szembeni érvényesítése érdekében biztosítani a közjogi jogvédelem lehetőségét.

E kérdést tovább árnyalja, hogy a Corvinus Egyetem alapítványi fenntartású felsőoktatási intézmény, tehát a tanulmány elején bevezetett terminológia szerint közszolgáltatást végző magánintézet, a közszolgáltatás finanszírozásában bizonyos mértékben részt vesz az állam, de inkább a magánfinanszírozás jellemzi. Az egyetem foglalkoztatási viszonyai is illeszkednek napjaink trendjeihez (Havas és Petrovics, 2023, pp. 179–195), a KEKVA modell bevezetésével ugyanis az oktatók már nem közalkalmazotti jogviszonyban, hanem munkaviszonyban végzik a tevékenységüket. A hallgatói jogviszony ugyanakkor egy közigazgatási jog által szabályozott jogviszony, amelynek tartalmát jelentősen alakítja a képzési szerződés, ami nem minősül egyértelműen polgári jogi szerződésnek, de közigazgatási szerződésnek sem (BH 2021. 140). A szolgáltatás időtartama lényegesen hosszú, amely alatt bizonyos fokban intézeti hatalom alá kerül a hallgató, ami a jogviszony közjogi jellegét erősíti. Láthatjuk, hogy bár valóban felerősödtek a magánjogi elemek az intézeti jogviszonyban, de még így is rendkívül jelentős szerepet tölt be a közigazgatási jog a jogviszony tartalmának meghatározásában.

## 5. Következtetések

A közintézeti jogviszonyokat rendkívül vegyesen határozzák meg közjogi és magánjogi elemek, így alapvetően közjogi és magánjogi jogorvoslatok is vegyesen vehetők igénybe. A magyar felsőoktatási intézmények státusza egyre inkább a „magánintézet" felé tolódik, valamint közintézeti jogviszonyait is egyre több magánjogi elem határozza meg. Ennek alapján érdemben felvetődhet az a kérdés, hogy mennyiben alátámasztható ezek közigazgatási szervvé minősítése az egyetemi polgárok jogvédelmének biztosítása érdekében. Ahogyan a bemutatott bírósági esetjog is rámutat, a jogviszonyok tartalmát továbbra is nagyon erősen meghatározza a közigazgatási jog és ahogyan más humán közszolgáltatások kapcsán, úgy itt is elmondható, hogy a magánjogi jogvédelem nem képes hézagmentesen jogvédelmet biztosítani valamennyi közintézeti aktussal szemben, ahol a jogviszony alanyainak igénye merülhet fel a bírói jogvédelem iránt (Hoffman, 2024, pp. 219–221).

A CEU ügy (Kúria Kfv.III.38.002/2015/13.) is rávilágít arra, hogy az annak során igénybe vehető polgári jogi jogvédelem nem lett volna képes orvosolni a közintézeti szolgáltatás elmaradásával okozott jogsérelmet, míg a közigazgatási perben sor kerülhetett volna a

jogsértő aktus korrekciójára. A Corvinus ügy (Kúria Kfv.IV.37.266/2024/5.) megerősíti, hogy az aktustannak nem csak elméleti tudományos jelentősége van, de a gyakorlat során is fontos volna a nehezen kategorizálható közintézeti aktusok minősítésének a hézagmentes jogvédelem megteremtése érdekében. Ha ugyanis egy közintézeti aktus kibocsátását a közigazgatási jog szabályozza és helyzettől függően vált ki közigazgatási jogi, illetve más jogági aktusokat, akkor egyoldalú volna azt mondani, hogy csak magánjogi jogorvoslatok állhatnak rendelkezésre vele szemben, mert ezzel megfosztjuk a jogalanyokat a hatékony jogvédelem lehetőségétől. Ezzel szemben a bonyolult közintézeti jogviszonyoknál a minősítés alapján kell meghatározni, hogy milyen jogvédelmi eszköz lehet alkalmas a jogsérelem orvoslására és ennek alapján kell megnyitni a közigazgatási bírói utat is (F. Rozsnyai, 2024, pp. 201–202).

A KEKVA modellben működő egyetemek fenntartója ugyan magánjogi jogalany, de azok továbbra is az Alaptörvényben rögzített alapvető jogokhoz kapcsolódó közszolgáltatást nyújtanak, ami meghatározza a szakmai tevékenységükre vonatkozó szabályozás köz(igazgatási) jogi elemeit (2021. évi IX. törvény 1. melléklet). Hiába általános tendencia tehát a közintézeti jogviszonyokban a magánjogi elemek növekedése, szolgáltatásaik az számos közjogi jegyet viselnek magukon; e közszolgáltatási jelleg nélkülözhetetlenné teszi a közjogi jogorvoslatokat a közintézeti jogviszonyok alanyainak jogvédelme érdekében (Hoffman, 2024, pp. 219–221). Az intézeti jogviszonyok túlnyomó részét, így a felsőoktatási intézményi jogviszonyokat is részletes közigazgatási jogi szabályozottság jellemzi, tehát a tisztán magánjogi jogorvoslás nem járható út ezekben az esetekben, hiszen az nem képes hatékonyan garantálni a közszolgáltatások szakmai standardjainak érvényesítését, ezzel csorbítva a színvonalas közszolgáltatásokhoz való hozzáférés lehetőségét.

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# A közigazgatás kihívásai és a romániai jogrendszer hatékonysága a fogyatékossággal élő emberek társadalmi integrációjának előmozdításában

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**Absztrakt**

Nyilvánosan elérhető adatok szerint Romániában a közigazgatási rendszerben lévő akadályok miatt több százezer ember nem juthat be közintézményekbe, nem vehet részt kulturális eseményeken, nem férhet hozzá közérdekű adatokhoz, nem veheti igénybe a közszállítási eszközöket és vészhelyezt esetén nem kérhet segítséget (Romániai helyzetelemzés, 2021). A Romániában élő, mintegy kilencszázezer fogyatékossággal élő ember túlnyomó többsége úgy vélekedett, hogy akadálymentesítés hiányában a közigazgatási rendszerben nem gyakorolhatják azon alapjogaikat, amelyek bármely állampolgárt megilletnének — derül ki egy 2020-ban országos szinten készített tanulmányból (Romániai helyzetelemzés, 2021). A jogsértés mielőbbi megszüntetése érdekében jött létre a fogyatékossággal élő emberek jogainak érvényesülését elősegítő, 2022–2027-re szóló romániai fogyatékosságügyi stratégia (Romániai stratégia, 2022). A stratégia összhangban van a 2020–2030-as időszakra vonatkozó európai uniós fogyatékosságügyi stratégiával (Európai uniós stratégia, 2021) és a fogyatékossággal élő személyek jogairól szóló ENSZ-egyezmény előírásaival (CRPD egyezmény, 2007). Az egyezmény szövegét Románia 2011 elején ratifikálta, de már jóval azelőtt, 2007-ben csatlakozott hozzá, ezzel pedig kifejezte, hogy nemzeti szinten olyan jogszabályokat kíván foganatosítani, amelyek előmozdítják az egyenlőséget és eltörlik a fogyatékossággal élő személyek hátrányos megkülönböztetésének minden formáját. Azóta közel húsz év telt el, ennek apropóján pedig érdemes megvizsgálni, hogy a vállalásokból mit sikerült kivitelezni, illetve melyek az előttünk álló további kihívások.

**Kulcsszavak:** fogyatékosság, társadalom, befogadás, akadálymentesítés, Európai Unió.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 317–330

# The Challenges of Public Administration and the Effectiveness of the Romanian Legal System in Promoting the Social Integration of Persons with Disabilities

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**Keywords:** disability, society, inclusion, accessibility, European Union.

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## 1. A fogyatékossággal élő emberek jogairól szóló ENSZ-egyezmény

Az Egyesült Nemzetek Szervezete 2006. december 13-án, New Yorkban fogadta el a Fogyatékossággal élő személyek jogainak védelméről szóló egyezményt (CRPD egyezmény, 2006). Az egyezmény megalkotását széleskörű társadalmi diskurzus előzte meg, amelyben a fogyatékossággal élő emberek és a hozzájuk kapcsolódó szervezetek aktívan részt vettek. Az Egyezmény egy átfogó kódexként gyűjti össze a fogyatékossággal élő embereket érintő alapvető jogokat. Az ehhez tartozó egyéni panaszmechanizmus lehetőséget biztosít arra, hogy bármelyik érintett személy, aki jogsérelmet észlelt, az Egyezmény keretében működő, független szakértői testülethez, a Fogyatékos Emberek Jogainak Bizottságához fordulhasson. Az egyezmény kimondja, hogy a kormányoknak mit kell tenniük a fogyatékossággal élő személyek jogainak biztosítása érdekében. Tagadhatatlan viszont, hogy a kormányzati közigazgatási egységeken túl a helyi szintű közigazgatásnak mekkora szerepe van a fogyatékosságügyben (Claessen *et al*., 2023, pp. 555–556). Az ENSZ-egyezmény nem hoz létre különleges jogokat, csupán azt célozza, hogy a fogyatékos emberek is ugyanúgy élhessenek, mint bárki más, és gyakorolhassák az őket megillető alapvető emberi jogaikat.

Ennek értelmében tehát valamennyi emberi jog és alapvető szabadság teljes körű és egyenlő gyakorlásának előmozdítása, védelme és biztosítása a cél, valamennyi fogyatékossággal élő személy számára. Ez magában foglalja a megkülönböztetés minden formáját, beleértve az észszerű alkalmazkodás megtagadását is. A részes államok, köztük Románia, kötelezettséget vállaltak, hogy megszüntetik a fogyatékosságon alapuló hátrányos megkülönböztetést, valamint egyenlő és hatékony jogi védelmet biztosítanak a hátrányos megkülönböztetéssel szemben, az alábbi kötelezettségvállalások és alapértékek szerint:

a) A fogyatékossággal élő személyek az élet minden területén másokkal azonos jogképességgel rendelkeznek.

b) A cselekvőképesség gyakorlásával kapcsolatos valamennyi intézkedés megfelelő és hatékony biztosítékokat tartalmaz a visszaélésekkel szemben, a nemzetközi emberi jogi szabályozásokkal összhangban.
c) Minden fogyatékossággal élő személynek másokkal azonos módon joga van testi és szellemi sérthetetlenségének tiszteletben tartásához.
d) Minden szükséges intézkedést megtesznek a kizsákmányolás, az erőszak és a bántalmazás minden formájának megelőzése érdekében, többek között azáltal, hogy nemnek és az életkornak megfelelő támogatást nyújtanak a fogyatékossággal élő személyeknek, családjaiknak és gondozóiknak.
e) Egyenlő esélyeket biztosítanak a fogyatékossággal élő gyermekek számára a családjog területén.
f) Elismerik a fogyatékossággal élő személyek megfelelő életminőséghez való jogát.
g) A fogyatékossággal élő személyeknek joguk van a lehető legmagasabb színvonalú egészségügyi ellátáshoz, fogyatékosságon alapuló megkülönböztetés nélkül.
h) Támogatják a szakértők és a személyzet képzésének és továbbképzésének fejlesztését.

A részes államok rendszeresen üléseznek, hogy megvitassák az Egyezmény végrehajtásával kapcsolatban felmerülő kérdéseket. A fogyatékossággal élő személyek jogairól szóló ENSZ-egyezmény részes államainak legutóbbi konferenciájára 2024. június 11–13. között került sor az ENSZ New York-i székhelyén. Az eseményen elhangzott, hogy a Covid19-világjárvány jelentős hiányosságokat tárt fel a fogyatékossággal élő embereket érintő ellátási és támogatási rendszerekben, ami rávilágított arra, hogy a részes államokban jelentős beruházásokra van szükség. Kiemelték továbbá, hogy az olyan innovációk, mint a képernyőolvasók, az adaptív billentyűzetek, a hozzáférhető információs és kommunikációs technológia, az oktatástechnológiai eszközök, a távorvoslás és az intelligens városokkal kapcsolatos kezdeményezések fokozták a fogyatékossággal élő emberek társadalmi befogadásukat és szerepvállalásukat. A mesterséges intelligencia által vezérelt technológiák, például az intelligens otthoni rendszerek és a beszédfelismerés elősegítették az önálló életvitelt. Különös hangsúlyt kapott, hogy a fogyatékossággal élő emberek, de főként a fiatalok, a döntéshozatal szerves részét kell képezzék, vagyis maradéktalanul érvényesülnie kell a „Semmit rólunk, nélkülünk!" elvnek. Ennek értelmében a fogyatékossággal élő emberek sorsáról csak az ő bevonásukkal és velük együtt szabad dönteni. A résztvevők egyetértettek továbbá abban, hogy az Egyezmény elfogadása óta számos kezdeményezésre és erőfeszítésre került sor a részes államokban, de az előrehaladás lassú és egyenetlen volt.

A konferencián hangsúlyossá vált, hogy a részes államokban az értelmi fogyatékossággal élő munkavállalók közel 75 százaléka jelenleg olyan munkahelyeken dolgozik, amelyek kizárólag fogyatékossággal élő személyeket foglalkoztatnak. A szegregált körülmények között foglalkoztatottak gyakran alacsonyabb bérezésben részesülnek, mint a nyílt munkaerőpiacon dolgozó embertársaik, és a bérek gyakran a minimális szint alatt vannak. A nyílt munkaerőpiacon sajnos csak nagyon kevés megváltozott munkaképességű embernek sikerül munkát vállalni.

A megváltozott munkaképességű személyek romániai helyzete is hasonló (Achitei *et al*., 2019).

## 2. Az Európai Unió fogyatékosságügyi törekvései

### 2.1 A 2010–2020-as időszakra vonatkozó EU-s fogyatékosságügyi stratégia

A fogyatékossággal élő emberek jogairól szóló ENSZ-egyezmény jelentőségét az is megerősíti, hogy ehhez 2007-ben az Európai Unió is csatlakozott. Az egyezményt az EU 2010-ben ratifikálta. Ez a ratifikáció különösen fontos lépés volt, mert az EU így a nemzetközi színtéren is elkötelezte magát a fogyatékossággal élő személyek jogainak védelme mellett (Fogyatékosság-politikai szakismeretek, 2009, p. 162). Ennek egyik eredménye a 2010–2020-as időszakra szóló EU-stratégia a fogyatékossággal élő emberek védelmére (Európai uniós stratégia, 2010).

A 2010–2020 közötti időszakra szóló európai fogyatékosságügyi stratégia célja volt, hogy akadálymentes Európát hozzon létre, amely lehetővé teszi a fogyatékossággal élő személyek számára, hogy teljes körűen gyakorolhassák jogaikat. A referencia időszakban az EU azon dolgozott, hogy optimalizálja a hozzáférhetőséget az épített környezetben és a közlekedésben, illetve deklaratív módon támogatta a fogyatékossággal élő személyek foglalkoztatási rátájának növelésére irányuló kezdeményezéseket.

Az Európai Unió szabványosítást alkalmazott az épített környezethez, a közlekedéshez és az infokommunikációs technológiákhoz, illetve jogszabályrendszert dolgozott ki az eszközökhöz való hozzáférés optimalizálása érdekében.

Ebben az időszakban fogadta el az Európai Parlament az Európai Elektronikus Hírközlési Kódex átdolgozott változatát is, amely különösen a fogyatékossággal élők, például a siketek, nagyothallók, beszédfogyatékossággal élők és siketvakok számára hozott előnyöket a segélyhívó szolgáltatások elérhetősége terén (Hírközlési kódex, 2018). A módosítások értelmében minden fogyatékossággal élő személy szimultán kommunikációs szolgáltatások segítségével, díjmentesen érheti el a segélyhívó szolgáltatásokat, akár roaming, akár magán távközlési hálózatok használata esetén. A változások célja, hogy a vészhelyzeti kommunikáció, beleértve a 112-es hívószám, mindenki számára elérhető legyen, és a különleges igényekhez igazodó berendezések biztosításával támogassa a fogyatékossággal élők biztonságos kommunikációját.

Ugyancsak ebben az időszakban fogadta el az Európai Parlament az európai akadálymentesítési irányelvet, amelynek célja, hogy megszüntesse a belső piaci akadályokat. Az irányelv értelmében a számítógépek, okostelefonok, e-könyvek, digitális televíziózáshoz kapcsolódó eszközök, e-kereskedelem, közlekedési és banki szolgáltatások, valamint televíziós közvetítések és telefonszolgáltatások fokozatosan akadálymentessé kell váljanak az EU tagállamaiban (Európai akadálymentesítési irányelv, 2019). Az irányelv tehát nemcsak a fogyatékossággal élő emberek életminőségét javítja, hanem ösztönzi az innovációt is, segítve a vállalkozásokat abban, hogy mindenki számára elérhetőbb termékeket és szolgáltatásokat kínáljanak.

A fogyatékossággal élő emberek jogairól szóló ENSZ-egyezmény 29. cikkelye úgy rendelkezik, hogy a részes államok - köztük az Európai Unió és Románia is - biztosítják a fogyatékossággal élő személyek számára a politikai jogokat és a lehetőséget, hogy azokat másokkal egyenlő feltételek mellett gyakorolhassák. Ez magába foglalja azt is, hogy a fogyatékossággal

élő személyek hatékonyan és teljes mértékben részt vehetnek a politikai és közéleti tevékenységekben, másokkal egyenlő módon.

### 2.1 A Semmit rólunk, nélkülünk elv érvényesülése az európai uniós politikában

Érdemes megemlíteni, hogy a fogyatékossággal élő személyek politikai és közéleti részvételének biztosítása terén tett előrelépés jegyében, 2009 és 2014 között, az Európai Unió 7. jogalkotási ciklusában Dr. Kósa Ádám, az első és egyetlen, jelnyelvet használó, siket európai parlamenti képviselő tevékenykedett. Az ő személyében egy olyan úttörő alak körvonalazódik, akinek a jelenléte megkövetelte, hogy az Európai Parlament ne csak a jogalkotás szintjén, hanem a gyakorlatban is képes legyen akadálymentes környezetet és munkakörülményeket biztosítani a fogyatékossággal élő képviselők — és más munkatársak — számára. Ez jó példa a „Semmit rólunk, nélkülünk!" elv érvényesülésére, amely a fogyatékossággal élő személyek jogait és önrendelkezését hivatott előtérbe helyezni, és amely a magyar jogalkotás sikeres eredményeként értékelhető az uniós szintű politikai diskurzusban.

A „Semmit rólunk, nélkülünk!" elv érvényesítése iránti elkötelezettség az évek során egyre több uniós tagállam részéről tapasztalható volt, ami azt tükrözi, hogy a fogyatékossággal élő személyek valóban a társadalom szerves és fontos részét képezik. Ennek következményeként a következő jogalkotási ciklusokban jelentős növekedés volt tapasztalható a fogyatékossággal élő európai parlamenti képviselők számában.[1] A 2014–2019-es jogalkotási ciklusban már hat fogyatékossággal élő EP-képviselőt tartottunk számon, köztük kerekesszékes, siket és négyvégtag-sérült politikusokat, akik mind hozzájárultak a politikai döntéshozatali folyamatok sokszínűségének és inkluzivitásának növeléséhez az Európai Parlamentben. A jelenlegi jogalkotási ciklusban, vagyis a 2024–2029. közötti időszakban az Európai Parlamentben két fogyatékossággal élő képviselőről tudunk, egyikük a magyar kormánypárti Szekeres Pál, másik pedig a német származású Katrin Langensiepen, akinek ez a második mandátuma.

Bár Románia is aláírta és ratifikálta a fogyatékossággal élő emberek jogairól szóló ENSZ-egyezményét és a politikai részvételt szabályozó 29. cikkely rendelkezései számára is kötelező érvényűek, Románia mindezidáig nem delegált fogyatékossággal élő képviselőt az Európai Parlamentbe.

### 2.3. A 2021–2030-as időszakra vonatkozó EU-s fogyatékosságügyi stratégia

A 2010–2020-as éveket átölelő EU-s fogyatékosságügyi stratégia értékelése és továbbgondolása eredményeként jött létre a 2021–2030-as időszakra szóló, új EU-s fogyatékosságügyi stratégia. Az Európai Bizottság javaslata mentén az új stratégia csupán a 2021–2025.

1 Dr. Kósa Ádám három jogalkotási cikluson át, 2009–2024. között volt EP-képviselő, a fogyatékossággal élő európai parlamenti képviselők között ez a leghosszabb időszaknak számít.

közötti évekre tűzött ki konkrét terveket összesen hét darab kiemelt kezdeményezés formájában, amelyből napjainkig hatot meg is valósított (EPRS tájékoztató, 2024). Ebben az időszakban jött létre az EU-s fogyatékosságügyi platform, amely fórumként szolgál az ENSZ-egyezmény végrehajtásában érdekelt tagállamok között. Létrejött továbbá egy, a fogyatékossággal élő személyek munkavállalását ösztönző iránymutatás, amely főként a munkáltatók közötti eszmecserét segíti és bemutatja a munkahelyi környezet akadálymentesítésével kapcsolatos jó gyakorlatokat. Ez különösen fontos Románia számára, hiszen egy 2024-ben kiadott EU-s összehasonlító tanulmány szerint hazánkban a fogyatékossággal élő munkavállalók száma az uniós átlagnál jóval alacsonyabb (Gramenos, 2024, p. 33). A stratégia mentén az Európai Bizottság új humán erőforrás-menedzsmentet dolgozott ki, melyben vállalta, hogy az uniós intézményben dolgozó, fogyatékossággal élő munkavállók igényeire jobban fog figyelni. Elindult továbbá az AccessibleEU európai erőforrásközpont, amely összefogja az akadálymentesítési szabályok végrehajtásáért felelős hatóságokat és szakértőket. Az Európai Bizottság ebben az időszakban dolgozta ki a fogyatékossággal élő emberek önálló életvitelét elősegítő iránymutatásokat is. Végül pedig, a 2021–2025. közötti időszak egyik kiemelkedő teljesítményének számít az uniós fogyatékosságügyi és parkolókártya kidolgozása, amely a referenciaidőszak egyetlen jogalkotási kezdeményezése és megvalósítása ezen a szakterületen (EDF Toolkit, 2025). E jogszabály mentén minden EU-s tagállam 2028-ig bevezeti az egységes fogyatékosságügyi igazolványt, amely az EU bármely tagállamában használható és felmutatásával a fogyatékossággal élő személynek ugyanolyan jogokat és kedvezményeket kell biztosítani a tagállamokban, mint amelyek az illető tagállamban életvitel-szerűen tartózkodó fogyatékossággal élő személyeket megilletik (Lecerf, 2024). Ugyanezen elgondolás alapján vehető igénybe a fogyatékosságügyi parkolókártya, amely feljogosítja az autóval közlekedő fogyatékossággal élő személyeket, hogy az EU bármely tagállamban a fogyatékossággal élő emberek számára fenntartott parkolóhelyeket igénybe vegyék.[2]

Az Európai Bizottság és az Európai Parlament jelenleg a 2025–2030-as időszakot átölelő stratégiai célkitűzések meghatározásán dolgozik (EDF Position Paper, 2024) Az erről szóló első vitára 2024. decemberben került sor az Európai Parlamentben. A vitán egyetlen romániai EP-képviselő sem szólalt fel, csupán a szocilista Maria Grapini képviselő asszony adott hangot észrevételeinek az érdemi vitát lezáró szakaszban.

Várható, hogy a 2025–2030-as időszakot lefedő stratégiában az Európai Unió a fizikai környezet akadálymentesítésén túl a jelen kor kihívásaival is összehangolja a fogyatékosságügyi stratégiát, amelyben a mesterséges intelligencia és a fogyatékossággal élő emberek jogainak összehangolására való törekvések is megjelennek (Noori, 2024).

2 Nem hagyhatjuk szó nélkül, hogy az uniós fogyatékosságügyi és parkolókártyát Romániában már többen igényelték és meg is kapták, ugyanis Románia tagja volt annak a nyolc EU-s országból álló csoportnak, amely pilótaprojekt jelleggel már korábban bevezette és tesztelte a rendszer működését. Ennek részleteire a későbbiekben kitérünk.

## 3. Fogyatékosságügyi törekvések Romániában

Románia fogyatékosságügyi törekvései a rendszerváltás utáni évekig visszanyúlnak, ugyanis az első, fogyatékossággüggyel foglalkozó állami struktúra az 1990-ben létrehozott fogyatékosok államtitkársága.[3] Az államtitkárság 2003-ban történt átszervezése során jött létre a Fogyatékos Emberek Nemzeti Hatósága.[4] Ez a központi hatóság 2014-ben és 2019-ben további átszervezésen ment át, majd egy újabb Kormányhatározat értelmében létrejött a ma is működő, fogyatékossággal élő emberek jogainak védelméért felelős nemzeti hatóság.[5] Érdemes kiemelni a terminológiai különbségeket, ugyanis a 2014-es közigazgatási átszervezésig a fogyatékossággal élő emberek jelölésére a „handicap" szó volt a meghatározó, azt követően pedig következetesen a „dizabilități" szót használja a központi intézmény. A fogyatékosságügyi és diszkriminációellenes terminológia egységesítésének szükségességére az Országos Diszkriminációellenes Tanács már a 2012-ben felhívta a figyelmet (Mocanu, 2014, p. 20). A 2014-es terminológiai váltás teljes összhangban van az ENSZ-egyezmény és az EU-s fogyatékosságügyi stratégia törekvéseivel is. Visszás az a tény, hogy a szakterületért felelős központi hatóság megnevezésében már a „dizabilități" szó jelenik meg, de a vonatkozó általános jogszabály nevében továbbra is megmaradt a „handicap".

### 3.1 A fogyatékossággal élő állampolgárok általános helyzete Romániában

A fogyatékosságügyi központi hatóság honlapján elérhető nyilvános adatok szerint egy 2021-ben készült hatósági tanulmányból kiderül (Romániai helyzetelemzés, 2021), hogy a hazánkban életvitel-szerűen tartózkodó fogyatékossággal élő emberek túlnyomó többsége 65 év feletti. A fogyatékossággal élő emberek mintegy 38%-a mozgásukban korlátozott, 21%-a vak vagy gyengénlátó, 14%-a memória- és koncentrációs zavarral küzd, 13%-a nem képes az önálló életvitelre. Az említett, EU-s társfinanszírozásból létrejött romániai tanulmány egy 2018-as EU-SILC felmérésre is hivatkozik, ennek értelmében pedig a hazánkban lévő fogyatékossággal élő emberek súlyos anyagi nehézségekkel küzdenek, gyakran pedig a közintézmények akadálymentességének hiányosságaira és magányosságra panaszkodnak. Fogyatékosságuk miatt az iskolázottsági szintjük is jóval alacsonyabb, mint az azonos korú ép embertársainké.

A tanulmány elkészítése során 1442 romániai közintézmény került átvilágításra és a rendelkezésre álló adatok szerint ezek egyike sem volt teljes mértékben akadálymentes, az épületbe való bejutás az esetek 89%-ban a mozgásukban korlátozott állampolgárok számára nem volt biztosítva. A megvizsgált közintézmények 97%-ban nem állt rendelkezésre

3 Az államtitkárság létrehozásáról szóló 1990. évi 1100. számú Kormányhatározat meglehetősen későn, 1992 végén jelent meg a Hivatalos Közlönyben. Az intézmény hivatalos neve „Secretariatul de Stat pentru Handicapați".

4 Autoritatea Națională pentru Persoanele cu Handicap.

5 Autoritatea Națională pentru Protecția Drepturilor Persoanelor cu Dizabilități.

akadálymentes mosdó sem. Az épített környezet akadálymentesítésével kapcsolatos nehézségeken túl a fogyatékossággal élő állampolgárok a hivatali ügyintézés során további akadályokra panaszkodtak. A megvizsgált 1442 közintézményből mindössze 4 volt infokommunikációs szempontból akadálymentes, tehát a vak / gyengénlátó és siket állampolgárokkal történő kommunikáció kevés kivétellel lehetetlen volt.

Az esetek 64%-ban a fogyatékossággal élő emberek arra panaszkodtak, hogy a romániai közintézményekben nincsenek olyan alkalmazottak, akik őket az ügyintézésben segíteni tudnák, valamint az közintézmények 88%-ban a digitális / elektronikus kijelzők (pl. sorszám igénylése esetén) nem akadálymentesek. A siket és nagyothalló állampolgárok jelezték, hogy a jelnyelvi tolmácsok igénybevétele javíthatná az ügyintézési folyamatokat, azonban az esetek 87%-ban a tolmácshiány miatt jelnyelvi tolmács nem elérhető.

A fogyatékossággal élő román állampolgárok többsége nem használja az internetet, viszont vannak olyan vakok és gyengénlátók, akik kifejezetten jó technológiai készségekkel rendelkeznek és felolvasó szoftvereket használnak. Ezek megfelelő használatához viszont elengedhetetlen, hogy a honlapok is akadálymentes technikai háttérrel rendelkezzenek.

A több mint 400 oldalas tanulmány részletesen kitér a fogyatékossággal élő emberek aktuális helyzetére és a jogaik érvényesítése érdekében javaslatot tesz egy sor intézkedés kidolgozására.

Egy másik, a Nemzeti Fizetési és Szociális Ellenőrző Ügynökség által 2022-ben közzétett országos tanulmány is hasonló adatokat tartalmaz (ANPIS helyzetelemzés, 2022).A tanulmány elkészítéséhez 286 romániai kulturális intézmény (többnyire múzeumok és koncerttermek) akadálymentesítését vizsgálták meg és 85 esetben elrendelték el az épületbe való bejutás akadálymentes kialakítását, 65 esetben az emeletek megközelíthetőségét, 81 esetben fogyatékossággal élő személyek számára fenntartott parkolóhelyek kialakítását, 180 esetben a kulturális intézmény honlapjának akadálymentesítését, 160 esetben az akadálymentességről szóló tájékoztatók elkészítését, 169 esetben jelnyelvi tolmácsolás rendelkezésre bocsátását, 95 esetben pedig az infokommuikációs akadálymentesítést. A megvizsgált 286 kulturális intézményben összesen 1483 szükséges intézkedést foganatosítottak a fogyatékossággal élő személyek jogainak megszegésével kapcsolatban.

A vizsgálat tárgyát képező kulturális intézmények munkatársai a jogsértést az alábbiakkal magyarázták: az épületek fizikai és jogi körülményeivel kapcsolatos nehézségek, befektetések hiánya, tájékoztatás hiánya, fogyatékosságügyi jogvédő egyesületek igénytelensége, településszintű fogyatékosságügyi stratégia hiánya.

Berszán Lídia egyetemi docens, a Babeș-Bolyai Tudományegyetem, Magyar Szociológia és Szociális Munka Intézet, Szociális Munka Tanszék oktatója egyetemi jegyzeteiben olyan átfogó javaslatsorozatot dolgozott ki, amely több tudományterületet is érint, figyelembe véve, hogy a fogyatékossággal élő személyek jogainak érvényesítése az élet minden területén kulcsfontosságú (Berszán, 2017, p. 137). Ennek megfelelően a jogérvényesítés során horizontális megközelítés alkalmazása indokolt, mivel a jogok biztosítása nem csupán egyetlen szakterületre, hanem több társadalmi dimenzióra is kiterjed.

### 3.2 A fogyatékossággal élő emberek jogait védő általános jogszabály

A fogyatékossággal élő embertársaink jogainak általános védelmét Romániában a 2006. évi 448. számú Törvény szabályozza. A jogszabály 2006. december 18-án jelent meg a Hivatalos Közlönyben, tehát korábban, mint ahogy Románia csatlakozott a fogyatékossággal élő emberek jogairól szóló ENSZ-egyezményhez. Egyik fontos szempontja, hogy „nem csak és nem első sorban az egészségi állapot felől, hanem a mindennapi tevékenységek normális betöltéséhez szükséges készségek felől, és a rehabilitációs, szociális és inklúziós intézkedések dimenziójából közelíti meg a fogyatékosságot" (Berszán, 2012, p. 37). Másik említésre méltó elem a román jogszabályi rendszerben, hogy elsőként e törvény elfogadásával kerülnek be a nemzeti jogrendbe az „akadálymentes", „társadalmi befogadás" és a munkakörnyezet vonatkozásában az „ésszerű alkalmazkodás"[6] kifejezések (Mocanu, 2014, p. 15). A jogszabály szerves részét képezi az utólag többször módosított 2007. évi 1992. számú rendelet, amely a fogyatékossági besorolás kritériumrendszerét szabályozza, illetve az utólag többször módosított 2010. évi 1736. számú rendelet, amely a fogyatékossággal élő emberek értékelésével foglalkozó országos bizottság működését hivatott rendezni. A 2006-ban elfogadott keretrendszer is többször módosult az évek során, többek között 2009-ben, 2017-ben, 2018-ban, 2020-ban, 2023-ban, legutóbb pedig 2024 végén.

Az időközönként végrehajtott módosítások és kiegészítések azt tükrözik, hogy a fogyatékossággal élő emberek jogainak védelme kulcsfontosságú téma a hazai jogalkotás szintjén.

### 3.3 A jelnyelven kommunikáló állampolgárok jogai és lehetőségei Romániában

A romániai Büntető törvénykönyv és a Polgári perrendtartásról szóló törvény egyaránt biztosítja a jelnyelv használatának jogát a bírósági eljárásokban (Szabó, 2017, p. 6). A jelnyelvi tolmácsok számáról, lehetőségeiről viszont értelemszerűen nem rendelkezik.

A román parlament 2020-ban fogadta el a román jelnyelvi törvényt,[7] ezzel biztosítva a közügyek intézése során a jelnyelv használatának jogát. E jog gyakorlati megvalósulása érdekében a közintézmények kötelesek jelnyelvi tolmácsot biztosítani az erre jogosult siket és nagyothalló állampolgárok számára, ingyenesen. A jogszabály alkalmazása nehézkes, szinte lehetetlen, ugyanis egy 2021-es országos felmérés szerint 1441 átvilágított közintézmény közül mindössze 101 (7%) jelentette, hogy szükség esetén rendelkezésre tudják bocsátani a jelnyelvi tolmácsokat (ANPIS helyzetelemzés, 2021). A 101 intézmény több mint fele bíróság. Az említett tanulmány elkészítése során az infokommunikációs akadálymentesítésre vonatkozóan több szabálysértést is feltárt az hatóság, ezért összesen 637 esetben kötelező intézkedéseket rendelt el. A 2022. áprilisában tartott ellenőrzések során megállapították, hogy az elrendelt intézkedések többségét nem hajtották végre.[8] Ugyancsak 2022-ben állapította

6 A megváltozott munkaképességű ember igényeihez igazított munkakörnyezet.

7 A 2020. évi 27. számú Törvény a román jelnyelvről.

8 A Nemzeti Fizetési és Szociális Ellenőrző Ügynökség erre vonatkozó 2022-es országos tanulmányát az ügynökség nem hozta nyilvánosságra, de 7261/11.08.2022 számmal iktatták.

meg az országos ügynökség, hogy a haza nyilvántartásban összesen 56 hivatalos jelnyelvi tolmács szerepel, megyénként átlagosan 1-3 között van a jelnyelvi tolmácsok száma, de például Kovászna, Arad, Szatmár, Fehér és Giurgiu megyében egyetlen jelnyelvi tolmács sincs, míg a jelnyelvet használó román állampolgárok száma hazánkban 23.000 körül mozog. Jól látható tehát, hogy a jogszabályi keret megvan, a gyakorlati alkalmazása viszont meglehetősen körülményes, szinte lehetetlen.

### 3.4 Fogyatékosságügy az Országos Diszkriminációellenes Tanács és a nemzeti bíróságok napirendjén

Az Országos Diszkriminációellenes Tanács 2023-ra vonatkozó éves jelentéséből világosan kitűnik, hogy általánosságban az elmúlt húsz évben fokozatosan nőtt a fogyatékossággal kapcsolatos panaszok száma (CNCD éves jelentés, 2023).

1. **táblázat**. fogyatékosságügyi panaszok száma az Országos Diszkriminációellenes Tanácsnál (CNCD éves jelentés, 2023)

| Év | Fogyatékosságügyi panaszok száma |
|---|---|
| 2011 | 42 |
| 2017 | 74 |
| 2022 | 100 |
| 2023 | 73 |

Az éves jelentés kitér arra is, hogy a 2023-ban benyújtott 73 fogyatékosságügyi panaszok túlnyomó többsége a közszolgáltatásokban tapasztalt jogsértésekre vonatkozik, ebből 13 közigazgatási jellegű, 9 a szállítási szolgáltatásokra vonatkozik, 4 pedig az egészségügyi ellátást kifogásolja. A fogyatékosságügyi panaszok száma szinte minden egyes évben több volt, mint a nemzetiségre, vagy nyelvhasználatra vonatkozó panaszok száma.

A nemzeti bíróságokon is megdöbbentően magas a fogyatékossággal kapcsolatos keresetek száma. „Handicap" keresőszóra a 2021–2024 közötti időszakból 16.841 bírósági határozat elérhető a joggyakorlatban. Ebből 1.127 bírósági határozatot 2024-ben hirdettek ki és alapfokon csupán 187 esetben döntöttek a bíróságok a felperesek javára.[9]

### 3.5 A romániai fogyatékosságügyi stratégia

A 2022–2027-es időszakot átölelő romániai fogyatékosságügyi stratégia a fogyatékossággal élő emberek jogait védő ENSZ-egyezmény struktúrája mentén épül fel. A hazai stratégia

9 További 303 keresetet alapfokon elutasítottak, 68-at más bíróságokra küldtek át, 32 keresetet érvénytelenítettek, a többi esetében pedig más határozatokat hoztak.

kilenc kulcsfontosságú területen kíván változást elérni, köztük az általános értelemben vett akadálymentesítés és a mobilitás növelése, a fogyatékossággal élő emberek jogainak valós védelme, foglalkoztatás, társadalmi biztonság, önálló életvitel és társadalmi befogadás, oktatás, egészségügy, politikai és közéleti részvétel, illetve az ENSZ-egyezmény végrehajtása és az eredmények nyomonkövetése.

A 123 oldalas nemzeti stratégia a legtöbb jól tükrözi a fogyatékossággal élő emberek valós igényeit, viszont a 9.8-as szakaszban meghatározott politikai és közéleti részvétel fejezetben kizárólag a kulturális eseményekhez való hozzáférést említi, nem tartalmaz utalást arra, hogy a kultúra alakításába a fogyatékossággal élő emberek miként vehetnek részt.[10] Kétségtelen, hogy a „Semmit rólunk, nélkülünk elv!" nem csak azt jelenti, hogy a fogyatékossággal élő emberek fogyasztói lehetnek a kultúrának, hanem azt is, hogy annak alakításában ők is részt kell vegyenek.[11] A nemzeti stratégia nem fogalmaz meg javaslatokat arra vonatkozóan sem, hogy a fogyatékossággal élő emberek szavazati jogát, illetve politikai részvételét miként kívánja előremozdítani.

A stratégia szerves részét képező megvalósítási terv alapos, viszont hozzárendelt anyagi forrás, szakképzett humán erőforrás és főként radikális társadalmi szemléletváltás nélkül továbbra is nehéz lesz látványos eredményeket elérni.

## Következtetések

A fogyatékossággal élő személyek jogainak védelmére vonatkozó jogi keretrendszer az utóbbi évtizedekben jelentős fejlődésen ment át nemcsak a nemzeti, hanem európai uniós szinten is. Az Európai Unió és a tagállamok jogalkotási törekvései az elmúlt 15–20 évben egyértelműen a fogyatékossággal élők jogainak megfelelőbb biztosítására, valamint életkörülményeik javítására irányultak. A vonatkozó ENSZ-egyezmény merész célkitűzésekkel kívánja elősegíteni az érintett személyek társadalmi integrációját és méltóságuk védelmét, ám a gyakorlatban e célok megvalósítása még jelentős kívánnivalókat hagy maga után. Bár kétségtelen, hogy az elmúlt két évtizedben előrelépések történtek, a javulás mértéke viszont jelentősen elmarad a merész jogszabályi kerettől és számos kihívás továbbra is fennáll.

10 A Communitas Alapítvány 2019-ben támogatta az Erdélyben élő siketeknek és nagyothallóknak szervezett „A zene mindenkié! A siketeké is?!" élményprojekt megvalósítását. A projektben résztvevő kolozsvári, marosvásárhelyi és székelyudvarhelyi siketek közvetlen közelről ismerkedhettek meg a szimfonikus zenekari hangszerekkel és templomi orgonákkal, megszólaltatva azokat. A projekt végén bebizonyosodott, hogy a hallásvesztességük ellenére a zene nem csak hallgatóként, hanem résztvevőként is képes élményt nyújtani számukra.

11 A stratégia víziójában nem kap helyet az, hogy például egy kerekesszékes ember is lehet színész, egy siket állampolgár is lehet eredményes a képzőművészetben, vagy éppen megfelelő körülmények kialakításával a vakok / gyengénlátók is focizhatnak. Fejlettebb társadalmakban ezekre számos jó példát találunk.

A jogsértésekre vonatkozó panaszok magas száma, amelyeket az Országos Diszkriminációellenes Tanács, a nemzeti bíróságok és a Nemzeti Fizetési és Szociális Ellenőrző Ügynökség adatai egyaránt tükröznek, világosan jelzi, hogy a jogszabály-rendszerben és társadalmi környezetben még mindig jelentős problémák vannak. A panaszok reális száma azonban valószínűleg alábecsült, hiszen akadálymentesítés hiányában a fogyatékossággal élő emberek gyakran nem érhetik el azokat az közintézményeket, ahol jogsértést jelenthetnek be, és az infokommunikációs eszközök hiánya is korlátozza panaszbejelentési lehetőségeiket. Ezen akadályok felszámolása nélkül a fogyatékossággal élő személyek alapvető demokratikus jogai, így a panasztételhez való joguk továbbra is sérül.

Vélhetően kiegyensúlyozottabb anyagi háttér és átfogóbb jogi ismeretek szükségesek ahhoz, hogy a fogyatékossággal élő emberek határozottabban ki tudjanak állni a jogaikért. Jogsértés észlelése esetén a demokratikus alapokon nyugvó panasztétel jogát a kapcsolódó mechanizmusok akadálymentesítésével érdemes fejleszteni. A bemutatott adatok alapján számítani kell rá, hogy panasztétel / bírósági kereset indítása esetén az ügyk évekig telhúzódhatnak, miközben a fogyatékossággal élő emberek életkörülményei a valóságban egyáltalán nem, vagy csak jelentéktelen mértékben javulnak.

Bár a jogrendszer jelentős átalakuláson ment át, a jogérvényesítés és a valódi társadalmi integráció terén még számos akadályt kell leküzdeni. A fogyatékossággal élő személyek jogainak védelme érdekében szükséges a jogi és fizikai akadályok késedelem nélküli felszámolása, valamint a megfelelő anyagi támogatási és munkavállalási rendszer alaposabb és mielőbbi kidolgozása, hogy az érintettek számára valódi esélyeket biztosíthasson az állam és az Európai Unió intézményrendszere.

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# A munkavállaló fegyelmi felelőssége a Kolozs megyei Törvényszék ítélkezési gyakorlatában

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**Absztrakt**

A fegyelmi felelősség a munkaviszony egyik alappillére, amely biztosítja a munkahelyi rendet és a munkáltató hatékony működését. Jelen tanulmány a munkavállalói fegyelmi felelősség jogi kereteit és alkalmazási gyakorlatát vizsgálja a Kolozs megyei Törvényszék döntései alapján. A kutatás célja a fegyelmi eljárások jellemzőinek és a bírósági ítéletek tendenciáinak feltárása. A tanulmány kvantitatív és kvalitatív módszertant alkalmazva elemezte a 2024-ben hozott ítéleteket, különös figyelmet fordítva a munkáltatói és munkavállalói érdekérvényesítés sikerességére, valamint a tipikus fegyelmi vétségekre. Az eredmények rámutatnak arra, hogy a figyelmeztetések a leggyakrabban megtámadott szankciók, annak ellenére, hogy ezeknek nincs közvetlen anyagi következményük. Emellett a bíróságok gyakrabban döntenek a munkavállalók javára, kivéve a munkaviszony megszüntetésével járó szankciókat, ahol a munkáltatók kedvezőbb elbírálásban részesülnek. A kutatás megállapítja, hogy a fegyelmi vétségek széles skálán mozognak, és a munkakörnyezet specifikumai szerint alakulnak, így egy egységes, repetitív ítélkezési gyakorlat nehezen azonosítható. A tanulmány eredményei hozzájárulnak a fegyelmi felelősség munkajogi szabályozásának és ítélkezési gyakorlatának mélyebb megértéséhez, valamint további kutatási irányokat vázolnak fel a fegyelmi eljárások munkáltatói oldalának feltárására.

**Kulcsszavak:** Fegyelmi eljárás, Kolozs megyei Törvényszék, munkajogi ítélkezési gyakorlat, munkavállalói jogérvényesítés, fegyelmi szankciók.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 331–341

# The Disciplinary Liability of Employees in the Jurisprudence of The Cluj County Tribunal

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**Keywords:** disciplinary procedure, Cluj County Tribunal, labour law jurisprudence, enforcement of employee rights, disciplinary sanctions.

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## 1. Bevezetés

A fegyelmi felelősség meghatározását a Romániai Munka Törvénykönyve 247. cikk (1) bekezdése tartalmazza. A fegyelmi jogkör azt jelenti, hogy a munkáltatónak joga van fegyelmi szankciót alkalmazni, ha a munkavállaló fegyelmi vétséget követett el. A fegyelmi vétség jellege ugyanebben a cikkben, a következő bekezdésben van meghatározva: olyan cselekedet vagy mulasztás, amely a munkavállaló munkájához kapcsolódik, vétkesen elkövetett, és amely megsérti a jogszabályokat, a belső szabályzatot, az egyéni vagy kollektív munkaszerződést, valamint a felettes vezetők törvényes utasításait és rendelkezéseit.

A munkáltató a munkaviszony alá-fölérendeltségi elvéből fakadóan három jogosultsággal rendelkezik a munkavállalóval szemben: normatív, szervezési és fegyelmi jogosultság. A munkáltató fegyelmi jogosultsága elengedhetetlen egy jól működő munkahelyi környezet biztosításához, figyelembe véve a munkáltató termelékenységét és a kollégák közötti kapcsolatokat. Ugyanakkor ez egy olyan kényszerítő eszköz is, amely lehetővé teszi a munkáltató számára, hogy felelősségre vonja és fegyelmi szankciókat alkalmazzon a munkavállalókkal szemben. A munkaviszony természete, bár túlnyomórészt magánjogi kapcsolatként van meghatározva, alapvetően alá-fölérendeltségi viszonyt feltételez a munkáltató és a munkavállaló között, hiszen a munkaszerződés célja — hogy jogszerű legyen — az, hogy a munkáltató a munkavállaló munkájából származó hasznot termeljen. A munkáltatónak rendelkeznie kell valódi eszközökkel ahhoz, hogy kijavíthassa a munkavállalók helytelen magatartását, vagy akár megszüntesse a munkaviszonyt, ha a munkavállaló nem tartja be a munkaviszonyt szabályozó aktusokat vagy a munkáltató utasításait. Úgy is fogalmazhatunk, hogy ebben az esetben, ha a munkáltató kénytelen lenne elfogadni egy számára hátrányos magatartást, az egyéni munkaszerződés elveszítené jogszerű célját.

A jogtudományban megfogalmazott vélemény szerint egyetlen más jogág sem ismeri el azt a lehetőséget, hogy a szerződés egyik fele közvetlenül szankcionálhatja a másik szerződő felet a vállalt kötelezettségek nem teljesítése vagy nem megfelelő teljesítése miatt (Gîlcă, 2022, p. 432). Ezt a megállapítást azonban ki kell egészíteni a közszolgálati jogviszonnyal és más külön jogszabályok által szabályozott jogviszonyokkal (például a bírák és ügyészek statútumával, 2022. Évi 303. Számú Törvény), amelyek valóban hasonlóságokat mutatnak a munkajoggal, de a közjog különböző területéhez tartoznak.

A munkavállaló kötelezettségeit tekintve (39. cikk (2) bekezdés b) és c) pontja), köteles betartani a munkafegyelmet, valamint a belső szabályzat, az alkalmazandó kollektív szerződés és az egyéni munkaszerződés rendelkezéseit. A munkáltatónak ugyanakkor joga van (40. cikk (1) bekezdés c) és e) pontja) arra, hogy kötelező érvényű utasításokat adjon a munkavállalónak, amennyiben ezek törvényesek, valamint hogy megállapítsa a fegyelmi vétségek elkövetését és alkalmazza a megfelelő szankciókat a törvény, az alkalmazandó kollektív szerződés és a belső szabályzat szerint. A szakirodalom szerint a fegyelmi felelősség a szerződéses felelősség egyik formája, amelynek forrása az egyéni munkaszerződés, személyes jellegű, nem ruházható át más személyre (Ștefănescu, 2012, p. 726), elsődlegesen szankcionáló, de egyben megelőző és nevelő funkcióval is bír, és erkölcsi vagy anyagi kényszerítés útján valósul meg.

A következőkben a tanulmány elméleti részében elemzem a fegyelmi felelősség elveit, a fegyelmi vétség jogi természetét, a fegyelmi eljárást, a szankció alkalmazását, annak megtámadását és a munkajogi szabályozás szerint. A második, kutatási részben a Kolozs megyei Törvényszék 2024-es évre vonatkozó ítélkezési gyakorlatát tekintem át a szankciók megtámadásának sikeressége szempontjából, valamint a megtámadott szankciók tárgya szerint.

## 2. A fegyelmi felelősség elvei

A felelősség törvényessége és a szankció törvényessége a fegyelmi felelősség lényegét meghatározó két alapelv. A felelősség törvényessége azt jelenti, hogy csak akkor vonható felelősségre a munkavállaló, ha az általa elkövetett cselekmény a törvény szerint fegyelmi vétségnek minősül. Gyakorlati szempontból a legnagyobb kihívás annak azonosítása, hogy egy adott cselekmény megfelel-e a Munka Törvénykönyve, a belső szabályzat, az egyéni vagy kollektív munkaszerződés, illetve a felettes vezetők jogszerű utasításai által előírt fegyelmi vétségnek.

A szankció törvényessége azt jelenti, hogy a Munka Törvénykönyvében (248. cikk (1) bekezdés) vagy kivételesen külön jogszabályokkal jóváhagyott szakmai statútumokban (248. cikk (2) bekezdés) meghatározott szankció alkalmazható. A fegyelmi bírságok tilalma külön bekezdésben szerepel, kiemelve ennek a múltban gyakran alkalmazott gyakorlatnak a jogellenességét.

A személyes felelősség elve abból fakad, hogy az egyéni munkaszerződés jellemzően *intuitu personae* jellegű, azaz a munkáltató konkrét személyre tekintettel köti meg a szerződést. A munkavállaló nem helyettesíthető például szabadság vagy egyéb ideiglenes távollét esetén egy olyan személlyel, aki nem áll munkaviszonyban a munkáltatóval.

A *non bis in idem* elv a 249. cikk (2) bekezdésében van rögzítve, amely kimondja, hogy ugyanazért a fegyelmi vétségért csak egy szankció alkalmazható. Ez az elv összhangban áll a közigazgatási és büntetőjogi felelősséggel. Az elv nem zárja ki a felelősségi formák együttes alkalmazását (Roșioru, 2017, p. 561), például egy építkezésen dolgozó munkavállaló anyagokat tulajdonít el, ezért fegyelmi és büntetőjogi felelősség is terheli.

A fegyelmi felelősség halmozható a büntetőjogi felelősséggel, gyakran előfordulnak ilyen helyzetek. Például, ha egy munkavállaló építkezési anyagokat tulajdonít el az építkezésről, akkor fegyelmi felelősségre vonható, a munkáltató lefolytatja az eljárást és alkalmazza a megfelelő fegyelmi szankciót. Ugyanakkor, ha az ügyet a büntető hatóságok elé terjesztik, a munkavállaló büntetőjogi felelősségre is vonható az adott jogág szabályai szerint.

A fegyelmi szankció és a fegyelmi vétség súlyosságának arányosságának elve a Munka Törvénykönyve 250. cikkében található, amely egyben tartalmazza a szankciók egyéni meghatározásának kritériumait is. A munkáltató köteles olyan szankciót választani a törvény által előírt lehetőségek közül, amely eléri célját — legyen az büntető, megelőző vagy nevelő jellegű —, de nem lehet aránytalanul súlyos, amely indokolatlan anyagi vagy erkölcsi szenvedést okozna a munkavállalónak. Ebben az összefüggésben érdemes megemlíteni a jogi felülvizsgálat lehetőségét is, amelyet a munkavállaló kezdeményezhet abban az esetben, ha úgy véli, hogy a szankció súlyossága nincs arányban az elkövetett fegyelmi vétséggel. A döntésben szerepelniük kell azoknak az egyéni mérlegelési szempontoknak, amelyek alapján a szankciót kiszabták.

## 3. A fegyelmi vétség

A Munka Törvénykönyvében meghatározott definíció alapján könnyen azonosíthatók azok az elemek, amelyek teljesülése esetén egy cselekmény fegyelmi vétségnek minősül. Az első elem, hogy az elkövetett cselekmény kapcsolatban álljon a munkával, a második az elkövetés módja, amely lehet aktív cselekedet vagy mulasztás, a harmadik a magatartás és az aktív alany, azaz a munkavállaló vétkesen elkövetett cselekménye, míg az utolsó elem a fegyelmi vétség tárgya, azaz a jogszabályok, a belső szabályzat, az egyéni vagy kollektív munkaszerződés, illetve a felettes vezetők jogszerű utasításainak megsértése. Vizsgáljuk meg ezeket az elemeket egyenként:

### 3.1 A munkával való kapcsolat

A fegyelmi vétség elsődleges feltétele, hogy az elkövetett cselekmény összefüggésben álljon a munkával. Klasszikus értelemben a jogellenes magatartás a munkahelyen és munkaidőben történik, azonban a „poszt-Covid-korszakban" a munkaviszonyok rugalmassá válásával az időbeli és térbeli keretek is kitágultak. Figyelembe véve a távmunkában teljesen vagy részlegesen dolgozó munkavállalók nagy számát, valamint azokat, akik a munkáltató ügyfelének telephelyén végzik tevékenységüket, a munkahelyhez kötöttség feltétele elavulttá vált. Ráadásul a digitalizáció és a felhőalapú adattárolás révén a „munkahely" fogalma

egyre rugalmasabbá válik. Sok fegyelmi vétség például a munkáltató által védett adatok vagy információk jogellenes kiszolgáltatására vonatkozik — amely valószínűleg nem munkaidőben történik —, vagy szakmai gondatlanságra épül, amely gyakran online rendszerekben, a munkahelyen és a munkaidőn kívül valósul meg. Ezek a cselekmények azonban továbbra is kapcsolatban állnak a munkával, így a szakirodalomban korábban alkalmazott értelmezést — miszerint a fegyelmi vétség csak a munkahelyen és munkaidőben elkövetett cselekmény lehet — újra kell gondolni.

### 3.2 Az elkövetés módja: cselekvés vagy mulasztás

A jogellenes magatartások különböző jogágakban felmerülhetnek, és azok elkövetése lehet tevőleges (komisszív) vagy mulasztásos (omisszív) (Arbanaș, 2024, p. 88). A munkajogban a fegyelmi vétségek jelentős része mulasztással valósul meg, például a munkavállaló kötelességeinek elmulasztásával vagy igazolatlan hiányzással. A fegyelmi vétség lehet egyetlen cselekmény vagy folyamatosan elkövetett magatartás is.

A Munka Törvénykönyve és más jogszabályok nem tartalmaznak egyértelmű listát arról, hogy mely cselekmények minősülnek fegyelmi vétségnek — ellentétben a büntetőjoggal vagy a szabálysértési joggal. Ezért a munkáltató feladata meghatározni azokat a viselkedési formákat, amelyek fegyelmi vétségnek minősülnek, amelyben a belső szabályzatnak kulcsszerepe van. Az egyéni munkaszerződés és a munkaköri leírás is tartalmazhat ilyen kötelezettségeket, amelyek megsértése fegyelmi vétségnek minősülhet (Țiclea, 2024, p. 47).

### 3.3 Vétkesség és az aktív alany

A fegyelmi vétség aktív alanya csak olyan személy lehet, aki munkaviszonyban áll, tehát munkavállaló. A szakirodalomban helyesen hívták fel a figyelmet arra, hogy más, a munkavállalóhoz hasonló státuszú személyek — például önkéntesek (2014. Évi 78. Számú Törvény) gyakornokok (2018. Évi 176. Számú Törvény) vagy egyéni vállalkozók (2008. Évi 44. Számú Sürgősségi Kormányrendelet), akik szolgáltatási szerződés keretében dolgoznak — nem lehetnek fegyelmi felelősség alanyai. Ha ilyen személy jogellenes és/vagy károkozó magatartást tanúsít, azt szerződéses vagy kártérítési felelősség, illetve súlyosabb esetekben büntetőjogi felelősség alapján lehet szankcionálni. A vétkesség tekintetében azt szükséges megállapítani, hogy a munkavállaló a fegyelmi vétség elkövetésekor szándékosan vagy gondatlanságból cselekedett (Panainte, 2021, p. 309). A vétkességi forma viszont kulcsfontosságú szerepet kap a fegyelmi szankció kiválasztásakor vagy abban, hogy a munkáltató kiró-e fegyelmi szankciót a munkavállalóra, hiszen egy szándékosan elkövetett tett esetén teljesen más a súlyosság, mint egy egyszerű figyelmetlenség vagy mulasztás esetén (Vasiliu, Miclea, 2021, p. 78).

### 3.4 A fegyelmi szankciók

A fegyelmi szankciók két kategóriára oszthatók: általános és a különös szankciók. Az általános kategóriába soroljuk azokat a szankciókat, amelyek a Munka Törvénykönyvében jelennek meg, nevezetesen, az írásos figyelmeztetés, a fizetéslevonás, a visszaléptetés és a munkaszerződés fegyelmi okoból való felmondása. A különös szankciókat az egyes szakmákra vagy tisztségekre vonatkozó törvények írják elő, például ebbe a kategóriába tartoznak a pedagógusok, az ügyvédek, ügyészek és bírák, amely esetekben a fegyelmi szankciók eltérhetnek az általános, Munka Törvénykönyve által felsoroltaktól (Popescu, 2021, p. 367).

## 4. A fegyelmi szankciók az ítélkezési gyakorlatban

Mivel a fegyelmi felelősség megállapítása gyakran bonyolult eljárással jár, és előzetes jogi ismereteket igényel a munkáltatótól, elemezni kívánjuk azokat a bírósági határozatokat, amelyekben a munkavállalók fegyelmi szankcióinak megsemmisítése volt a per tárgya. Ehhez a Kolozs megyei Törvényszék illetékességi területén hozott ítéleteket vizsgáljuk meg, és azonosítjuk a leggyakoribb okokat, amelyek miatt a bíróság a munkavállalók javára döntött, azaz a fegyelmi szankció alkalmazását jogellenesnek minősítette.

### 4.1 A kutatás célja

A kutatás elméleti részéből is megfigyelhető, hogy a fegyelmi vétség helyes azonosítása és a megfelelő szankció kiválasztása általában nem jelent nehézséget, ezzel szemben maga a fegyelmi eljárás jelentős problémákat okoz a munkáltatóknak. Feltételezhetjük, hogy a munkáltatók megpróbálják elkerülni a fegyelmi eljárást azokban az esetekben, amikor enyhébb szankciók — például figyelmeztetés (amely esetében nem kötelező az eljárás), bércsökkentés vagy lefokozás — lennének alkalmazandók? Ez egy következő kutatás tárgyát képezheti, a jelen tanulmány eredményeinek függvényében. Ugyanakkor a feltett kérdésre a válasz egy bonyolultabb metodológiát igényel, mivel a munkáltatóktól lehetséges megszerezni a szükséges adatokat, ezek nem állnak a rendelkezésünkre.

A fentiek alapján a jelen tanulmányban három kutatási kérdést fogalmaztam meg:

1. A bíróságok előtt megtámadott fegyelmi szankciók többsége melyik fegyelmi szankcióra vonatkozik?
2. A bírósági döntések a fegyelmi szankciók eltörlését vagy ezek megtartását részesítik előnyben?
3. Vannak-e olyan fegyelmi vétségek, amelyek esetén egy repetitív előfordulást azonosíthatunk?

### 4.2 Metodológia

A kutatási kérdések megválaszolása érdekében a Kolozs megyei Törvényszék, mint munkajogi alapfokú bíróság döntéseit vizsgáltam a 2024. évben a rejust.ro weboldal keresője

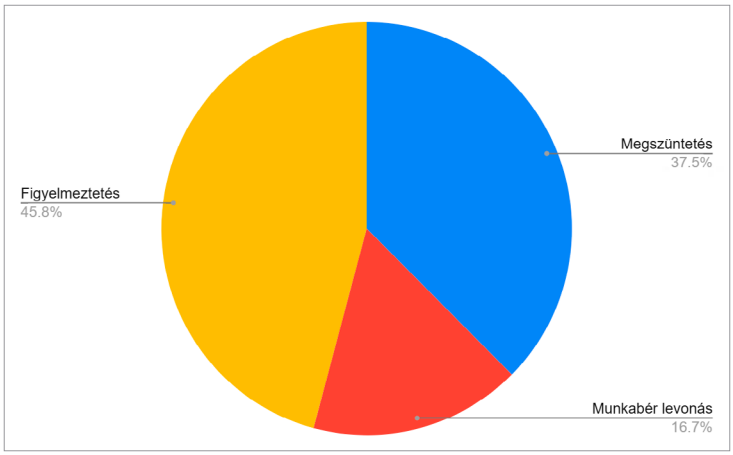
segítségével. Minden döntést megvizsgáltam és beazonosítottam az ügyek tárgyát, a döntés eredményét, a fegyelmi vétségek és a fegyelmi vétség szankcióját.

Összesen 73 döntést vizsgáltam, amelyek közül 24 bizonyult relevánsnak a kutatás szempontjából. A döntéseket táblázatba rendszereztem a megadott kritériumok szerint. A kutatás azon része, amely az ügyek tárgya és a döntés eredménye szerint vizsgálja, kvantitatív. Azon része amelyik a fegyelmi vétségek tárgyát és ezek szankcióit vizsgálja, kvalitatív.

Az információk gyűjtése során abba a problémába ütköztem, hogy a ReJust rendszer az ügyek tárgya szerint szűr. Eleinte a „fegyelmi szankciók megtámadása" szűrőt állítottam be, viszont azt vettem észre, hogy az eredmények nem tartalmaznak egy fegyelmi okok miatt megszüntetett munkaviszonyt sem, ezért a munkaviszony megszüntetése szűrő beállítása után 56 ilyen tárgyú ügyet azonosítottam. Nyilvánvalóan ezen ügyek töredéke szól a fegyelmi okok miatti megszüntetésre, így az összes találatot átnéztem és beazonosítottam azokat a döntéseket, amelyek a jelen kutatás tárgyát képezik.

## 4.3 Elemzés

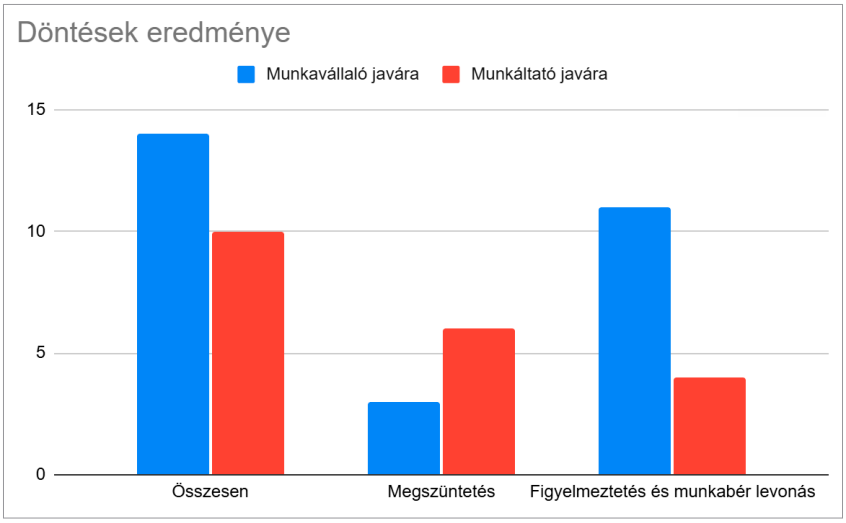
Elsősorban azt szerettem volna megállapítani, hogy egymáshoz képest a fegyelmi szankciók milyen arányban kerülnek megtámadásra, függetlenül a döntések eredményétől. Meglepő volt számomra az eredmény, miszerint a figyelmeztetésekből van a legtöbb, hiszen ennek a fegyelmi szankciónak semmilyen anyagi következménye nincs.




1. Ábra. *Megtámadott fegyelmi szankciók aránya.* Saját elemzés a ReJust adatok alapján.

A következő, egyértelműen érdekes kérdés az volt, hogy a bíróság milyen arányban fogadja el a megtámadási kérelmeket, azaz milyen arányban dönt a munkáltató és a munkavállaló javára. Vizsgáltam azt, hogy az összes szankció esetén hogyan néz ki az arány, illetve külön a két típusú fegyelmi szankciók esetén. Megfigyeltem azt, hogy a munkaszerződés megszüntetése esetén a munkáltatók „győznek" gyakrabban, míg a figyelmeztetés és munkabér

levonása esetén a mérleg nyelve egyértelműen a munkavállalók felé dől, összességében pedig mégis a munkavállalóknak van többször nyert ügyük.




2. Ábra. *Döntések aránya a fegyelmi szankciók típusa szerint*, Saját elemzés a ReJust adatok alapján.

Az elemzés kvalitatív oldala arra vonatkozott, hogy a megtámadott fegyelmi vétségeknek mi a tárgya. Ennek megállapítása érdekében átvizsgáltam mind a 24 döntést, amely fegyelmi szankciók megtámadására vonatkozott és amelyeket a kutatás kvantitatív részénél is feldolgoztam. Fontosnak tartottam azt, hogy az ügyeket ne kizárólag aszerint kezeljem, hogy mi a szankció és mi a döntés eredménye, hanem érdemben is megvizsgáljam a fegyelmi vétségek jellegét. Gyakran előforduló jelenség a munkajogban az, hogy hasonló fegyelmi vétségeket a munkáltatók teljesen különbözően szankcionálnak. Ez egyáltalán nem törvénybe ütköző, hiszen a munkaviszony egy organikus, folyamatos végrehajtású szerződésen alapul, amelyben problémamentesen kibontakozhat a munkáltató és munkavállaló személyisége valamint elképzelése a munkavégzés szabályairól vagy hatékonyságáról. (Mocanu, Drumea, 2019, p. 233) Mindezek miatt osztályoztam az előzőekben vizsgált döntéseket ezúttal a fegyelmi vétségek tárgya szerint.

I. A munkáltató által nyújtott szolgáltatás kedvezményezettjeivel való nem megfelelő viselkedés.

Ide soroltam az olyan eseteket amikor a kezelőorvos nem megfelelően bánt a rábízott beteggel két ügyben, az intézmény őre nem engedte parkolni az egyik magas beosztásban lévő személyt, az intézményi nevelőszülő nem megfelelően bánt a rábízott gyerekkel két ügyben, a buszsofőr dohányzott a buszban, az oktató nem megfelelően viselkedett a hallgatókkal két ügyben.

II. A munkavállaló nem megfelelően viselkedett a kollégáival vagy a felettesével.

Olyan ügyek tartoznak ide mint a kollégák közti folyamatos viták kezdeményezése, a felettesek utasításának be nem tartása, a felettesek sértegetése, a munkavállaló felhatalmazás hiányában az intézmény képviselőjeként nyilatkozott.

III. A munkavállaló nem tett eleget a munkaköri leírásban található feladatainak vagy ezeket tévesen teljesítette.

Ebbe a kategóriába tartozó fegyelmi vétségek a munkahelyi késésekre, az igazolatlan hiányzásokra, a munkahely jogosulatlan elhagyására vonatkoznak. Specifikusan és érdekességként említek olyan esetet, amelyben a magas pozícióban dolgozó munkavállalót ittas vezetésért ítélte el a bíróság és emiatt indult fegyelmi eljárás ellene vagy az egészségügyben dolgozó munkavállaló esete, aki folyamatosan megtagadta a védelmi ruházat viseletét.

## 4.4 Eredmények

A feltett kutatási kérdésekre a döntések kvalitatív és kvantitatív elemzése által kerestem választ. Érdemes néhány szóban arra is kitérni, hogy miért pont ezeket a kutatási kérdéseket tartottam relevánsnak. E tekintetben élő legenda az, hogy munkaügyekben „a bíróság mindig a munkavállaló javára dönt" és amennyiben a munkavállaló a perlés mellett dönt, a munkáltatónak semmi esélye. Továbbá saját meggyőződésem volt az, hogy legtöbb esetben a munkaszerződés megszüntetésével járó fegyelmi szankció az, amelyet a leggyakrabban megtámadnak a bíróságon és a figyelmeztetés az amelyet a legritkábban, hiszen az elsőnek van a legsúlyosabb következménye a munkavállaló sorsára nézve, míg a másodiknak látszólag semmi tétje, semmi gyakorlati következménye nincs. Végül pedig szintén szóbeszéd az, hogy a fegyelmi vétségek nagyon „tipikusak" és általában hasonló problémák merülnek fel minden munkavállalónál.

Az első kutatási kérdés: A bíróságok előtt megtámadott fegyelmi szankciók többsége melyik fegyelmi szankcióra vonatkozik? Meglepő módon a válasz az, hogy a figyelmeztetésekre, arra szankcióra, amelynek semmilyen gyakorlati következménye nincs. A döntéseket vizsgálván nyilvánvalóan kiderült az, hogy a munkavállalók erkölcsi vagy „büszkeségi" kérdésként kezelik a szankciót és azt szeretnék elérni, hogy a bíróság a szó szoros értelmében „tegyen igazságot".

A második kutatási kérdés: A bírósági döntések a fegyelmi szankciók eltörlését vagy ezek megtartását részesítik előnyben. Itt a válasz objektíven az, hogy a munkavállalók „győznek" leggyakrabban, tehát a bíróság az esetek több mint felében eltörli a munkáltató által kiszabott szankciót. Ugyanakkor megjegyzendő, hogy a munkaviszony megszüntetése esetén viszont fordított az arány és itt inkább a munkáltatók javáta szólnak a döntések, nyilván ezek azok az ügyek, amelyek esetén a tét a legmagasabb. Amiatt, hogy a figyelmeztetéseket megtámadó ügyből túlnyomóan több van, az összesítés a munkavállalók javára szól.

A harmadik kutatási kérdés: Vannak-e olyan fegyelmi vétségek, amelyek esetén egy repetitív előfordulást azonosíthatunk? A válasz erre az, hogy osztályozni lehet a fegyelmi

vétségeket és egyes esetekben hasonlóságok felfedezhetőek, viszont a szórás nagy, így nem lehet egy repetitív előfordulást azonosítani. Egyértelműen két eset ismétlődő, a késések és igazolatlan hiányzások, viszont ezeken kívül minden fegyelmi vétség a munkahely és munkakörnyezet specifikuma szerint alakul. Pontosan emiatt nagyon nehéz vagy akár lehetetlen lenne még egy sokkal szélesebb mintán is egy úgynevezett „konstans ítélkezési gyakorlatot" is megállapítani.

## 5. Következtetések és további kutatási javaslat

A fegyelmi eljárás és a fegyelmi szankciók szabályozása és ítélkezési gyakorlatának kérdésköre folyamatosan aktuális tárgykör. A munkaviszonyok formája adaptálódik és együtt fejlődik a gazdasági, technológiai vagy tudományos haladással. Az új munkakörök, munkamódszerek és bizonyítási eszközök miatt a fegyelmi vétségek is változnak, ezekre pedig adaptálni kell úgy az eljárást magát, mint a szankciókat. Fontos folyamatosan követni a bíróságok ítélkezési gyakorlatát is emiatt, hiszen a bíráknak is reagálni kell a változásokra.

A jelen kutatás korlátjaként említeném a kis számú feldolgozott döntést. Talán ennél relevánsabb képet mutatna egy egész Romániára kiterjedő elemzés. Ugyanakkor az összképet akkor lehetne igazán tisztán látni, ha a munkáltatók körében is történne egy mintavétel abban a tekintetben, hogy milyen gyakran és milyen típusú fegyelmi szankciókat szabnak ki, valamint mekkora a bírósági megtámadási rátája ezeknek. Ennek a mintavételnek és az általam végzett kutatásnak az összevetése mégtöbb kutatási kérdésre vagy hipotézisre tudna releváns választ nyújtani.

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# 3P és a romániai önkormányzás — mi kell a sikerhez?

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**Absztrakt**

Napjaink önkormányzataira egyre szélesebb körű és komplexebb feladatkör hárul, ami egyértelműen meghaladja a klasszikus helyi közügyek, valamint a helyben biztosítható közfeladatok körét. Ugyanakkor, a helyi jellegzetességek tükrében, egyre inkább nagyobb szükség van a minél szélesebb körű helyi közérdekű szolgáltatások biztosítására, amelyek egyértelműen a helyi önkormányzatok feladatkörébe kell tartozzanak. Az ilyen jellegű feladatkör ellátása, viszont, olyan pénzügyi források és egyéb források biztosítását feltételezi, amelyekkel az önkormányzatok nem, vagy csak kiváltságos esetekben rendelkeznek. Az előbbi esetekben válik fontossá a magánszféra forrásainak bevonása.

A magántulajdonban levő források felhasználásának intézményes kereteit pedig a köz- és magánszféra közötti együttműködés (**public private partnership vagy 3P**) biztosítja.

A 3P-t, mint a közösségi igények kielégítésének egyik lehetséges útját Romániában ritkán alkalmazzák ezzel a céllal. Ennek lehetséges okai a törvényi megfogalmazás hiányosságai, a törvényes megszorítások sokasága, a szerződő partnerek piaci instabilitása. Természetesen az okok ennél többrétűbbek, pontszerű bemutatásukra a tanulmányban fogok kitérni.

Tény, hogy a 3P megállapodások jó alapját képezhetnék a közszolgáltatások versenyképes biztosításának, de ugyanakkor az oktatási intézmények és egyetemek infrastruktúrájának, ezáltal az oktatás minőségének javításának.

Az ilyen jellegű megállapodások, viszont, kiváló alapját képezhetik a kutatástámogatás, tudásfejlesztés vagy innovációs támogatás biztosításának is, mint történik az Amerikai Egyesült Államokban is, és elvétve Romániában is. Előnyei tagadhatatlanok a versenyképesség és gazdasági fejlődés szempontjából. Jelen tanulmány ezen lehetőségek előnyeire is rá kíván mutatni és választ találni arra, hogy miért nem közismertek ezek a partnerszerződési lehetőségek.

**Kulcsszavak:** önkormányzás, köz és magánszektor szerződéses megállapodás, közszolgálat, versenyképesség.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 342–353

# PPP and Local Governance in Romania — What Does Success Require?

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**Keywords:** local governance, public-private contractual partnership, public service, competitiveness.

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## 1. Bevezetés

A köz és magánszféra közötti együttműködési szerződés közismert fogalommá vált napjainkra, immár jelenséggé nőtte ki magát. Számtalan típusa létezik.

Az 1970-es évek végén, 1980-as évek elején vált ismertté a nyugati angolszász államokban, majd terjedt tovább a nyugat-európai kontinentális államokba. Az Európai Unió intézményes kerete pedig az ilyen jellegű megállapodások elterjedésére katalizátorhatást gyakorolt (Varga 2020, 62). A Közép-Kelet Európai országokban, így Romániában is, az Európai Uniós csatlakozásnak köszönhetően, a 21. század elején jelentek meg az ilyen jellegű együttműködések.

A közel ötven éves tapasztalati háttér ellenére, mint azt a továbbiakban is látni fogjuk, a köz- és magánszféra közötti egyezmények egy elméletileg kevéssé tisztázott területet képviselnek. Számos kérdést vetnek fel úgy a közéletben, mint az üzleti életben. Egyes megközelítések szerint az ilyen jellegű egyezmények csupán egyes szabályozási korlátok megkerülésének függvénye, mások meglátása szerint kulturálisan kötött jelenség, amely csak bizonyos közpolitikai felfogású országokban alkalmazható, megint mások szerint e projektek számos visszaélésre adnak alkalmat, ezért a koncepció sikeressége nem értékelhető (Kozma 2016).

Jelen tanulmányban ezeket a premisszákat, a hatályos jogi kereteket, de mindenekelőtt a köz- és magánszféra közötti együttműködési szerződések gyakorlati vetületeit fogom vizsgálni.

## 2. Terminológia

A köz- és magánszektor szerződéses megállapodás, avagy angolul *Public Private Partnership*[1] (PPP, de a továbbiakban 3P) meghatározásában a szakirodalom nem jutott közös nevezőre, legtöbb esetben az egyezmény sajátosságainak megnevezésével próbálják behatárolni. Ez a sokszínű és tág alkalmazási körnek köszönhetően, területspecifikus meghatározásokat kínál. A nemzetközi szakirodalomban is nehéz egy általános érvényű meghatározást találni, mivel a 3P konstrukciók országonként változóak.

Jelen kutatásban nem egy egységesen elfogadott meghatározás körvonalazását célzom, sokkal inkább a jogi intézmény romániai alkalmazásának feltételeit és sikereit kívánom bemutatni. Ez azért is érdekes feladat, mert a hatályos 3P megállapodásokra vonatkozó törvényt, illetve a közbeszerzésekre vonatkozó törvényt is számos kritika illette, ugyanakkor az ilyen jellegű szerződések ritkán váltották be a hozzájuk fűződő ígéreteket. Kolozsvár tapasztalata a 3P-k terén szintén kudarcosnak mondható. Erre viszont a későbbiekben fogok visszatérni.

Általános értelemben a köz- és magánszféra olyan együttműködését jelenti, amelyben a közfeladathoz kötődő tervezési, építési, működtetési és finanszírozási feladatokat az állam a megszokottnál nagyobb mértékben, ugyanakkor komplexebb módon bízza a magánszektorra. Ugyanakkor, a köz-és magán együttműködés fogalma a közhatalom és a magánszektor, illetve civil szervezetek, üzletember-szövetségek vagy cégek közötti együttműködési módot fejezi ki a minőségi közszolgáltatások biztosítása érdekében.

Ha nemzetközi jogforrások által nyújtott meghatározást keresünk akkor erre talán a legalkalmasabb az európai unió által kidolgozott, 2004-es zöld könyve (Európai Bizottság 2004, 30), amely, mint a neve mutatja nem kötelező jogi aktust jelez, hanem sokkal inkább a jó gyakorlatok mintájára kidolgozott ajánlásokat tartalmaz. A kifejezés olyan együttműködésre utal a köz és a magánszektorból származó alanyok között, amelynek célja valamilyen infrastruktúra finanszírozása, létesítése, felújítása, karbantartása, vezetése vagy valamilyen szolgáltatás biztosítása. A 3P általánosan hosszú távra megkötött szerződés, amelyek esetében a mindkét fél hozzájárul a finanszírozáshoz és vállalják a szerződéssel járó kockázatokat is. A megállapodás célja, mint abban a szakirodalom is egyetért (Horváth 2022), egy

1 Angol megnevezése országonként és intézményenként változik. Így, például Dr. Varga Judit szerint a *Pro Futura* 2016 évi első számában megjelent, „A PPP mint gyűjtőfogalom – közszektor és magánszektor. együttműködés – PPP típusok – közfeladat ellátási alternatíva című kutatásában" (63. oldal, eredeti forrás Yescombe, e.r. Public–Private Partnerships – Principles of Policy and Finance. *Elsevier*, London, 2007, 4.) bankok a PSP kifejezés, vagyis Private-Sector Participation, Észak-Amerikában a P3, míg Ausztráliában a PFP (Privatly-Financed Projects – magánfinanszírozású projektek) rövidítés alkalmazott. Ismert még a P-P Partnership jelölés is, mely azt a célt szolgálja, hogy e szerződések rövidítése ne legyen összetéveszthető a vásárlóerő-paritás purchasing power parity rövidítésével (ppp). Az Egyesült Királyságban és annak hatása miatt Japánban és Malajziában használatos a PFI (Private Finance Initiative) kifejezés, nyersfordításban magánfinanszírozású kezdeményezésként értelmezhető.

közfeladat ellátása – legyen ez közösségi igényeket kielégítő infrastruktúrával összefüggő vagy attól független feladat.

A Zöld könyvet előkészítő munkadokumentumok (Európai Bizottság 2011, 3–4) értelmében a 3P másik általános jellemzője, hogy hozzájárul az általános gazdasági növekedéshez. Ennek egyik magyarázata, hogy az állami költségvetési források szűkössége esetén is lehetővé teszik az infrastrukturális fejlesztések folytatását, továbbá az állam számára a magánszféra hatékony módszereinek és szakértelmének igénybevételét.

A 3P-k meghatározása szempontjából a román jogalkotó sem kívánt, valószínűleg, ha szeretett volna sem tudott volna, egy általános érvényű meghatározást kínálni. A 2018 évi 39-es számú, a köz- és magánszféra közötti együttműködésre vonatkozó sürgősségi kormányrendelet második cikkelyében a törvényhozó megállapítja, hogy:

> *„A köz- és magánszféra közötti partnerség célja, a jelen sürgősségi kormányrendelet keretei közötti, az állami fél tulajdonába tartozó vagyontárgy vagy eszközök megvalósítása vagy adott esetben felújítása és/vagy bővítése és/vagy közszolgáltatás működtetése*." (Guvernul României (Románia Kormánya) 2018, 2. cikk.)

Az európai uniós jog mintájára az együttműködés általános tulajdonságait sorolja fel. Ennek megfelelően, a 39-es számú sürgősségi kormányrendelet értelmében a 3P szerződés:

a. *köz- és magánszereplő közötti együttműködés, amelynek célja egy közhasznú terv megvalósítása;*
b. *a szerződéses kapcsolatok viszonylag hosszú, több mint 5 éves időtartama, amely lehetővé teszi a magánpartner számára a beruházás megtérülését és ésszerű nyereséget;*
c. *a projekt finanszírozása, főként magánforrásokból, és adott esetben magánforrások és közpénz felhasználás révén valósul meg;*
d. *a köz- és a magánszereplő által követett cél elérésének célja;*
e. *a kockázat megoszlása a két fél között, attól függően, hogy az egyes szerződő felek menynyire képesek értékelni, kezelni és ellenőrizni egy bizonyos kockázatot.*

A köz- és a magánszféra közötti együttműködés változatos formákat ölthet, az egyszerű adás-vételi szerződéstől a bonyolult szerkezetű vegyes kereskedelmi társaságokig. A 3P, ennek megfelelően olyan ügyletnek minősíthető, amely a közszolgáltatás nyújtásának vagy a kereskedelmi beruházás megvalósításának teljes felelősségét egy magáncégre ruházza át, miközben az illetékes hatóság irányában megmarad a politikai és sok esetben anyagi felelősség, egyaránt részt vesz a nyereség- és veszteségben. Ide sorolhatók a vegyesvállalati szerződések, bérleti szerződések, lízingszerződések, közös vállalati szerződések, tervezési és kivitelezési szerződések, de a lista folytatható.

A romániai törvénykezés értelmében a 3P megállapodások közüzemi ágazatokban releváns tevékenység végzése céljából is születhetnek (Guvernul României (Románia Kormánya) 2018, 5. cikk).

Általános értelemben a 3P fogalma a közhatalom és a magánszektor, esetenként civil szervezetek, üzletember-szövetségek vagy cégek közötti együttműködési módot fejezi ki a

minőségi közszolgáltatások biztosítása érdekében. Egyik alapvető tulajdonsága a magánforrások és a magánszektor know-how-jának közcélú felhasználása.

A köz- és a magánszféra közötti együttműködés változatos formákat ölthet, az egyszerű adásvételi szerződéstől a bonyolult szerkezetű vegyes cégekig. Azt is meg kell jegyezni, hogy a közszolgáltatások fejlesztéséhez kapcsolódóan a közszférán belüli kapcsolatokat is komplex kölcsönös függőségi viszonyok irányítják.

A 3P főként olyan ügylet, amely a közszolgáltatás nyújtásának vagy a kereskedelmi beruházás megvalósításának felelősségét egy magáncégre ruházza át, miközben az illetékes hatóság továbbra is felelős marad, a nyereség- és veszteség, pedig megoszlik a szerződéses feltételeknek megfelelően.

## 3. *Sedes materiae*

Mint azt már említettem, a 3P jellegű megállapodások először az angolszász jogrendszerekben, majd pedig Nyugat Európában jelentek meg. De a nyugati államok különböző módon szabályozzák ezt az együttműködési lehetőséget.

Az angolszász rendszerek inkább igazgatásszervezési problémaként, a francia közjog a rendkívül kidolgozott és fejlett szerződési struktúrái körében vizsgálja a témát. A német jogi rendszerben, pedig, a közvállalati formák sora alakult ki, a társasági joggal összefüggésben vizsgálva a 3P szerződéseket. A közszerződési alakzatok mindenesetre számos országban alkotnak külön jogi kategóriacsoportot, de ennek kifejezett hiányában is a közfeladat átadásával kapcsolatos viszonyok sajátos tartalma meghatározható e megállapodások specialitásai tekintetében.

Összességében mondható, hogy a kormányzati feladatellátás teljesítése érdekében a köz- és a magánszektor közötti mellérendeltségi kapcsolat jogi és szerződési szolgáltatást illető szervezési viszonyait különböző szabályok komplexen rendezik, amelyeknek bizonyos közös sajátosságai megállapíthatók (Horváth 2022, 1).

Romániában, az *acquis communitarral* összhangban, a 3P szerződésekre is a közbeszerzésre vonatkozó törvényes szabályozások alkalmazhatóak. Jelen tanulmány írásakor Romániában a több ízben módosított és kiegészített 2016. évi 98 számú, törvény szabályozza a közbeszerzéseket (Parlamentul României (Románia parlamentje) 2016a). Ugyanakkor, 2018-ban Románia kormánya sürgősségi kormányrendelettel szabályozta a 3P jellegű megállapodásokat, jelentős módosításokat vezetve be az addig hatályos szabályozásba.

## 4. Kutatási módszertan

Tárgyát és kutatási területét tekintve jelen tanulmányban a 3P megállapodások leírására, törvényi szabályozásának bemutatására, illetve néhány gyakorlati példa megjelenítésére fogok törekedni. Ennek megfelelően a kutatási módszertan is sajátosan inkább kvalitatív, mint kvantitatív kutatási módszerek alkalmazására törekszem. Ezen belül is a dokumentum — és tartalomelemzés lesz a leggyakrabban alkalmazott kutatási módszer, hiszen szükség lesz a hatályos rendelkezések és az egyes „jópéldák", gyakorlatok elemzésére is.

## 5. A 3P megállapodások a román törvénykezésben és gyakorlatban

Mint azt már az előbbiekben bemutattam 2018 óta Romániában törvény erejű kormányrendelet szabályozza a 3P megállapodások feltételeit és alapvető meghatározóit. A kormányrendeletet, miután hat évig már érvényben volt, és kifektette jogi hatásait, csak ebben az évben fogadta el a parlament is. Ami a 3P szerződések megkötési feltételeit illeti, az európai uniós joggal összhangban, a közbeszerzésekre vonatkozó általános szabályok vannak Romániában is érvényben.

Alapvetően, a 3P fő elemei között szerepel: a szerződéses kapcsolat legalább 5 éves időtartama, amely lehetővé teszi a magánfél számára a beruházás megtérülését és ésszerű nyereség elérését; a projekt finanszírozása, amely elsősorban magánforrásokból valósul meg, illetve adott esetben a magánforrások közpénzekkel való kiegészítésével vagy a kockázatok állami- és magánfél közötti elosztása, attól függően, hogy az egyes szerződő felek milyen módon képesek értékelni, kezelni és ellenőrizni a felmerülendő kockázatokat.

Annak függvényében, hogy milyen mértékű a magánszektor részvétele a 3P megállapodásban a törvény kétfajta együttműködést szabályoz:

> *a) köz- és magánszféra közötti szerződéses partnerség – egyrészt az állami fél, másrészt a magánpartner között létrejött szerződéses egyezség, amely értelmében a szerződés végrehajtását egy a magánfél által létrehozott cég valósítja meg;*
>
> *b) intézményi köz-magán társulás – olyan 3P szerződéses megállapodás, amelynek révén az állami partner és a magánfél közösen egy új társaságot alapít, a terv megvalósításának céljával, és amely társulás bejegyzését követően szerződő félé válik* (Guvernul României (Románia Kormánya) 2018, art. 4).

A törvény megfogalmazásából arra a következtetésre jutunk, hogy csak ezt a két megnyilvánulási lehetőséget biztosítja a törvényes keret, egyéb megállapodási konstrukciókra nem ad lehetőséget.

A 3P szerződés megkötésének és az ebből származó kötelezettségek teljesítésének megkezdésének törvényes feltételei:

1. megalapozottsági tanulmány elkészítése, amely a közszférából származó fél kötelezettsége;
2. a megalapozottsági tanulmány elfogadása, központi befektetések esetén a kormány által, helyi illetőségű projektek esetén pedig a helyi döntéshozó fórumok által;
3. a köz- és magánszféra közötti partnerségi szerződés odaítélésére vonatkozó eljárás lefolytatása;
4. a tárgyalások eredményeként létrejött és a közszférából származó fél által kezdeményezett és elfogadott köz-magán társulási szerződés jóváhagyása;
5. a 3P szerződés aláírása;
6. a köz-magán társulási szerződésben rögzített összes felfüggesztő feltétel teljesítése, beleértve a pénzügyi lezárást is. A pénzügyi lezárás meghatározását is a törvény adja, miszerint „a köz- és magánszféra közötti partnerségi szerződésben és a köz- és

a magánszféra közötti partnerségi szerződés finanszírozóival kötött finanszírozási szerződésben vagy szerződésekben meghatározott szakasz, amely azt az időpontot jelenti, amikor a finanszírozók fizetési kötelezettségének hatálybalépéséhez szükséges valamennyi feltétel adott, így a rendelkezésre álló forrásokat a köz-magán társulási szerződés finanszírozásához szükséges biztosítani." (Guvernul României (Románia Kormánya) 2018, 6. szakasz, h. pont)

A szerződés aláírását követő 30 napon belül a közszférai fél köteles a szerződés egy másolatát elküldeni a statisztikai hivatalnak.

A 3P hatályának meghatározásakor a felek, mindamellett, hogy legkevesebb 5 éves időtartamra kötik a szerződést figyelembe kell vegyék, hogy elkerüljék a verseny bármelynemű mesterséges korlátozását, ésszerű nyereség biztosítása a magánfél számára, a projekt tárgyát képező szolgáltatások ésszerű és elviselhető árszintjének biztosítását.

A szerződésnek rendelkeznie kell azokról a javakról, árukról vagy árukategóriákról, amelyek a szerződés időtartama alatt vagy annak megszűnésekor az állami partner, illetve a projekttársaság tulajdonába kerülnek, ideértve adott esetben: a szerződés teljesítése során a magánpartner vagy a projektcég által vállalt beruházások megvalósítása eredményeként megvalósult javak vagy áruk; azokat az eszközöket, amelyeket a projekttársaságnak át kell ruháznia az állami partnerre, ha a köz-magán társulási szerződés bármilyen okból megszűnik; azokat az árukat és javakat, amelyeket az állami partnernek lehetősége van megvenni a köz-magán társulási szerződés bármilyen okból történő felmondása esetén; azokat az árukat, amelyek a projektcég tulajdonában maradnak a köz-magán társulási szerződés bármilyen okból történő megszűnésekor.

Ugyanakkor, az állami partnernek joga van a partnerségi szerződés teljes időtartama alatt figyelemmel kísérni és ellenőrizni, hogy a magánpartner és/vagy a projekttársaság hogyan teljesíti a köz- és a magánszféra közötti partnerségi szerződésből és/vagy a projektből eredő kötelezettségeit. az alkalmazandó jogszabályi rendelkezéseket.

A magánfél az árukat, szolgáltatásokat vagy a koncessziós munkákat semmilyen esetben sem adhatja tovább, és nem bízhatja másra a szerződés tárgyának megvalósítását. Kivételt képeznek a törvényben leszögezett *vis maior* esetek. Hasonlóan, a magánpartner nem ruházhatja át vagy nem terhelheti meg a köz-magán társulási szerződésből eredő saját jogait és kötelezettségeit.

A törvény értelmében a magánfél nem rendelkezhet, így nem idegenítheti el és nem terhelheti, társaságban birtokolt részesedését, kivéve az állami partner és a projekt finanszírozóinak kifejezett és előzetes hozzájárulása esetén, illetve a törvényben meghatározott *vis maior* esetekben (Guvernul României (Románia Kormánya) 2018, 42. szakasz).

## 6. Néhány 3P megállapodás Romániában

2006-tól napjainkig több projekt megvalósítása is köz- és magánszféra együttműködésén alapult volna. Olyan nagyszabású tervek megvalósítását tervezték 3P megállapodások révén megoldani, mint például a bákói, brassói, jászvásári, nagyváradi, brăilai vagy krajovai

repülőterek, a bukaresti metró, a kolozsvári és temesvári kórházak, a kolozsvári szálloda, a padinai és csíki üdülőhelyek, valamint a nyilvános parkolók Bukarestben, Temesváron, Nagyváradon és Brassóban. Ide tartozik még a brassói Forma-1-es pálya, illetve az európai forrásokból támogatott hulladékégetők Brassóban vagy Bukarestben.

Az ilyen projektek többsége azonban „elhalt útközben". Csak néhány jutott el a végső szakaszig, és még kevesebb valósult meg. Eközben Magyarországon, Horvátországban, Szerbiában, Csehországban, Szlovákiában, Bulgáriában, sőt Albániában is számos infrastrukturális projekt valósult meg köz- és magánszféra együttműködésében, a repülőterektől az autópályákon, kórházakon, stadionokon és parkolókon át a pályaudvarokig, terminálokig, kikötőkig és börtönökig.

Az első sikeresnek mondható, nagyobb horderejű 3P befektetés Romániában, talán, a bukaresti belvárosi parkoló megépítése (Barbu 2012). A befektetést 2012-ben fejezték be és mintegy 425 személygépkocsinak és 12 motorbiciklinek biztosít parkolóhelyet.

Az együttműködés értelmében, a mintegy 10 millió eurós befektetést a magánfél valósította meg, a Bukaresti Főpolgármesteri Hivatal tulajdonában lévő területen, ezzel párhuzamosan a parkolóház működtetéséből származó éves jövedelem 2%-a is megillette a magánbefektetőt. Azon kevés információból, ami a nagypublikum számára elérhető[2], kiderül, hogy napjainkban is az Interpark nevű magánbefektető a parkolóház működtetője[3] és az elmúlt években profittal zárta ezt a tevékenységet. Az is kiderült, hogy a működésük első éveiben veszteséges volt a parkolóház működtetése, az általuk alkalmazott órabér meghaladta a bukaresti önkormányzat által alkalmazott tarifákat. Ugyanakkor az önkormányzat rendelkezésére álló közel 8.000 parkolóhelyből, csupán 2.848 parkolóhelyet működtettek tarifás rendszerben[4].

Ez 2017-ben változott meg, amikor az akkori főpolgármester megemelte a parkolási órabéreket a belvárosi parkolók esetében.

Nem egészen egyértelmű, hogy ennek tudhatóan vagy pedig más okok miatt, de a magánfél, korábbi ígéretei ellenére, több 3P-s megállapodást nem kötött Bukarest Főpolgármesteri Hivatalával, így az előzőleg beharangozott további parkolók megépítésére nem került sor.

Ezzel párhuzamosan, az évek alatt a kormány számos projektet jelentett be nyilvánosan, amelynek a célja a magánbefektetők vonzása volt. Így kórházak, autópályák, a cernavodai atomerőmű 3. és 4. blokkja, illetve számos más projekt szintén 3P együttműködés kereteiben kellett volna elkészüljön. Csak 2011-ben több mint egy tucat projekt megvalósítását tűzte célul a Boc-kormány, amelyek magánforrásokkal, magántőke befektetésével kellett volna elkészüljön. A Dăncilă-kormány 2019-ben nem kevesebb mint 21 stratégiai projektet

2 Hivatalos megkeresés ellenére sem szolgáltatott további információkat sem a Főpolgármesteri Hivatal, sem pedig az Interpark nevű kereskedelmi társaság.

3 49 évre megkötött koncessziós szerződés értelmében.

4 Egy 2017-ben elkészített a bukaresti parkolók működtetésére vonatkozó megalapozottsági tanulmány által felmutatott adatok, szerint, forrás: https://doc.pmb.ro/institutii/cgmb/dezb_publica/sedinte/proiecte_2018/04_20180207.pdf.

jelentett be, amelyeket köz- és magánszféra együttműködésben kívánt megvalósítani. Sajnos ezek a projektek mai napig sem valósultak meg.

**Kolozsvár példája** sem alakult másként. A 2006-ben útjára indított, ifjúsági negyed néven ismert 3P, az önkormányzat és egy magánbefektető közötti együttműködési szerződés egyik negatív példája a város számára.

A megállapodás értelmében az önkormányzat mintegy 203 hektár területére lakópark létesült volna, a befektetést a magán fél valósította volna meg, a megépített lakásokból 384 lakás önkormányzati tulajdon lett volna.

A megállapodás értelmében a felek létrehozták a Cartierul Tineretului nevű céget, amelyben az önkormányzatnak 51% részesedése, míg a Polus Real Estate nevű vegyes, román-külföldi, tőkéjű magánfélnek 49% részesedése volt. A helyi közigazgatás 203 hektárnyi, akkoriban 28.705.860 lejre becsült földterülettel, a cég pedig 27.580.140 lejjel járult hozzá a negyed megépítéséhez.

A közel 6.000 tervezett lakáson kívül, melyből csupán 384 lett volna szociális lakás és amelyeket az önkormányzat tulajdonába kellett volna átadni, egyéb beruházások megvalósítása is a magánfél kötelezettsége lett volna, mint például bölcsőde, óvoda, általános iskola és középiskola, egészségügyi központok, kórház, négy imahely, városi és közigazgatási szolgáltatások: városháza, rendőrség, posta, bank, kultúrház, tűzoltók, üzletek, galériák, bevásárlóközpontok, de hipermarket is. A teljes beruházás becsült értéke meghaladta az 510 millió eurót (Lespuc 2023).

A város fejlesztését célzó projekt azonban fiaskónak bizonyult. A magánbefektető nem tudta megvalósítani a beruházást. Ebben az esetben a problémát a magánfél, a Polus Real Estate részvényesei közötti botrány okozta, a romániai és a külföldi részvényesek közötti huzavona miatt a befektetés nem valósulhatott meg.

2010-ben, a Polus Real Estate amerikai befektetői javasolták a projekt átalakítását lakónegyedből fotovoltaikus parkká. Javaslatukat a helyi képviselő-testület elfogadta és megszavazta. Közvetlenül azután, hogy a helyi tanács jóváhagyta az ifjúsági negyed fotovoltaikus parkká történő átalakítását, a Polus Real Estate cég egyik partnere kérte a döntés bírósági megsemmisítését. 2014-ben a Marosvásárhelyi Fellebbviteli Bíróság végleges döntése értelmében a projekt átalakítására vonatkozó önkormányzati döntés semmisnek lett nyilvánítva.

A kolozsvári önkormányzat és a Polus Real Estate végül bíróságon követelte jogait a 203 hektáros földterület kapcsán. 2021 márciusában a Kolozs Megyei Törvényszék úgy döntött, hogy a Polus Real Estate-nak ki kell fizetnie Kolozsvár önkormányzata felé 61.814.827 eurót, az ingatlanbefektető által ígért közel 400 szociális lakás értékét. A határozat ellen fellebbezést nyújtottak be, és az ügyet át helyezték a Gyulafehérvári Ítélőtáblához . Az ügyben azóta sem született végleges bírói döntés.

A projekt kivitelezésével kapcsolatosan számos per volt, a befektetők között, befektetők és a Városháza között, a Cartierul Tineretului Cluj cég között. és a Számvevőszék stb., némelyik még ma sem ért véget. Jelenleg is folyamatban van a Cartierul Tineretului Cluj cég felszámolása.

Ellenben vannak pozitív példák is, ilyennek minősíti Kolozsvár Önkormányzata a Iulius Park, köz- és magánszféra együttműködési modellt, amely a követendő jógyakorlatok sorát erősíti, habár itt kell megjegyezni, hogy kisebb volumenű befektetésről beszélünk.

A Iulius Park projektet a Iulius Group magánfél valósította meg a Kolozsvár Polgármesteri Hivatalával és a Kolozs Megyei Tanáccsal együttműködve. A beruházás értéke meghaladja a 2 millió eurót. A Nyugati-tó melletti, önkormányzati tulajdonban lévő területet mintegy 10.000 négyzetméternyi speciális pázsittal, valamint több mint 18.000 különböző méretű fával és cserjével parkosították. E mellett a tó fölé függesztett pontonhíd, kerékpáros és futópálya, sétányok és egyéb pihenőterek is kialakításra kerültek, miközben a területet véglegesen lezárták az autók elől.

A felek közötti egyezmény a 2018 évi 39 számú sürgősségi kormányrendelet előtt köttetett, ezért a már említett szabályok nem vonatkoznak az együttműködésre, az akkor hatályban lévő 2016 évi 233 számú, a köz és magánszféra közötti partnerségekre vonatkozó törvény (Parlamentul României (Románia parlamentje) 2016b), gyakorlatba ültetési normák hiányában, pedig gyakorlatilag soha nem volt alkalmazható.

## 7. Következtetések

A fenti rövid áttekintés is azt bizonyítja, hogy kevés sikeres nagyszabású 3P befektetést sikerült megvalósítani az országban. Így, óhatatlanul felmerül a kérdés, hogy mi ennek az oka.

A Deloitte[5] közismert tanácsadó cég elemzése szerint ennek az alábbi okai vannak:

Az a téves felfogás miszerint a befektetés kivitelezésében és utólagos finanszírozásában a hatóságnak minimális szerepe van és mindez a magánfél kötelezettségi körébe tartozik.

Túlzott bürokrácia és szabályozás, ami megnehezíti a köz- és magánszféra együttműködések végrehajtását, ugyanakkor a szerződés tárgyát túl kockázatossá és túl bonyolulttá teszi a magánbefektetők számára.

Eltökéltség és türelem hiánya a PPP-projektek közbeszerzési eljárásainak előkészítésében és végrehajtásában (Mucibabici 2018).

Mindezek mellett, a tanácsadó cég szerint, legalábbis a huszadik század első évtizedében Romániában, általános gondot jelentett a korrupció, amely egyrészt arra készteti a becsületes befektetőket, hogy tartózkodjanak a PPP típusú projektekbe való befektetéstől, másrészt megbénítja a politikai döntéshozatalt.

Jelenleg a törvényileg szabályozott 3P szerződések megkötésének nagyon szigorú feltételei jelentenek gátló tényezőt, legalábbis személyes meglátásom szerint, ezáltal, kisebb horderejű befektetések esetében egyenesen elbátortalanítják a magánbefektetőket. Egyik ilyen felététel a közös kereskedelmi társaság létrehozása, amely, mint említettem, kisebb projektek esetében, mint például egy park, játszótér, vagy zöldterület létrehozása esetében, olyan

5 Romániában és a Moldovai Köztársaságban a legnagyobb pénzügyi, adózási tanácsadó cég.

körülmények között, hogy nem hoz közvetlen nyereséget a magánfél számára, túlzott formaiságnak tekinthető.

Mindezek mellett a 3P megállapodások jelentőségét nem lenne szabad mellőzni, még akkor sem, ha az Európai Uniós finanszírozásoknak köszönhetően több befektetés kivitelezése lehetővé vált az önkormányzatok számára és nem függenek a magánszféra tőkéjétől. Az ilyen jellegű megállapodások jelentősége abban rejlik, hogy az infrastrukturális kiadásokra szánt állami költségvetést megkímélve lehet nagy horderejű befektetéseket megvalósítani és az ilyen módon felszabaduló forrásokat pedig olyan társadalmi célok megvalósítására lehetne fordítani, amelyek szükségesek a társadalom fejlődéséhez. Csak példaképpen említeném az oktatás, az egészségügy, a közszolgáltatások és szociális szolgáltatások területét, amelyek továbbra is alulfinanszírozottak.

A túlzott szabályozások ellenére napjainkban is vannak jó példák a klasszikus értelemben vett 3P együttműködéseknek, ezalatt olyan esetekre gondolok mikor csak a magán és közszféra közötti együttműködést tekintjük, annak intézményes és törvényi hátterét mellőzve. Ilyenek lehetnek például szociális téren a helyi akciócsoportok, amelyek célja helyi területi stratégiák kidolgozása és a stratégia gyakorlatba ültetése céljából, EU-s alapok bevonásával, különböző tevékenységi körök finanszírozása. A helyi akciócsoportok tagjai az önkormányzatok mellett, a helyi tanintézmények, szociális tevékenységgel rendelkező intézmények és civil szervezetek, érdekképviseleti szervezetek és nem utolsó sorban kereskedelmi társaságok.

Szintén ide sorolhatóak a duális oktatásban használt szerződések, amelyek az iskolai intézmények és magántársaságok, illetve önkormányzatok között köttetnek azzal a céllal, hogy a tanulók gyakorlati oktatását biztosítsák, a munkaerőpiac igényeinek megfelelően.

Érdekes példaként említhetők az urbanisztikai együttműködési szerződések is, amelyek tág értelemben véve a 3P együttműködési szerződések kategóriájába tartoznak, hiszen az önkormányzatok és egy magán ingatlanfejlesztő között köttetnek azzal a céllal, hogy a törvényes keretek között bizonyos urbanisztikai engedmények fejében a magánbefektető infrastrukturális beruházásokat valósítson meg.

Valószínűleg több ilyen gyakorlati példát meg lehetne említeni, ami közös ezekben a példákban, hogy nem a fenti rendelkezéseknek megfelelő keretek között jöttek létre, több esetben külön szabályozás teszi megkötésüket lehetővé, illetve, hogy egyértelműen a közérdek kielégítése a céljuk. Jelentőségüket, ezért, nem lehet és nem is szabad megkérdőjelezni.

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# Az állampolgári e-részvétel meghatározói a posztkommunista EU-tagállamokban

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**Absztrakt**

A kutatás az állampolgári e-részvételt meghatározó tényezőket vizsgálta a posztkommunista EU-tagállamokban. A meghatározó tényezők terén különösen az e-kormányzat fejlettségi szintjének, a digitális kompetenciák szintjének és a politikai bizalom szintjének hatása került előtérbe. A kutatás azt vizsgálta, hogyan hatnak ezek a tényezők az állampolgárok digitális eszközök és megoldások segítségével történő részvételére.

A kutatás a 11 posztkommunista EU-tagállamra vonatkozó, az Egyesült Nemzetek E-kormányzati Indexéből, az Eurostat Digitális Készségek Indikátorából és az Eurobarometer felméréséből származó adatokra épült. A változók közötti összefüggések vizsgálata korrelációs és regressziós elemzés által valósult meg.

Az eredmények megerősítik az e-kormányzat fejlettségi szintjének fontosságát az állampolgári e-részvétel szempontjából, azonban a digitális kompetenciák és a politikai bizalom hatása a vizsgált államokban nem bizonyult jelentősnek.

**Kulcsszavak:** e-részvétel, e-kormányzat, digitális kompetenciák, politikai bizalom, posztkommunista EU-tagállamok.

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# Determinants of E-Citizen Participation in Post-Communist EU Member States

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**Keywords:** e-participation, e-government, digital competencies, political trust, post-communist EU member states.

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## 1. Bevezetés

Az információs és kommunikációs technológiák (IKT) fejlődése új lehetőségeket teremt a modern társadalmak számára, megkönnyítve az állampolgárok hozzáférését a közérdekű információkhoz, véleményük kinyilvánítását, valamint interakciójukat az állami intézményekkel és a társadalom többi szereplőjével. Ezáltal az IKT hozzájárulhat az állampolgári részvétel fokozásához és a demokratikus folyamatok megerősítéséhez.

A digitális megoldások segítségével megvalósuló állampolgári részvétel, amelyet e-részvételként is említhetünk, szoros összefüggésben áll az e-kormányzat fejlettségével. Az e-kormányzati megoldások nemcsak a közszolgáltatások online módon történő elérését teszik lehetővé, hanem a demokratikus folyamatokba való bekapcsolódás új formáit is elősegítik. Bár az e-kormányzat hozzájárulhat az állampolgári részvételt növekedéséhez, ennek mértékét további aspektusok is befolyásolhatják, például az állampolgárok sajátos társadalmi-kulturális háttere vagy éppen digitális kompetenciái.

Felmerül a kérdés, hogy az állampolgárok rendelkeznek-e az e-kormányzat által kínált lehetőségek kihasználásához szükséges digitális készségekkel és erőforrásokkal, valamint, hogy a kulturális tényezők milyen módon befolyásolják a részvételi hajlandóságot. A társadalmi és kulturális háttér meghatározó szerepet tölt be az e-kormányzat elfogadásának tekintetében (Adnan *et al*., 2022), és az egyéni viselkedésre gyakorolt erős befolyása révén befolyásolhatja az e-részvételi hajlandóságot (Syam *et al*., 2024).

Az Európai Unió tagállamai eltérő politikai és kulturális háttérrel rendelkeznek, azonban a posztkommunista EU-tagállamok, közös történelmi múltjuknak köszönhetően, olyan sajátos politikai és gazdasági jellemzőkkel bírnak, amelyek befolyásolhatják az állampolgári részvétel és e-kormányzat alakulását, és az állampolgárok ezekhez való viszonyulását.

Ezen tagállamokban — Bulgária, Csehország, Észtország, Horvátország, Lengyelország, Lettország, Litvánia, Magyarország, Románia, Szlovákia és Szlovénia — az állami intézmények iránti bizalmatlanság, a civil kezdeményezésekben és politikai folyamatokban való alacsony részvétel, valamint a változásokkal szembeni ellenállás kihívást jelenthet az e-kormányzat gyakorlatba ültetése és e-részvétel elterjedése szempontjából.

A kutatás célja megvizsgálni, melyek azok a tényezők, amelyek befolyásolják az állampolgári e-részvételt a posztkommunista EU-tagállamokban. Ennek megértéséhez az említett államok e-kormányzati fejlettségi szintje, az állampolgárok digitális kompetenciájának szintje és politikai bizalma is vizsgálatra kerül.

A kutatás első része a szakirodalom rövid áttekintését tartalmazza, amely bemutatja az e-részvételt, e-kormányzatot, digitális kompetenciákat és politikai bizalmat. Ezt követi a módszertan részletes leírása. Az eredmények bemutatása és értelmezése után a kutatás a fő következtetések és javaslatok bemutatásával zárul.

## 2. Szakirodalmi áttekintés

### 2.1 Állampolgári részvétel

Simonofski *et al*. (2024) szerint 'az állampolgári részvétel bármely olyan folyamat, amelyben az állampolgárok önkéntesen befolyásolhatják a kormány döntéshozatali és adminisztratív feladatait' (saját fordítás, p. 1). Egy másik megközelítés, hasonlóképpen határozza meg ezt a fogalmat, kiemelve, hogy 'az állampolgári részvétel bármely olyan önkéntes cselekvésre utal, amelynek célja a közpolitikai döntéshozatal és a közös ügyek irányításának befolyásolása' (Tejedo-Romero *et al*., 2022, p. 1, saját fordítás).

Az állampolgári részvétel több módon is megvalósulhat. Klasszikus formájában a részvétel alatt a demokratikus folyamatokba való bekapcsolódást érthetjük, például a szavazást, petíciók aláírását, konzultációkon való részvételt. Az információs és kommunikáció technológiának köszönhetően, a részvétel akár online is megvalósulhat. Így, ha a fent említett példák IKT segítségével valósulnak meg, digitális részvételről, vagy e-részvételről beszélhetünk, amelyeket szinonimaként kezel a jelen tanulmány. Bár az állampolgári részvétel fent említett, tág meghatározásai magukba foglalhatják a digitális részvételt is, egy precízebb megközelítést is használhatunk. Tejedo-Romero *et al*., (2022) az online kommunikációs eszközök révén megvalósuló részvételként határozza meg az e-részvételt.

A digitális részvétel különböző szinteken megvalósuló részvételi formákat foglal magába. A jelen tanulmányban az Egyesült Nemzetek Szervezete által létrehozott E-Részvételi Indexben (EPI) megjelenő értelmezést használom, amely szerint az e-részvétel magába foglalja az IKT segítségével megvalósuló informálást, konzultációt és döntéshozatalba való bevonást (ENSZ, 2024 a). Így, az e-részvétel legalapvetőbb, egyirányú formája az információ online kommunikációs eszközök felhasználásával történő közvetítése az állampolgárok felé. Egy fejlettebb formája a már interakciót is igénylő, ugyancsak IKT segítségével megvalósuló konzultáció, amely által az állampolgárok megoszthatják nézőpontjaikat valamilyen

közérdekű kérdéssel, közpolitikával kapcsolatban. Emellett, az e-részvétel magába foglalja az állampolgárok közvetlen bevonását a döntéshozatali folyamatokba digitális eszközök és szolgáltatások segítségével.

A jelen tanulmány az állampolgári részvétel digitális eszközök és szolgáltatások segítségével történő módjára, azaz az e-részvételre fókuszál. Ennek értelmében, az IKT és az e-kormányzat fejlődésének hatása az állampolgári részvételre nem elhanyagolható.

## 2.2 E-kormányzat

Troitiño *et al*., (2024) úgy határozza meg az e-kormányzatot, mint 'az információs és kommunikációs technológiák (IKT) használata a kormányzási folyamatok hatékonyságának és eredményességének fokozása érdekében' (saját fordítás, p. 1).

Az e-kormányzati erőfeszítések három nagy csoportba oszthatók a kiszolgált célcsoport szerint. Beszélhetünk olyan kezdeményezésekről, amelyeket az állampolgárok számára dolgoztak ki, és amelyek ezen csoport által használt szolgáltatásokra irányulnak. Továbbá, megemlíthetjük a magánszervezetek és az állam közötti interakciót célzó kezdeményezésekről. Harmadsorban pedig megemlíthetjük azokat az e-kormányzati erőfeszítéseket, amelyek a különböző közigazgatási intézmények közötti kapcsolatot segítik elő (Adnan *et al*., 2022).

A jelen kutatás azokra az e-kormányzati megoldásokra összpontosít, amelyek az állampolgárok és a közigazgatás különböző szintjei és intézményei közötti interakciót célozzák, tehát az állampolgárok számára kínálnak információt és szolgáltatásokat.

Az internet és kommunikációs technológia fejlődésének köszönhetően az e-kormányzat használata egyre népszerűbbé vált, és fontos szerepet játszik a modern demokráciák életében. Ahogy ezt Torres *et al*., (2005) is kiemeli, az információs és kommunikációs technológia nagy mértékben hozzájárul az állampolgárok döntésekbe való bevonásához, ezáltal nagyobb legitimitást és átláthatóságot biztosítva a közpolitikai folyamatoknak.

Az e-kormányzati eszközök elérhetősége és minősége nagy mértékben elősegítheti vagy éppen gátolhatják az állampolgárok és a közigazgatás közötti interakciót és az e-részvételt, így a kettő közötti kapcsolat vizsgálata nem elhanyagolható. Ennek alapján feltételezhetjük, hogy a fejlettebb e-kormányzattal rendelkező államokban az állampolgári részvétel is magasabb.

## 2.3 Digitális kompetenciák

Bár az IKT felhasználása és az e-kormányzati eszközök új részvételi lehetőségeket teremtenek az állampolgárok számára, nem feltétlenül oldják meg a részvételi egyenlőtlenségek kérdését, sőt, akár nagyobb egyenlőtlenséghez is vezethetnek. Ennek oka, hogy felhasználásukhoz olyan erőforrásokra (pl. internet hozzáférés) és kompetenciákra van szükség, amelyekkel egyes társadalmi csoportok nem rendelkeznek (Vicente & Novo, 2014). Így ezen csoportok számára a részvétel megnehezedett. A harminc európai országot felölelő vizsgálatában Pásztor (2016) kiemeli, hogy 'a kormányzati szolgáltatások igénybevétele és a technikai-ismereti alapok között szoros korreláció figyelhető meg' (p. 204).

Az e-részvétel vizsgálata során kulcsfontosságú a rendelkezésre álló eszközökön és gyakorlatba ültetett politikákon túlmenő szemléletet alkalmazni. Meghatározó szerepet tölthet be ugyanis az, hogy az állampolgárok mennyire képesek élni a rendelkezésre álló e-közigazgatási megoldásokkal. Ha az állampolgárok digitális készségei nem kellően fejlettek, a rendelkezésre álló digitális eszközök és szolgáltatások nem segíthetik elő a részvételt.

### 2.4 Politikai bizalom

Ugyanakkor, nem a digitális kompetencia szint az egyetlen tényező, ami meghatározhatja az e-kormányzás hatásosságát, és annak kapcsolatát az állampolgári részvétellel. Ezt Pásztor (2016) is kiemeli, arra figyelmeztetve, hogy a digitális kompetenciák mértéke mellett más tényezők is fontos szerepet játszhatnak az e-kormányzat elfogadottságában és használatában. Pásztor felhívja a figyelmet arra, hogy 'az állampolgárok attitűdje az e-közigazgatási szolgáltatások használata irányába' (Pásztor, 2016, p. 205) nem elhanyagolható.

Az, hogy az állampolgárok mennyire bíznak meg az államban és annak intézményeiben fontos szerepet játszik a digitális szolgáltatások használatára való hajlandóságban és az állampolgári részvétel szempontjából is kulcsfontosságú. Adnan *et al*., (2022) is kiemeli ezt a következtetést irodalmi áttekintésében, hangsúlyozva a bizalom szerepét az állampolgárok e-részvételi hajlandósága tekintetében.

Kovács et al., (2004) is kitér a bizalom fontosságára. A szerzők a társadalmi bizalom fenntartását az e-kormányzat hatékonyságának mércéjeként is kezelik. Ugyanakkor, fordított perspektívából is vizsgálják a bizalom kérdését, kiemelve a bizalom szerepét az e-kormányzati törekvések elfogadását illetően.

Így tehát, a bizalom vizsgálata is szükségessé válik az e-részvétel alakulásának megértéséhez. A posztkommunista államok esetében a bizalom kérdése különösen meghatározó lehet, hiszen a történelmi múlt egy, a nyugati államokhoz képest, alacsony politikai bizalommal bíró kultúrát eredményezett.

Tehát elmondható, hogy az e-részvétel mértékének megértéséhez fontos az e-kormányzat fejlettségének vizsgálata, és más tényezők, mint a digitális készségek és a politikai bizalom is jelentős szerepet tölthetnek be. Felmerül a kérdés, milyen hatást gyakorolnak ezek a sajátos politikai és társadalmi örökséget hordozó posztkommunista EU-tagállamokban.

## 3. Módszertan

A kutatás kantitatív módszertanra épül, és másodlagos adatok feldolgozásával vizsgálta az e-kormányzati fejlettség, digitális kompetenciák és politikai bizalom hatását az állampolgári e-részvételre a 11 posztkommunista EU-tagállamban.

A kutatásban az alábbi hipotézisek vizsgálatára került sor:

H1: Az e-kormányzat terén fejlettebb posztkommunista EU-tagállamokban magasabb az e-részvétel szintje.

H2: Az állampolgárok digitális kompetenciájának szintje befolyásolja az e-részvétel szintjét.

H3: Az állampolgárok politikai bizalma befolyásolja az e-részvételt.

A kutatásban vizsgált függő változó az állampolgári e-részvétel. Ezt az Egyesült Nemzetek által összeállított e-részvételi index (E-Participation Index) 2024-es adatai alapján mértem. Az index az online csatornák által megvalósuló informálást, konzultációt és döntéshozatalba való bevonást értékeli, és 0-tól 1-ig pontozza a vizsgált államokat.

Az e-kormányzat fejlettségét az Egyesült Nemzetek Szervezete által létrehozott E-Kormányzat Fejlettségi Index (E-Government Development Index, EGDI) 2024-es adatai alapján mértem (Az ENSZ E-kormányzati Adatközpontja, 2024). Az index figyelembe veszi az online szolgáltatások elérhetőségét, az infrastrukturális fejlettséget és az emberi erőforrásokat. Az EGDI értékei szintén 0 és 1 között mozognak, a magasabb érték magasabb fejlettségi szintet jelölve.

A digitális kompetenciák szintjét az Eurostat Digitális Készség Indikátora (Digital Skills Indicator, DSI) alapján vizsgáltam (Eurostat, 2024a). Az indikátor az állampolgárok digitális kompetenciáit öt dimenzió mentén értékeli: digitális írástudás, információkeresés, kommunikáció és kollaboráció, tartalom-előállítás és biztonság és adatvédelem (Eurostat, 2024b). A vizsgálat során a mind az öt dimenziót magába foglaló mutató került felhasználásra, a DSI legfrissebb, 2023-as adatait dolgoztam fel.

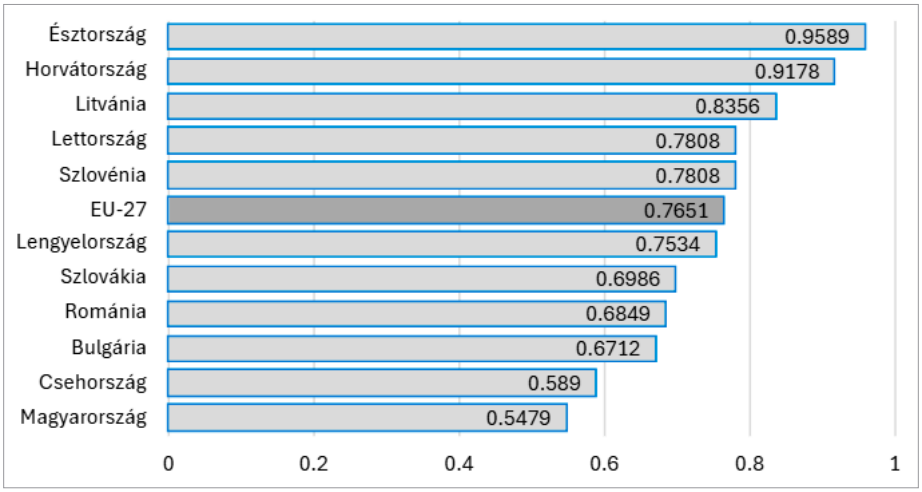
A politikai bizalom mérésére az Eurobarometer 2024 őszi kiadásából származó adatok szolgáltak alapul. A bizalmat a politikai pártok, jogi rendszer, parlament, kormány és helyi és regionális közszervezetek iránti attitűdök mentén létrehozott index által mértem. Az index létrehozásához összeadtam azon válaszadók arányát, akik inkább bíznak a felsorolt intézményekben, majd átlagot számoltam. Az eredeti Eurobarometer-adatok más intézményekbe vetett bizalmat is vizsgálnak (pl. média, nemzetközi szervek, rendőrség), azonban ezek a kutatás fókuszán kívül esnek, ezért nem részei az indexnek.

A fent említett adatokat az SPSS statisztikai program segítségével elemeztem. Először Pearson-féle korrelációs elemzést végeztem a változók közötti kapcsolat vizsgálatára. A korrelációs elemzés eredményei alapján lineáris regresszió segítségével teszteltem az e-kormányzati fejlettség, digitális készségek és politikai bizalom magyarázó erejét az e-részvételi szint tekintetében.

## 4. Eredmények és elemzés

### 4.1 E-részvétel a vizsgált államokban

Ahhoz, hogy egy átfogó képet kapjak az állampolgárok e-részvételről a vizsgált államokban, az ENSZ által kidolgozott E-Részvételi Index (E-participation Index, EPI) adatait használtam fel (Az ENSZ E-kormányzati Adatközpontja, 2024). Az index az e-informálás, e-konzultáció és az e-döntéshozatal mértékét foglalja magába. Az 1. Grafikon bemutatja a posztkommunista EU-tagállamok EPI pontszámát, valamint az EU-27 átlag pontszámát.




1. Grafikon. E-Részvételi Index eredményei

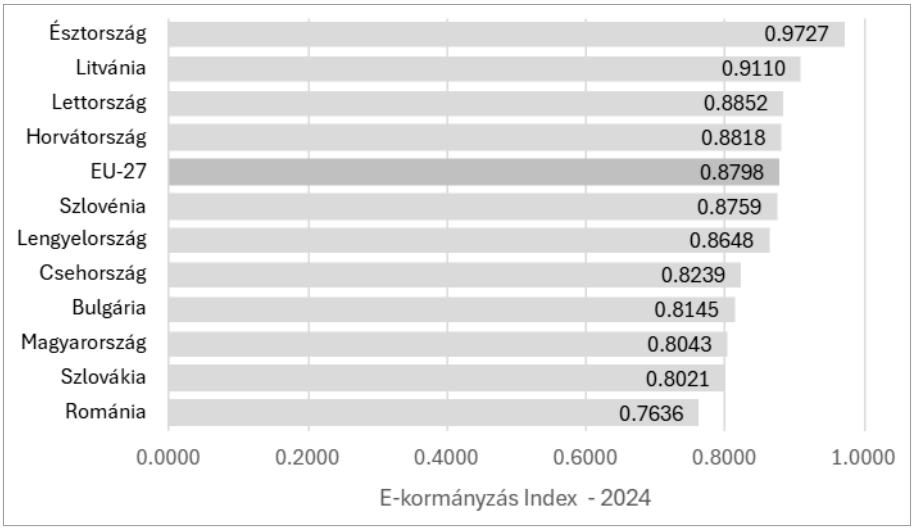
Saját feldolgozás, adat forrás: Az ENSZ E-kormányzati Adatközpontja, 2024. https://publicadministration.un.org/egovkb/Data-Center

Bár az e-részvétel átlag értéke 0,7472, ami nagyon közel áll az EU-27 átlagához és viszonylag magas részvételi arányt jelöl, a szórás értéke 0.12681. Ez arra utal, hogy a vizsgált államok e-részvételi szintjét illetően jelentős különbségek fedezhetők fel. A vizsgált államok közül a két legalacsonyabb e-részvételi indexxel Magyarország (0.5479) és Csehország (0.5890) rendelkezik. Magasabb, de 0.75 alatti értékkel rendelkezik Bulgária, Románia és Szlovákia (0.6712-0.6986). 0.75 feletti értékkel rendelkezik Szlovénia, Lettország és Litvánia, illetve, a vizsgált államok közül a két legmagasabb értékelést elért Horvátország (0.9178) és Észtország (0.9589).

### 4.2 E-kormányzat fejlettségi szintje a vizsgált államokban

A posztkommunista EU-tagállamok EGDI pontszámait a 2. Grafikon mutatja be. Az eredmények átlaga 0.8545, amely nagyon közel áll az EU-27 átlaghoz. Az elemzett államok mindegyike 0.75 feletti eredményt ért el, így a nagyon magas értékelést kapott országok közé sorolható. A 2024-es felmérésben az EGDI által vizsgált államok 39%-a tartozott ebbe a csoportba (ENSZ, 2024 b, p. 37). Bár a szórás értéke alacsony ezen mutató esetében (0.05957) és első ránézésre nincs jelentős különbség a vizsgált államok által elért eredmények között, az EGDI osztályozása alapján árnyaltabb képet kaphatunk az e-kormányzat fejlettségéről.

A nagyon magas EGDI pontszámú államok csoportját tovább oszthatjuk értékelési osztályokra (a pontszám csökkenő sorrendjében): VH, V3, V2, V1. Az osztályozás rámutat az e-kormányzati fejlettség terén fellépő árnyalt különbségekre. Az elemzett államok közül egyedül Észtország tartozik a VH osztályba, a legfejlettebb e-kormányzattal rendelkező országok közé. Ugyanakkor, három állam, Magyarország, Szlovákia és Románia a V1




2. Grafikon. E-Kormányzat Fejlettség Indexének eredményei

Saját feldolgozás, adat forrás: Az ENSZ E-kormányzati Adatközpontja, 2024. https://publicadministration.un.org/egovkb/en-us/Data-Center

osztályba sorolható, amiből jól látható, hogy további lépések szükségesek e-kormányzatuk fejlesztéséhez. Így, annak ellenére, hogy az elemzett államok mindegyike a nagyon magasnak számító, 0.75 feletti értékelést elért államok közé tartozik, a csoporton belül jelentős különbségek figyelhetők meg.

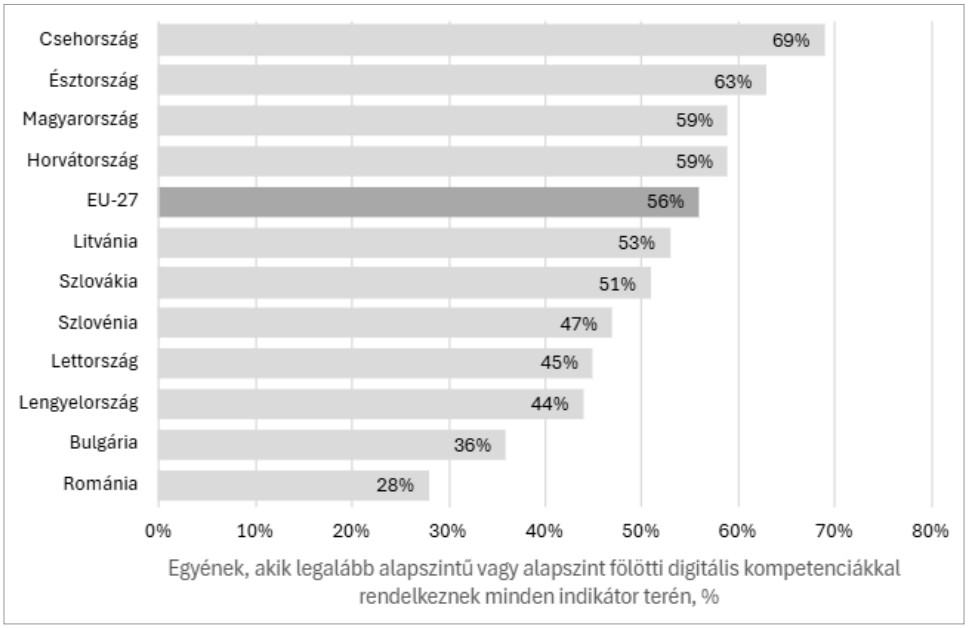
### 4.3 Digitális kompetenciák

A digitális kompetenciák mértékét az Eurobarometer Digitális Készségek Indexének (DSI) segítségével állapítottam meg. A 3. Grafikon mutatja a posztkommunista EU-tagállamok azon állampolgárainak arányát, akik legalább alapvető digitális kompetenciákkal rendelkeznek az index szerint. Ezen mutató esetében jelentős eltérés figyelhető meg azon államok között, amelyekben a legalacsonyabb (Románia) és legmagasabb (Csehország) az alapvető digitális kompetenciákkal rendelkező állampolgárok aránya.

### 4.4 Politikai bizalom

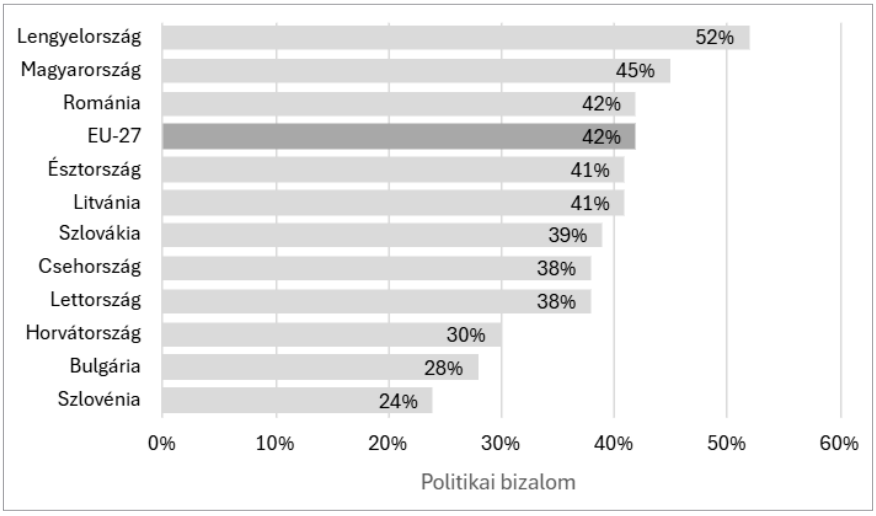
A 4. Grafikon bemutatja a politikai bizalom helyzetét a posztkommunista EU-tagállamokban, illetve az EU-27 átlagát. A jelen kutatásban felhasznált bizalmi index a politikai pártokban, állami jogrendszerben, parlamentben, kormányban, illetve helyi és regionális hatóságokban inkább megbízó állampolgárok arányának átlaga.

A posztkommunista EU-tagállamok lakóinak átlagosan 38% bízik a fent említett intézményekben. Ez a viszonylag alacsony átlag mérsékelt bizalmi szintről árulkodik és az EU-27




3. Grafikon. Digitális Készségek Indexének eredményei

Saját feldolgozás, adat forrás: Eurostat, 2024a.
https://ec.europa.eu/eurostat/databrowser/view/isoc_sk_dskl_i21/default/table?lang=en




4. Grafikon. Politikai bizalmi index

Saját feldolgozás, adatforrás: Eurobarometer, 2024.
https://data.europa.eu/data/datasets/s3215_102_2_std102_eng?locale=en

átlag alatt van. Ugyanakkor érdemes kiemelnünk Lengyelország esetét, ahol azok aránya, akik inkább bíztak az adott intézményekben 52%. Ez az eredmény nagy kontrasztban áll az alacsonyabb pontszámot elért posztkommunista államokkal. A legalacsonyabb bizalmi szint Szlovéniában volt megfigyelhető, ahol mindössze a válaszadók 24%-a bízott meg a felsorolt intézményekben.

### 4.5 Korrelációs vizsgálat

A változók közötti kapcsolat vizsgálata Pearson-féle korrelációs együttható számításával valósult meg. Az 1. Táblázat bemutatja a korrelációs értékeket. A vizsgálat alapján erős pozitív kapcsolat figyelhető meg az e-kormányzat fejlettsége és az e-részvétel között ($r = 0.829$, $p = 0{,}002$), amely arra utal, hogy a fejlettebb e-kormányzattal rendelkező államokban az állampolgári e-részvétel szintje is magasabb, és előzetesen alátámasztja a H1 hipotézist. Ugyanakkor, a digitális készségek, a politikai bizalom és az e-részvétel között nem volt szignifikáns kapcsolat ($p > 0{,}05$), azaz, az adatok alapján a digitális kompetencia szint és a politikai bizalom mértékének közvetlen hatása az e-részvételre nem egyértelmű, így a H2 és H3 hipotézisek nem kapnak megerősítést a korrelációs elemzés alapján. Ez a meglepő eredmény ellentmond azon korábbi kutatásoknak, amelyek szerint a digitális kompetenciák és a bizalmi szint szorosan kapcsolódnak az e-részvételhez.

1. Táblázat. Korrelációs elemzés eredménye

| Változók | E-részvétel | E-kormányzati fejlettség | Digitális kompetencia szint | Politikai bizalmi szint |
|---|---|---|---|---|
| E-részvétel | 1 | **0.829 (p=0.002)** | 0.116 (p=0.734) | -0.176 (p=0.606) |
| E-kormányzati fejlettség | 0.829 **(p=0.002)** | 1 | 0.434 (p=0.182) | -0.046 (p=0.894) |
| Digitális kompetencia szint | 0.116 (p=0.734) | 0.434 (p=0.182) | 1 | 0.063 (p=0.855) |
| Politikai bizalmi szint | -0.176 (p=0.606) | -0.046 (p=0.894) | 0.063 (p=0.855) | 1 |

### 4.6 Lineáris regresszió

A korrelációs elemzés eredményeit követően lineáris regresszió segítségével vizsgáltam az e-kormányzat fejlettségének magyarázó hatását az e-részvételre nézve. Bár a digitális készségek és a politikai bizalom szintje nem mutatott jelentős korrelációt az e-részvétel szintjével, ezeket is bevontam a modellbe, hogy ellenőrizzem lehetséges befolyásukat egy többváltozós összefüggésben. A lineáris regresszió eredményei a 2. Táblázatban láthatók.

A lineáris regresszió eredményei azt mutatják, hogy a vizsgált változók közül az e-kormányzat fejlettségi szintje az egyetlen szignifikáns változó az e-részvétel előrejelzésében

2. Táblázat. Regressziós elemzés eredménye

| Változó | B (Nem standardizált együttható) | Std. Hiba | Beta (Standardizált együttható) | t-érték | Szig. (p-érték) |
|---|---|---|---|---|---|
| Konstans | -0.758 | 0.357 | - | -2.125 | 0.071 |
| E-kormányzati fejlettség | 2.020 | 0.427 | 0.949 | 4.729 | 0.002 |
| Digitális kompetencia szint | -0.003 | 0.002 | -0.289 | -1.439 | 0.193 |
| Politikai bizalmi szint | -0.181 | 0.287 | -0.114 | -0.631 | 0.548 |

(B = 2.020, p = 0.002). Ez megerősíti a H1 hipotézist, ugyanakkor a H2 és H3 hipotézis nem igazolódott. A digitális kompetencia szint és a politikai bizalom nem mutattak jelentős hatást az e-részvételre nézve (p = 0.193 és p = 0.548), így arra következtethetünk, hogy ezek a változók nem befolyásolják releváns módon az állampolgári e-részvételt a posztkommunista EU-tagállamokban. A modell magyarázóereje magasnak tekinthető ($R^2$ = 0.773, korrigált $R^2$ =0.675, std. hiba = 0.072), azaz a független változók az e-részvétel variációjának 77.3%-át magyarázzák. Ugyanakkor, mivel a digitális kompetencia szint és a politikai bizalmi szint hatása nem releváns, az e-kormányzat fejlettségi szintje a legfontosabb tényező az e-részvétel alakulásában.

## 5. Következtetések és javaslatok

A kutatás célja az volt, hogy megvizsgálja az e-kormányzati fejlettség, a digitális kompetencia szint és a politikai bizalom hatását az állampolgári e-részvételre a posztkommunista EU-tagállamokban. Ezen kapcsolatok vizsgálata korrelációs és regressziós elemzés által valósult meg.

Az eredmények rávilágítottak arra, hogy a posztkommunista EU-tagállamokban az állampolgári e-részvétel hasonló mértékben valósul meg. Az e-kormányzat fejlettsége tekintetében is felismerhetünk hasonlóságokat, a vizsgált államok mind a nagyon magas EDGI értékelést elért államok csoportjába tartoznak, ugyanakkor a csoporton belül látványos eltérések figyelhetők meg.

Az elemzés alapján, az e-kormányzati fejlettség és az állampolgári e-részvétel között erős szignifikáns kapcsolat létezik, így a H1 hipotézis (az e-kormányzat terén fejlettebb posztkommunista EU-tagállamokban magasabb az e-részvétel szintje) igazolást nyert. Tehát, a vizsgált államoknak fokozottan figyelniük kell a jelenlegi e-kormányzati fejlettségi szint fenntartására és javítására ahhoz, hogy elősegítsék az állampolgári e-részvétel fejlődését.

A legnagyobb különbségek az államok digitális kompetencia szintjének vizsgálatakor mutatkoztak. Egyes államokban az alapvető digitális kompetenciákkal rendelkező állampolgárok aránya jelentősen alacsonyabb, ami arra utal, hogy célzott intézkedésekre lenne szükség a digitális kompetenciák fejlesztésére. Azonban a digitális kompetenciák szintje az eredmények alapján nem befolyásolja szignifikáns módon az e-részvételt, így a H2 hipotézis nem nyert igazolást.

Politikai bizalom tekintetében a vizsgált államok átlagosan mérsékelten bíznak az állami intézményekben, ugyanakkor egyes esetekben a bizalmi szint nagyon alacsony, ami hátrányt jelenthet az állam és állampolgárok közötti kapcsolat kiépítésében. A kutatás eredményei azonban azt mutatták, hogy a politikai bizalom szintje nem gyakorolt szignifikáns hatást az e-részvételre, ezért a H3 hipotézis sem igazolódott.

Ezek az eredmények ellentmondanak más, korábbi kutatásoknak, amelyek arra a következtetésre jutottak, hogy az állampolgárok digitális készségei és a politikai bizalom fontos szerepet játszanak az e-részvétel megvalósulásában. Az eltérés oka több tényező is lehet, például a vizsgált államok alacsony száma, vagy éppen a kutatás keresztmetszeti jellege. Ezen tényezők további vizsgálatokat tesznek szükségessé. A jövőbeli kutatások több országra is kiterjedhetnének, vagy longitudinális stratégiát alkalmazhatnának az e-részvételt befolyásoló tényezők vizsgálatára. Ugyanakkor, más, a jelen kutatásban nem említett tényezőket is figyelembe vehetnek, amelyek befolyásolhatják az e-részvételt.

Az állampolgári e-részvétel összetett és folyamatosan fejlődő folyamat, amely elengedhetetlen a modern demokráciák működéséhez, éppen ezért, a folyamat megértését és fejlesztését célzó erőfeszítések továbbra is kiemelten fontosak.

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# Közösségi irányítású helyi fejlesztés Romániában: A LEADER a demokratikus kormányzás szempontjából

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**Absztrakt**

A közösségi irányítású helyi fejlesztés Európai Uniós LEADER módszerét nagy érdeklődés fogadta már a bevezetésétől. Mára ez a módszer a fejlesztés elfogadott típusává vált, mind az Unióban, mind néhány tagállam országos programjaiban. Jelen tanulmány a LEADER módszer alapelveit a demokratikus kormányzás szempontjából vizsgálja. Azt szeretném megtudni, hogy jelenlegi formájában milyen módon segíti a helyi önszerveződésre alapuló fejlesztést, és milyen elemeket tud hozzáadni a nagyobb részvételre támaszkodó (ön)kormányzáshoz. A tanulmány a 2023–2027-es programozási időszakra kialakított romániai LEADER módszertan vizsgálatára támaszkodva értékeli a pályázatra benyújtott stratégiáknak a demokratikus kormányzás szempontjából fontos jellemzőit. Egyrészt azt vizsgálom, hogy a LEADER alkalmazásával megbízott romániai hatóság által kialakított értékelési keret mennyiben sikeres a helyi érdekelt felek, fontos szereplők bevonásában. Ezért a helyi akciócsoportokban a helyhatóságok, gazdasági szereplők és civil szervezetek között megvalósuló partnerség értékelésben fontos jellemzőit nézem, illetve azok megvalósulását a sikeresen pályázók esetében. Másrészt azt is vizsgálom, hogy mekkora mértékben mozdítja elő a LEADER tervezése és kivitelezése a nagyobb helyi részvételt nemcsak a fejlesztési programban, hanem általában a helyi kormányzásban. Ehhez azt is vizsgálom, hogy a gazdasági és civil szervezetek mellett mennyiben törekedik a program a közemberek, ezen belül is a marginalizált csoportok nagyobb bevonására. Az általam tanulmányozott adatok arra mutatnak, hogy a LEADER a demokratikus kormányzáshoz csak ott tud hozzájárulni, ahol az már amúgy is működik, a demokratikus deficittel, alacsony részvétellel küzdő térségekben nem tud változást elősegíteni.

**Kulcsszavak:** részvétel, demokrácia, vidékfejlesztés, közösségi irányítású helyi fejlesztés (CLLD), LEADER.

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 367–383

# Community-led Local Development in Romania: LEADER from the Perspective of Democratic Governance

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**Keywords:** participation, democracy, rural development, community-led local development (CLLD), LEADER.

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## 1. Bevezető: a részvétel fontossága a demokratikus kormányzás szempontjából

Napjaink politológiai szakirodalma hemzseg a liberális demokráciák (valóságban létező demokratikus kormányzatok) problémáinak a taglalásától. Mindez érthető, hiszen a XXI. században világszerte szemtanúi lehettünk a demokráciák válságtüneteinek: például az autokratikus kormányzatok elszaporodásának, a demokratikus intézmények erodálásának, a szélsőséges (vagy éppen fasiszta) pártok előretörésének. Az 1990-es évek demokratizálódási hullámának optimizmusa mára már egyértelműen a múlté: az állampolgárok a világ különböző részein elégedetlenségüknek adnak hangot, nem érzik sajátjuknak még a konszolidált, régóta működő demokráciákat sem.

Ugyanakkor a demokráciaelméletnek régi meglátása, hogy maga a demokrácia rendszerszintű feszültségeket tartalmaz. Az egyik legfontosabb ilyen feszültség a képviseleti — részvételi jelleg között van: a hatékony kormányzás érdekében úgy tűnik, hogy elitekre (hozzáértő szakemberekre) van szükség, míg az eredeti értelmezésében a demokrácia széleskörű (teljes) állampolgári részvételt feltételez a kormányzásban. Napjaink államaiban a demokratikus jelleg jószerint az időszakosan ismétlődő választásokon való részvételi lehetőségben merül ki. Még ha a választások tiszták és igazságosak is, az állampolgárok számára csak ritkán elérhető lehetőséget biztosítanak arra, hogy hallassák a hangjukat. Sőt, az egyetlen mód véleményük kifejtésére az, hogy egyik vagy másik jelöltre, egyik vagy másik pártra adják le a voksukat. A XX. századi demokráciaelmélet „realista" főárama Joseph Schumpeter 1942-es nagyhatású minimalista demokrácia-meghatározásával kezdődően (Schumpeter, 1942) azt állítja, hogy ez így van jól, elegendő, ha a köznép a megfelelő elitek kiválasztásában vesz részt: a nagyobb beleszólás a kormányzás minőségét negatívan befolyásolná, jobb azt a szakértőkre bízni.

Ezzel az állampolgárokkal szembeni bizalmatlanságot tükröző álláspontt szemben az 1960-as évektől kezdődően Észak-Amerikában és Nyugat-Európában megjelentek az állampolgárok nagyobb részvételét követelő mozgalmak, amelyek reálisan megvalósíthatónak gondolták az állampolgárok nagyobb részvételét, azaz a valóban demokratikus kormányzást (Pateman 2012, p. 10). Az ilyen mozgalmak a mai napig fontos részei a politikai palettának (gondoljunk csak az Occupy mozgalmakra), újabb és újabb formában térnek vissza: az emberek így fejezik ki elégedetlenségüket a pusztán képviseleti kormányzással szemben. Carole Pateman nemcsak elméleti szinten hangsúlyozza a részvétel fontosságát, hanem a sokat tanulmányozott brazíliai Porto Alegre részvételi költségvetéssel történő sikeres kísérletezéseivel illusztrálva amellett érvel, hogy igenis lehetséges jól működő, nagyobb részvételt biztosító innovatív kormányzási formákat találni. Ráadásul állítása szerint ezek megvalósítása reformok útján történik: a létező képviseleti demokrácia intézményeit nem felszámolva, hanem ezekkel párhuzamosan lehetséges átalakítani a nem demokratikus hatalmi struktúrákat. Tehát tulajdonképpen a demokráciát kell és lehet demokratizálni, ha egy társadalomban megvan erre az állampolgári akarat (Pateman 2012, pp. 14–15).

Pateman szerint a részvételi demokráciaelmélet egyik lényeges felismerése az, hogy a demokráciát tanulni csak részvétellel lehet — ez a demokratikus részvétel nevelő-fejlesztő hatása: az állampolgároknak meg kell tanulniuk a demokratikus hatalom struktúráin belül mozogni, és ez a tanulás csak a részvétel által lehetséges. Ez azt is jelenti, hogy az állampolgárok készségei, jellemző vonásai összefüggenek a hatalmi struktúrákkal — tehát jobban működő demokráciához jobb demokratikus készségekkel rendelkező egyénekre van szükség. Nem mellékesen ez a fajta állampolgári nevelés mindenki számára kedvező: a brazil példa azt mutatja, hogy azok az emberek is nagy számban vettek részt, akik egy képviseleti rendszerben nem nagyon jutnának szóhoz, ugyanis a szegénységben élők alkották a résztvevők nagyobb részét, a közösség egészében pedig nőtt az egymás iránti bizalom és elfogadás. Pateman azonban figyelmeztet, hogy ahhoz, hogy egy intézményrendszer részvételi legyen, nem elég valamennyire bevonni az embereket: két szükséges feltétele a részvételi demokráciának, hogy az állampolgárok alanyi jogon vehessenek részt, illetve, hogy az állampolgárok döntéshozó testületei fontos kérdésekben (főleg: számottevő források feletti döntésekben) határozhassanak (Pateman 2012, p. 13).

Úgy tűnhet, hogy a Pateman által bemutatott példa nagy mértékben hasonlít arra, amit az Európai Unió közösségi irányítású helyi fejlesztésnek (CLLD — Community Led Local Development) nevez, ezen belül a vidékfejlesztésre kialakított LEADER-megközelítést lehet akár egy ilyen részvételi demokratizációs kísérletként is értelmezni (még a szóhasználat is azonos: innovatív megoldás, alulról építkezés). Jelen tanulmány erre tesz kísérletet: a LEADER programot a demokratikus kormányzás szempontjából kívánja vizsgálni, a program tervezett romániai alkalmazására támaszkodva a 2023–2027-es programidőszakban.

Konkrétabban azt kívánom felmérni, hogy a LEADER-intézkedés sokat hangoztatott különlegessége, alulról építkező jellege egyenlő-e azzal, hogy több embert vonnak be (vagy ideális esetben az adott területhez kötődő összes érdekelt embert), azaz demokratikusabbak. Az is fontos, hogy a „demokratikusabb" ebben az értelmezésben a nagyobb részvételre

helyezi a hangsúlyt: ez az a leírás, amelyet az európai intézmények is szorgalmaznak. Például a helyi fejlesztési szakterület informális hálózatának honlapján, a ldnet.eu platformon Románia vidékfejlesztési országprofilja is hangsúlyozza a részvételen alapuló alulról építkező jelleget, és magabiztosan kijelenti, hogy a LEADER „a szereplők széles körét ösztönözte a helyi döntéshozatali folyamatokban való részvételre" (CLLD country profile). Ezt az általános kijelentést próbálom meg kibontani és értelmezni úgy, hogy megvizsgálom, hogy milyen részvétellel, demokratikus értékekkel kapcsolatos kritériumoknak kell megfelelniük a LEADER vidékfejlesztési programok kulcsfontosságú intézményeinek, a helyi fejlesztési stratégiáknak, illetve az ezeket megfogalmazó és kivitelező helyi akciócsoportoknak (HACS-oknak).

## 2. Közösségi irányítású helyi fejlesztés, mint demokratikus részvétel

A demokratikus részvételnek több lényeges eleme van, amelyeket meg kell vizsgálnunk. Mindenekelőtt fontos felismerni, hogy az EU-n belüli alulról építkező (vagy a vidékfejlesztés szakértői által használt tudományos kifejezéssel: endogén) közösségi fejlesztés (Biczkowski, 2020) lehetővé tétele az Európai Bizottság politikai döntésének következménye volt, tehát felülről lefelé irányuló intézkedés. A pénzt nyújtó szervezet és a helyi közösség közötti eleve feszültségekkel terhelt viszonyrendszerrel egyre nagyobb szakirodalom foglalkozik, főleg a részvételi fejlesztés (angolul: participatory development) vagy a részvételi és többszintű kormányzás szakértői. A helyi közösségekben rejlő értékek tudatosítása, valamint ezeknek a közösségeknek a fejlesztés fő aktoraiként való elismerése az 1960-as és 70-es évek alulról építkező, alternatív fejlesztési megközelítéseinek köszönhető, amelyek a mainstream nemzetközi fejlesztési intézmények hozzáállását kérdőjelezték meg (Eversole, 2012), azt, hogy a fejlesztési szakemberek tudják a legjobban, hogy mi a jó a fejlesztendő térségnek. A 2000-es évekre a helyi közösség bevonását hangsúlyozó megközelítés maga is a mainstream része lett a nemzetközi fejlesztés intézményein belül. Az Európai Unió által alkalmazott LEADER-megközelítés is felfogható ennek a folyamatnak a részeként, a közösségi irányítás fontosságának elismerésével az EU is a nemzetközi intézményekben tapasztalt trendeket követi, az „alulról építkezésre" helyezve a hangsúlyt.

Robyn Eversole szerint a mainstream megközelítések közé történő beemelés következtében az alulról építkezés jellege lényeges változáson megy át: már nem a helyi közösség, hanem a szakértők és a mögöttük álló intézmények válnak a változás / fejlesztés ágenseivé (Eversole, 2012, p. 30), mivel csupán ily módon lesz értékelhető (vagy egyáltalán látható) az ő intézményes szempontjukból is a fejlesztés. Ezért beszélünk még mindig projektekről, beavatkozásokról, programozási időszakokról. Ezért amikor „alulról építkezőt" mondunk ebben a kontextusban, valójában egy felülről megszelídített, projektekbe beszorított helyi kezdeményezést kell értenünk. A LEADER esetében is hangsúlyosan megjelenik, hogy a program tényleges gyakorlatba ültetésében nagyon fontos a „felülről lefele" elem is, mivel a nemzeti kormányzatoknak fontos szerep jut a nemzeti LEADER programok finanszírozásában, tervezésében, ők alakítják ki a szabályokat, amelyek alapján a program egy adott

tagállamban működhet, tehát tulajdonképpen a LEADER a gyakorlatban a „felülről lefelé és alulról felfelé megközelítések kombinációja" (Granberg *et al*., 2015, p. 7).

A LEADER Nemes Gusztáv szerint egy hosszú kísérleti szakasz után igazából a 2007–2013-as programidőszakban vált „mainstreammé", amikor a területalapú szemlélet erősödése figyelhető meg az európai uniós fejlesztéspolitika egészében (Nemes *et al*., 2020, p. 418). Ezt a beemelést hangsúlyosabbá tette a következő, 2014–2020-as tervezési időszakban a közösségi irányítású helyi fejlesztéssé (CLLD) történő átnevezése és a módszer más európai uniós támogatási programokra való kiterjesztése (Finta, 2015). A szakirodalomban elég gyakori az a nézet, hogy ezzel a kiterjesztéssel tulajdonképpen a közösségi irányítású fejlesztés eltávolodott a helyi közösségektől, egyes kutatók radikális értékelése szerint mára már nem más, mint egy pedagógiai gyakorlat egyenlőtlen fejlődésből (Zamfir, 2020).

Jelen tanulmány kiindulópontja az, hogy ha értékelni szeretnénk a LEADER/CLLD programot, meg kell vizsgálnunk azt a központi intézményes szándékot is, amely felismerhető abban, ahogyan a helyi közpolitikai tervezés és végrehajtás felelősségének egy részét az alsóbb szintű hatóságokra (főleg a helyi önkormányzati intézményekre), végső soron akár az állampolgárokra ruházzák át. Ebben az esettanulmányban a felsőbb hatóságoknak két típusát kell elkülöníteni: egyrészt vannak az Európai Unió intézményei, másrészt a romániai vidékfejlesztésért felelős nemzeti intézmények. Mindazonáltal, a jelen tanulmány a LEADER alkalmazásáért felelős román országos intézményekre fókuszál, bár ezeket az európai intézmények felügyelik, tehát legalább közvetetten a „brüsszeli" szempontok is részét képezik a vizsgálatnak. A LEADER program Romániában a Mezőgazdasági és Vidékfejlesztési Minisztérium (a továbbiakban: Minisztérium) hatáskörébe tartozik, a vizsgálat ennek megfelelően a Minisztérium útmutatóira, leírásaira, illetve adataira támaszkodik.

A LEADER romániai teljesítményének értékelése során a legfontosabb szempont az kellene, hogy legyen, hogy a helyi intézmények (ebben az esetben a helyi akciócsoportok) hogyan töltik meg tartalommal a felsőbb hatóságok által e szakpolitikai beavatkozásokhoz létrehozott keretet. Mindazonáltal fontos felismerni, hogy a beilleszthető elemeket maga a keret alakítja ki: bár rugalmas, bizonyos típusú politikákat kizár, míg más típusúakat lehetővé tesz. Ebben a tanulmányban azt szeretném bemutatni, hogy miképpen határozza meg az országos hatóságok által kialakított keret a vidékfejlesztés helyi lehetőségeit. Ennek megértésére a Minisztérium által a 2023-2027-as programidőszakra kiadott pályázati útmutatót vizsgálom, amelyet a helyi fejlesztési stratégiák szelekciójára szántak (Ghidul solicitantului, 2023), illetve a pályázatra beérkezett helyi fejlesztési stratégiák adatbázisán fogom bemutatni az értékelési kritériumok (azaz a keret) működését.

## 3. A LEADER alapelvek és a részvétel

A LEADER alapelveknek az évek során több megfogalmazásával találkozhattunk. Jelen dolgozat az Európai Unió LEADER megközelítését is magában foglaló közös mezőgazdasági program hálózatának honlapján felsorolt alapelveket veszi figyelembe. Ezek a következők (Forrás: https://eu-cap-network.ec.europa.eu/networking/leader/leader-explained_en#pa

ragraph-75802, utolsó letöltés: 2025.02.10.):

1. Alulról építkező (bottom-up) megközelítés;
2. Területalapú megközelítés;
3. Helyi partnerség;
4. Integrált és ágazatközi megközelítés;
5. Hálózatépítés;
6. Innováció;
7. Együttműködés.

Az alapelvek közül nem fogok foglalkozni a másodikkal, a területalapú megközelítéssel, mivel ennek főleg abban van jelentősége, hogy a LEADER nem szektoriális támogatási rendszer, hanem egy valamilyen szempontból koherens, összefüggő területnek szánt integratív fejlesztési program. Ez az öndefiníció a demokratikus részvétel szempontjából nem bír jelentőséggel, csupán egy laza keretet jelent a megcélzott közösség azonosítására. A többi alapelv fontossága is változó, a demokratikus részvétel szempontjából az alulról építkező megközelítés (1) mellett a partnerség (3), a hálózatépítés (5) és az együttműködés (7) a legfontosabbak, illetve az innováció (6) abban az esetben, amikor az újszerűség arra vonatkozik, hogy hogyan valósítanak meg dolgokat, hogyan működnek, vagy hogyan vonják be a programokba a helyieket (Nemes *et al*., 2020, p. 419).

A részvétel szempontjából általam kiemelt LEADER alapelvek együttese nagymértékben összecseng a Robert D. Putnam által használt „társadalmi tőke" fogalommal, amely szerinte közösségi jellegű: elsősorban az emberek közti kapcsolathálót foglalja magában, a „civil szerveződések sűrű hálózatát és a civil részvétel aktív kultúráját" (Putnam, 1993, p. 103), jellemzője az egymás iránti bizalom és a horizontális, azaz egyenlő felek együttműködése. Putnam szerint tökéletes a korreláció az ilyen civil szerveződések gazdag hálózatának megléte és a hatékony kormányzás között. Putnam és kutatótársai az Olaszország-szerte 1970-től bevezetett regionális önkormányzatok tanulmányozásán keresztül mutattak rá a középkori önkormányzó köztársaságok magyarázó erejére: míg Észak-Olaszországban, ahol valamikor ez a fajta republikánus önkormányzás volt jellemző, jól működtek az újonnan bevezetett regionális önkormányzatok, innovatív közpolitikai megoldásokat találva, addig Dél-Olaszországban, ahol hiányzott ez a republikánus örökség, sorra megbuktak (Putnam *et al*., 1994).

Úgy tűnik, hogy az Európai Unió is az észak-olaszországihoz hasonló, jól működő többszintű kormányzásban szán fontos szerepet a LEADER program-iránynak is: elsősorban a társadalmi tőke növelésével kívánja megerősíteni a helyi (ön)kormányzást, azzal a hallgatólagos elvárással, hogy ettől a szokványos, mindennapi kormányzás minősége is javul és a terület gazdaságilag is felemelkedik. Ebben a helyi fejlesztésben szán kulcsszerepet a HACS-oknak: ők lennének az adott terület fejlesztésben érdekelt mindenféle szervezeteinek (civileknek, közhivataloknak, gazdasági szereplőknek) és érdekelt magánembereinek hosszútávon is működő, koordináló intézményei. Tehát bizonyos értelemben aktív részvételi kultúrát szeretne meghonosítani ott, ahol az nem feltétlenül jellemző. Ez azt is jelenti, hogy a LEADER megközelítés „metakormányzásként" is szereppel bír, azaz a „kormányzás

kormányzásaként", olyan normatív elveket vagy jellemzőket honosít meg, amelyek abban igazítják el a HACS-tagokat, hogy hogyan kellene cselekedni, nem azt szabják meg, hogy mit kellene megvalósítani (Courades, Brosei, 2018, p. 215).

Ezt a nehézséget, hogy ott teremtsen aktív együtt gondolkodást és együttműködést, ahol az hiányzik, a LEADER a helyi potenciálisan érdekelt felek animálásával, mintegy életre, aktivitásra serkentésével, azaz segítésével, támogatásával, mentorálásával vagy képzésével kellene, hogy megvalósítsa (EC, 2022, p. 4). Courades és Brosei szerint a cél a viselkedés megváltoztatása, a fejlesztés aktorai közti interakciók mintájának az átírása (Courades, Brosei, 2018, p. 215). Ehhez ők is a társadalmi tőke növelését javasolják: biztosítsák, hogy a közösségi részvétel túlmutat az egyoldalú információ-átadáson vagy konzultáción, és az érdekelt feleket ténylegesen vonják be, a stratégia kigondolásától kezdődően a gyakorlatba ültetésének egész folyamatába. Ehhez minőségi indikátorokat javasolnak a HACS-ok értékeléséhez, olyanokat, amelyek a részvétel intenzitását, a HACS-ban résztvevő összes szervezetet mozgósító tevékenységeket, a helyi közösség mozgósítását (azaz részvételét) mérnék.

A továbbiakban azt vizsgálom, hogy a LEADER romániai alkalmazásában hogyan jelennek meg a társadalmi tőke növelésére utaló elgondolások, vannak-e utalások az érdekelt feleket összekapcsoló hálózatok megteremtésére vagy fejlesztésére, mennyire fontos a helyi közösség részvétele, illetve mit takar ez a részvétel. Az is fontos, hogy milyen értelmet kap a közösségi irányítás, mi lesz a tartalma ennek a fejlesztési elképzelésnek, illetve hogyan is érhető tetten az irányítás, legyen az közösségi vagy felülről jövő.

## 4. A közösségi irányítású helyi fejlesztés adatokban

Az ebben a részben felhasznált adatok megtalálhatóak a Minisztérium honlapján (https://www.madr.ro/axa-leader/leader-2023-2027.html, utolsó letöltés: 2025.02.10). Itt található a Pályázati útmutató a 2023-2027-as helyi fejlesztési stratégiák válogatásában való részvételhez (Ghidul solicitantului, 2023) és a jelentés is a pályázaton sikeres helyi fejlesztési stratégiákról. A jelentés tartalmazza mind a 37 kizárólag az Európai Mezőgazdasági Vidékfejlesztési Alaphoz (EAFRD) pályázó, mind pedig a 202 két alaphoz (EAFRD és Európai Szociális Alap+, ESF+) pályázó projektet. A jelentésben megtalálható információk a következők: a pályázó HACS-ok nevei, bejegyzésük megyéje, a bennük részt vevő helyhatóságok, a lefedett terület és lakosság mérete, a beadott helyi fejlesztési stratégia által elért pontszám, az elnyert finanszírozás mértéke összesítve és lebontva 4 kategóriára: az EAFRD terület- és lakosság alapú finanszírozásának mértéke, az EAFRD finanszírozása a stratégia minőségének függvényében, az ESF+ terület- és lakosság alapú finanszírozás mértéke, illetve az ESF+ finanszírozásának mértéke a stratégia minőségének függvényében.[1]

1 Köszönöm Daniel Pop kollégámnak az adatok összesítésében és értelmezésében nyújtott segítségét.

A LEADER alapelveket a pályázati útmutató (Ghidul solicitantului, 2023) képezi le egy kritériumrendszerre, amely mentén értékelik a helyi fejlesztési stratégiákat. Érdekes módon nincs egyenes megfelelés az alapelvek és a pályázati kritériumok között (bár azok is elvek köré vannak sorolva). Az útmutató 5 fejezete a következő elvek mentén értékel: az 1-es a partnerség minőségének elve (az ezt értékelő hét kritérium a CS 1.1–1.7), a 2-es a területi lefedettség elve (CS 2.1–2.3), a 3-as a HACS-ok előzetes tapasztalatának és teljesítményének elve (CS 3.1–3.3), a 4-es a helyi fejlesztési stratégia minőségének elve, mely kimondottan a terület fejlesztéséhez hozzáadott értékre koncentrál (CS 4.1–4.7), míg az 5-ös a stratégia multiszektoriális jellegének az elve (CS 5.1–5.2). Ha a LEADER hét alapelvének próbáljuk az értékelési elveket megfeleltetni, akkor az egyetlen teljes átfedés a 2-es elv (területi lefedettség) és a LEADER területalapú megközelítés alapelve között van. A helyi partnerség és alulról építkező megközelítés két LEADER alapelvét az 1-es értékelési elv próbálja mérni. Az integrált és ágazatközi megközelítés LEADER alapelvét az 5.1-es értékelési kritérium közelíti meg a legjobban, míg a 4-es értékelési elv hivatott lefedni legalább három LEADER alapelvet: a hálózatépítést, az innovációt és az együttműködést (mint a hozzáadott érték megjelenési formáit). További furcsaság, hogy az 5-ös értékelési elvnek csak az 5.1-es kritériuma vonatkozik mindenkire, az 5.2-es értékelési elv 4 alpontra bontva csak az Európai Szociális Alaphoz (ESF+) is pályázó úgynevezett „multifond" stratégiákat értékeli.

A maximálisan elérhető pontszám a „multifond" stratégiák esetében 100 pont, a csak az EAFRD-hez pályázó „monofond" stratégiák esetén 70 pont. Ezeknek a pontoknak a megoszlása a különböző elvekhez tartozó kritériumok között feltehetőleg tükrözi a felügyelő hatóság (Minisztérium) által az adott elvnek/kritériumnak tulajdonított fontosságot. Ha a megszerezhető pontszámokat nézzük, úgy tűnik, hogy nagy a különbség az értékelési elvek között: a legtöbb pontszámot (33-at) az 5-ös elv kritériumaira lehet szerezni, legalábbis a „multifond" stratégiák esetében (a „monofond" HACS-ok itt maximum 3 pontot szerezhetnek, de az ő esetükben az elérhető maximális pontszám csak 70), ezt követi a 4-es elv 28 ponttal, illetve az 1-es elv 21 ponttal. Ezektől eltérően a 2-es elv kritériumai mindössze 12 pontot érnek, míg a 3-as elvé csupán 6 pontot.

Mivel a 4-es elv a helyi fejlesztési stratégiák által megvalósítható hozzáadott érték milyenségét és mértékét próbálja megítélni, jelen tanulmányban nem foglalkozom vele. A kis pontszámú 2-es és 3-as elv csupán azt ellenőrzi, hogy a pályázó HACS által lefedett terület megfelel-e a LEADER megközelítés célterületének a lakosság mérete, rurális jellege alapján, és rákérdez a korábbi (2014-2020-as) programozási időszakhoz képest a HACS-ban történt változásokra, illetve értékeli a HACS sikerességét abban az időszakban. Ezek a részek is maximum közvetetten érinthetik a helyi demokrácia témakörét (pl. a terület koherenciája egy ilyen szempontból is érdekes lehet), így ezekkel sem foglalkozom ebben a tanulmányban.

A jelen tanulmány szempontjából az 1-es és az 5-ös elv kritériumai igazán fontosak, nemcsak azért, mert ezekkel lehet sok pontot szerezni, hanem azért is, mert ezek a kritériumok olyasmiket értékelnek, amiről úgy gondolom, hogy a helyi partnerség szempontjából a legfontosabbak: ezek a jellemzők mutatják meg, hogy mennyire tekinthető jól működőnek a helyi részvétel és ezáltal mennyire tekinthető a HACS a helyi kisléptékű demokrácia

kísérletének. Ennek bemutatására a továbbiakban sorra vizsgálom a romániai HACS-oknak az 1-es és az 5-ös értékelési elveknek megfelelő teljesítményét.

Az 1-es elv a helyi partnerség minőségét értékeli, 7 kritérium (CS 1.1–1.7) segítségével. Ezek ugyan pontszámban számszerűsített adatokat produkálnak, de tulajdonképpen minőségi kritériumok, és az 1.2–1.7 kritériumok esetében pusztán a van/nincs dichotómiára vonatkoznak (0 pont, ha nem teljesül a kritérium, 3 pont, ha teljesül). Ezeknek a kritériumoknak a nagyobbik része a defavorizált kategóriák és a kisebbségek érdekeinek a képviseletére vonatkozik elsősorban, bár az EU számára fontos témák (környezetvédelem, emberi jogok védelme) aktivistáit is lefedi az 1.3-as kritérium. Ugyanakkor a kritérium teljesítése sem ugyanazt jelenti: az 1.2 a kisebbségek (kivéve a roma kisebbséget) érdekeinek képviseletére, az 1.4 specifikusan a romák képviseletére, az 1.5 különböző sérülékeny csoportok érdekeinek a képviseletére minimálisan 1 szervezet bevonását feltételezi a HACS-ba. Az 1.3-as kritérium a nők, fiatalok, gyermekek, idősek érdekeit képviselő szervezetekre, illetve a környezetvédelmi és emberi jogi aktivisták HACS-ban való képviseletére vonatkozik. Ennek a kritériumnak a teljesítéséhez minimálisan 2 szervezet kell a HACS tagja legyen. Az 1.7-es kritérium is a nők és/vagy a fiatalok (18 és 30 év közötti korosztály) képviseletére vonatkozik, de más módszerrel, számszerűsítve azt méri, hogy a HACS-ot alkotó szervezetek képviselői milyen arányban nők és fiatalok. Ha ez az arány minimum 30%-os, a kritérium teljesül (ez ismét 3 pontot jelent). Mivel az 1.7-es kritérium nagyon különbözik az 1.2–1.5 kritériumoktól, azt alább külön fogom vizsgálni.

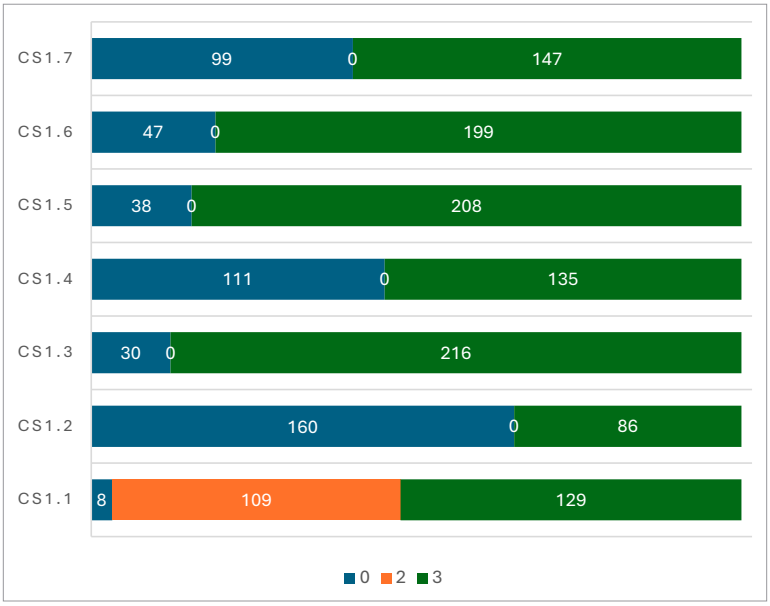
Ha megnézzük az 1-es diagramon a pusztán defavorizált/kisebbségi csoportok érdekképviseletére vonatkozó 1.2, 1.4, 1.5 kritériumok szerinti megoszlást, akkor azt láthatjuk, hogy mindegyik esetében nagy azoknak a helyi fejlesztési stratégiáknak a száma, amelyekben ezek egyáltalán nem jelennek meg. A legrosszabb a helyzet a kisebbségek és a roma érdekképviselet esetében (1.2, 1.4). Persze reális lehetőség, hogy egy adott területen nem élnek más kisebbségek, mint romák (bár intuitíven a 160 ilyen HACS a 246-ból túl soknak tűnik), de az nehezen feltételezhető, hogy 111 HACS (az összes 45%-a) területén romák sem élnének. Ez esetben inkább a romák érdekeinek tudatos elhanyagolása, mellőzése sokkal inkább valószínűsíthető magyarázat. Ezt a problémát persze tetőzheti a roma érdekképviselet szervezeteinek a helyi hiánya vagy gyengesége (is).

Az 1.5-ös kritérium a sérülékeny csoportok nagyon sok fajtáját sorolja fel, a bevándorlóktól a fogyatékkal élőkön át a függőségekkel küzdőkig, illetve ide sorolja a mélyszegénységben élőket is. Ennek fényében elég furcsa, hogy 38 HACS-ba egyetlen ilyen csoport érdekeit védő egyesületet vagy egyént sem sikerült bevonni. Ugyanakkor 208 helyi fejlesztési stratégiában (az összes majdnem 85%-ában) teljesül ez a kritérium, tehát legalább valamilyen sérülékeny csoportok képviselőinek irányában nyitottabbak a HACS-ok.

Az 1.3-as és az 1.7-es kritérium különbözőképpen, de az inkluzivitást hivatott értékelni. Az 1.3-as kritérium a defavorizált, marginalizált szociális kategóriák érdekeit védő szervezetek és a környezetvédelemért és emberi jogok védelméért harcoló szervezetek részvételét értékeli a HACS-ban. Talán ennek a nagymértékű változatosságnak a kompenzálásáért 2 ilyen szervezet részvételéért lehet pontot szerezni. Mivel ennyire rugalmas a keret, a HACS-ok

jelentős része pontot szerez ebben a kategóriában, de így is akad 30 HACS (az összes 12%-a), amelynek nem sikerül legalább 2 érdekvédő szervezetet felmutatni.

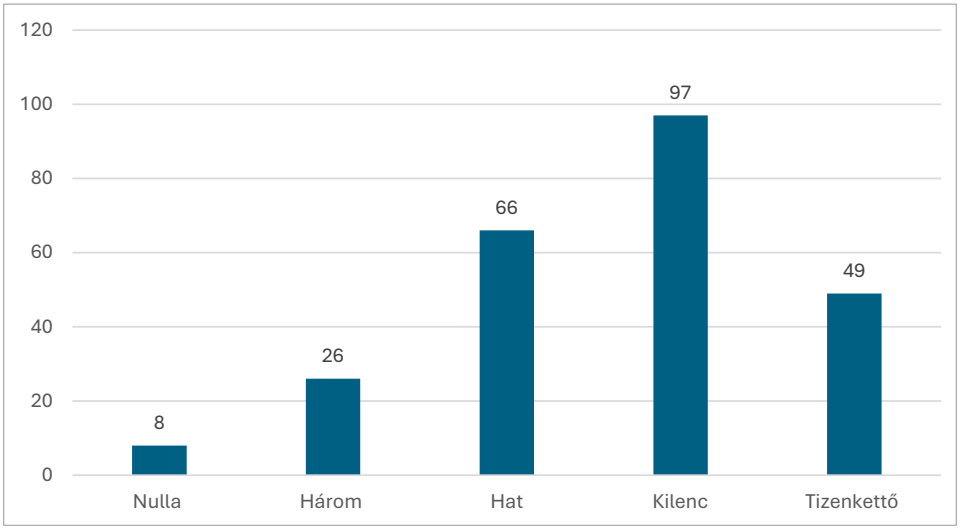
Az 1.7-es kategória a nők és fiatalok részvételét egészen más módon próbálja megragadni: magában a HACS-ban résztvevő szervezeteket képviselő egyének és magánszemélyek között pontozza a minimum 30% nőt és/vagy fiatalt felmutatni képes HACS-okat. A vizsgált 246 HACS-ból 99-nek nem sikerül ezt a kvótát teljesítenie, tehát elmondható, hogy a HACS-ok jelentős része (40%-a) idősebb férfiak által dominált. Mivel a kritérium nemcsak a nők részvételére, hanem a fiatalokéra is vonatkozik, ez a kép nemcsak a nemi reprezentativitás szempontjából aggályos, hanem a fiatal férfiaknak a közösségi fejlesztéstől való távolmaradását (vagy távoltartását?) is tükrözi. Az sem mellékes, hogy az ennél a kritériumnál pontot szerző HACS-oknak is csupán a 30%-os kvótát kellett teljesíteni a nők és fiatalok együttes számát tekintve.




1-es diagram: CS 1.1–1.7 pontszámok

Ha az inkluzivitást célzó négy kritérium teljesítését (1.2, 1.3, 1.4, 1.5) együttesen vizsgáljuk, a következőket láthatjuk. Ezen kritériumok mindegyike esetében vagy 3 pontot lehet szerezni (ha teljesül) vagy nulla pontot, ha nem teljesül az adott kritérium. A 2-es diagramon tehát a nulla pontot szerző HACS-ok egyetlen kritériumot sem teljesítenek, a három pontot szerzők egyetlen kritériumot teljesítenek a négyből, a hat pontot szerzők kettőt, a kilenc pontot szerzők hármat és a tizenkét pontosak mind a négyet. A vizsgált HACS-ok megoszlása azt mutatja, hogy van 8 nulla pontos HACS, illetve 26 három pontos HACS. A inkluzívabb HACS-ok a kilenc és főleg a tizenkét pontosak: ezek 97-en, illetve 49-en vannak, tehát együttesen 146 HACS (az összes 59%-a) próbál hangsúlyosabban inkluzív lenni,

míg 34 HACS (14%) nem tesz számottevő kísérletet arra, hogy befogadó legyen a defavorizált kategóriák irányában, maximum egy kritériumot teljesítve. Mivel az inkluzivitásra irányuló kritériumok teljesítése önmagában is nagyon keveset vár el a HACS-októl (egy vagy két érdekvédő szervezet), kijelenthető, hogy ebben a pályázati rendszerben olyan HACS-ok is LEADER forrásokhoz juthatnak, amelyek semmilyen lépést nem tesznek (vagy alig valamit) a nagyobb inkluzivitás irányában.



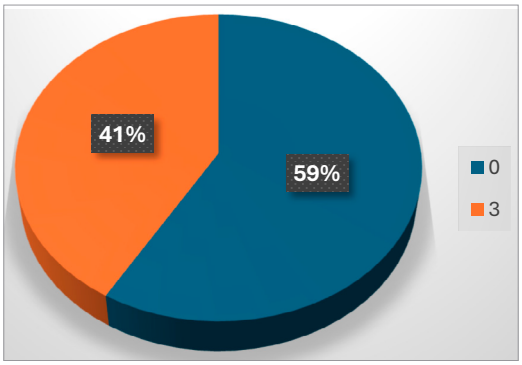

2-es diagram: CS 1.2+1.3+1.4+1.5 együttes pontszáma

Az 1-es értékelési elv két értékelési kritériuma (1.1, 1.6) vizsgálja a gazdasági szektor és a civilek részvételét a helyi partnerségekben. Az 1.1-es kritérium együttesen vizsgálja a közintézményeken kívüli szervezetek (vagy magánszemélyek) képviseletét a HACS-ban, a többi 1-es kritériumhoz hasonlóan pontozva egy minőségi jellemzőt: ez esetben a második és a harmadik szektor képviselőinek számaránya meg kell, hogy haladja a 60%-ot a pontszerzéshez. Differenciáltan osztják a pontokat: 3 pontot ér, ha a képviselet meghaladja a 75%-ot és 2 pontot, ha 60% és 75% között van. Az 1-es diagramon láthatjuk, hogy 8 HACS nem teljesíti ezt a kritériumot, míg 109 HACS 2 pontot szerez, 129 HACS pedig 3 pontot. Tehát a 75% fölötti képviseletet felmutatni képes HACS-ok az összesnek mintegy 52%-át teszik ki. Ugyanakkor reményteli, hogy csak 8 HACS nem biztosít nagyobb teret a gazdasági szereplőknek és a civileknek.

Az 1.6-os értékelési kritérium a gazdasági szereplők egy különleges kategóriájára koncentrál, a gazdasági célú egyesületek, szövetkezetek vagy érdekvédő szervezetek jelenlétét pontozza. Itt az a HACS szerez pontot, amelyben legalább 2 ilyen szervezet képviselteti magát. Az 1-es diagramon láthatjuk, hogy 199 HACS megszerzi a kritérium teljesítéséért járó 3 pontot, míg 47 HACS (az összes 19%-a) nem tud itt pontot szerezni. Megállapítható tehát, hogy a gazdasági érdekek mentén történő helyi szerveződést, a nagyobb társadalmi tőkét,

kapacitást tükröző szervezeti formákat, esetleges önszerveződéseket meg képes mutatni ez a kritérium, bár az itt szerezhető 3 pont nem biztos, hogy megfelelően értékeli ennek a fontosságát a demokratikus értékek szempontjából.

Az 5-ös értékelési elv a helyi fejlesztési stratégia multiszektoriális jellegét méri. Ennek csak az 5.1-es kritériuma vonatkozik mind az Európai Mezőgazdasági Vidékfejlesztési Alaphoz pályázókra, mind pedig a több alaphoz pályázókra (ún. „multifond" stratégiák). Ez a kritérium ismét vagy/nincs alapon osztja a lehetséges 3 pontot: azok a stratégiák kapnak pontot, amelyek a kijelölt három területre (szociális, gazdasági és környezetvédelmi) megjelölnek eredmény-indikátorokat. Magyarul, azok a stratégiák, amelyek mind a három területen szeretnének valamit megvalósítani (az indikátorok majdnem bármit takarhatnak), megkapják a 3 pontot. A romániai HACS-ok által benyújtott helyi fejlesztési stratégiák 5.1-es kritérium szerinti megoszlása a 3-as diagramon látható: a stratégiáknak csak 41%-a (102 a 246-ból) szerez pontot, tehát majdnem 60% nem teljesíti a LEADER egyik alapelvét, az integrált és ágazatközi megközelítést (a fenti felsorolásban a 4-es alapelv).




3-as diagram: CS 5.1 pontszáma

Az 5.2-es értékelési kritériumok 4 alkategóriában csak a „multifond" stratégiákra érvényesek, értékük összesen 30 pont. Az 5.2.1–5.2.4-ig terjedő kritériumok az Európai Szociális Alap+ (ESF+) szempontrendszerét kívánják megjeleníteni az értékelésben, az ESF+ által alkalmazott indikátorokat mérve. Ezek mindegyike a lakosság részvételét hivatott mérni. Az hogy, miben is vesznek részt, eléggé homályos, az Útmutató megfogalmazása szerint „ESF+ akció"-t kell érteni alatta, tehát feltehetőleg az ESF+ hatáskörébe tartozó területek (foglalkoztatás, oktatás és készségfejlesztés, illetve a társadalmi befogadás) beemelését a helyi fejlesztési stratégiába, illetve az ESF+ horizontális elveinek (a nemek közötti egyenlőségnek, az alapvető jogok tiszteletben tartásának, az esélyegyenlőségnek és a megkülönböztetésmentességnek) a megjelenésére utal különálló tevékenységekben vagy bizonyos más célú közösségi tevékenységek részeként.

Amint a 4-es diagramon látható, három féle pontszámot lehet szerezni: 3, 5, 7, és kizárólag az 5.2.3-asnál 9 pontot is. Ez az a bizonyos pont, ami a romák részvételét méri, itt tehát extra pontszámot lehet kapni, ha jelentősebb a romák részvétele. Nem világos a megjelölt

számok és arányok viszonya a pontozáshoz, de értékelendő, hogy éppen a legnagyobb diszkriminációt hagyományosan elszenvedő közösség esetében lehet több pontot szerezni.

A 5.2.1–5.2.3-as alkritériumok esetében a közösségi részvételt az ESF+ egy-egy indikátorának az összegével mérik: mindegyik kategóriában a részvevőknek a száma tartalmazza a leginkább rászoruló személyek körébe tartozókat is. Ezeket nem kell külön számszerűsíteni, de a pályázati útmutató külön hivatkozik rájuk, mintegy jelezve a fontosságukat (legalábbis diszkurzív szinten). Az ellenben, hogy nincsenek elkülönítve a leginkább rászoruló személyek, azt is lehetővé teszi, hogy akár egyetlen ilyen személyt se kelljen bevonni a tevékenységekbe, a résztvevők köre akár kizárólag a jobbmódú emberekre is korlátozódhat.

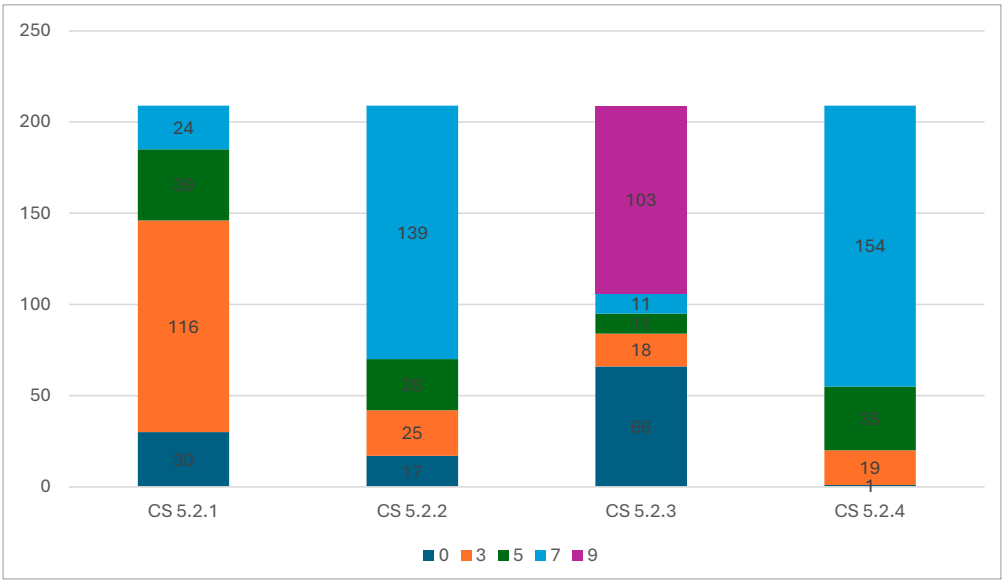
Ez a három alkritérium együtt értelmezhető: az 5.2.1-es az összes résztvevőt méri, az 5.2.2-es ezen belül a 18 év alatti gyerekek arányát, míg az 5.2.3-as a roma gyerekek arányát méri és értékeli. Az 5.2.1 konkrét résztvevői számokat ad meg (itt a 700 fő fölötti részvétel ér 7 pontot, a 451 és 700 fő közötti 5 pontot, míg a 200 és 450 főt megszólító 3 pontot). A következő két alkritérium ezeken a számokon belül jelöl meg értékelési arányszámokat. Az 5.2.2-es a 18 év alatti gyerekekre nagyon magas arányszámokat jelöl meg: 90% és 92,5% között 3 pontot lehet szerezni, 92,51% és 95% között 5 pontot, míg 95% fölött 7 pontot. Egyértelmű tehát, hogy ezt a finanszírozást elsősorban gyerekek számára szánják, maximálisan 10%-ot lehet más kategóriákra szánni. Az 5.2.3-as alkritérium a roma gyerekek arányát pontozza a résztvevő gyerekek között. Itt a határszámok a következőek: 17% és 20% között 3 pontot, 20% és 23% között 5 pontot, 23% és 26% között 7 pontot, míg 26% fölött 9 pontot lehet szerezni.

Az 5.2.4-es alkritérium azt próbálja elérni, hogy a rászoruló gyerekeket (és ezen belül a roma gyerekeket) célzó tevékenységek ne merüljenek ki csupán kirándulásokban, látogatásokban, táborokban, kulturális és oktatási eseményeken való részvételben és ehhez hasonlókban. Ezért a nagyobb pontszámhoz az ilyen tevékenységekre való anyagi ráfordításnak kisebb aránya kell: 7 pontot ér, a maximum 20% a költség ilyen tevékenységekre az ESF+ alapból, 5 pontot a maximum 30% és 3 pontot a maximum 40%.

A 4-es diagramon láthatjuk a 209 ESF+-hoz is pályázó helyi fejlesztési stratégia 5.2-es kritériumon elért pontjai szerinti megoszlását. Mivel ezek az alkritériumok egymástól (és minden mástól) teljesen eltérő számokat és arányokat pontoznak, nem meglepő a szinte teljes összevisszaság. Ami közös bennük, hogy mindegyik alkritériumnál vannak nulla pontot szerző, tehát a kritérium elvárásainak nem megfelelő stratégiák (igaz, az 5.2.4-esnél csak egy ilyen van). Ugyanakkor az is feltűnő, hogy a roma gyerekek részvételét pontozó 5.2.3-as alkritériumnál 103 a maximális pontszámot elérő stratégiák száma (az összes 49%-a), míg ugyanitt a legnagyobb a nulla pontot szerző stratégiák száma is, 66 (majdnem 32%). Tehát el lehet mondani, hogy a roma inkluzivitás terén vagy nagyon jól teljesít egy stratégia, vagy teljesen figyelmen kívül hagyja ezt a területet.

Az 5.2.1-es alkritériumnál azt láthatjuk, hogy magasabb pontszámot (5 vagy 7 pontot) csak a stratégiák 30%-a ér el, míg 30 stratégia (14%) nem tudja a minimálisan megkövetelt 200 fős részvételt sem produkálni. A legnagyobb arányban a 3 pontos stratégiák vannak: ezek száma 116 (55%), tehát a HACS-ok nagyobb része csak a minimális részvételi

kritériumot (200–450 fő részvételét) célozza meg, ezt is feltehetőleg azért, mert a következő két alkritériumhoz szükséges az általános részvétel, hiszen a résztvevők körében határoz meg arányokat. Ennek fényében az 5.2.2-es alkritériumnál (amely a gyerekek minimum 90%-os részvételét írja elő) jól teljesítenek a fejlesztési stratégiák. Ugyanez mondható el az 5.2.4-es alkritérium esetében is, tehát feltételezhető, hogy nem kizárólag egyszerűen teljesíthető vagy egyszeri tevékenységeket vizionálnak a megcélzott gyerekek (esetleg roma gyerekek) számára.




4-es diagram: CS 5.2.1–5.2.4 alkritériumok (Európai Szociális Alap / ESF+)

A fenti elemzés nyomán elmondható, hogy az 1-es és az 5-ös kritériumok esetében a minőségi elvárások számszerűsítése többet takar el egy adott HACS helyi fejlesztési stratégiájának a közösségi részvételre és az inkluzivitásra vonatkozó szándékaiból és előírásaiból, mint amennyit megmutat. Ezek a kritériumok minőséget próbálnak mérni, de nem állítanak fel semmilyen minimális követelményt, a képviselet kimerül a különböző érdekeket védő szervezetek HACS-ban való képviseltetésében. A számszerű követelmények (pl. a résztvevők száma) szintén csak azt mérik, hogy puszta jelenlétet képesek-e produkálni a stratégiák, a jelenlét tartalmáról semmit sem tudunk meg.

Aggasztó, hogy mindegyik kritérium esetében vannak olyan stratégiák, amelyek nem képesek teljesíteni ezeket, holott a teljesítés követelményei igazán alacsony szintűek. Sőt, olyan stratégiák is vannak (igaz, nem sok), amelyek a HACS inkluzív jellegére vonatkozó kritériumok egyikét sem teljesítik, azaz nem biztosítanak részvételt még a minimális szinten sem a kisebbségeknek, sem a romáknak, sem a sérülékeny csoportoknak, sem a nőknek vagy a fiataloknak.

## 5. Következtetések, ajánlások

Összegzésképpen elmondható, hogy a romániai LEADER program által biztosított keret egy olyan térségben, ahol hagyománya van a közösségi részvételnek (azaz hagyományosan magas a társadalmi tőke-szint), jól működhet. Egy olyan területen azonban, ahol nem ez a helyzet, vagy mert az emberek hagyományosan (régóta) nem szoktak együttműködni civil szerveződésekben, vagy a terület túlságosan fragmentált a lakosság jellemzőinek szempontjából, semmi garancia nincs arra, hogy a LEADER alapelveknek bármelyike is megvalósulhatna. Granberg és szerzőtársai is megállapítják, hogy a LEADER tevékenységek erős korrelációt mutatnak a demokratikus felkészültséggel, mely a maga során erősen kötődik Európa kortárs politikai történelméhez, főleg az EU bővítéséhez (Granberg *et al*., 2015, 230). A később csatlakozott poszt-szocialista Kelet-Európa országaiban, így Romániában is, általában hiányoznak azok a demokratikus hagyományok, önkormányzati készségek, amelyek Nyugat-Európában.

A romániai LEADER programot felügyelő országos hatóság által felállított követelmény-rendszer nem tartalmaz igazán minőségi megszorításokat azaz teljesítendő minimumokat ezen a területen: általában csak puszta részvételt kér a HACS-ban, illetve a stratégiában valamilyen tevékenységeket, amelyeket valamilyen csoportok (főleg gyerekek) bevonásával kell megvalósítani. Ezeknek a tevékenységeknek a tartalmára, jellemzőire semmilyen útmutatást nem ad. A szakirodalomban már jelezték, hogy „csak a HACS-ok összetételét vizsgálni félrevezető lehet a részvétel megítélésében, figyelembe kell venni mind a HACS-tagok közötti, mind pedig más helyi intézményekkel működtetett interakciókat" (Courades, Brosei, 2018, p. 218). Ez tehát arra utal, hogy egy kapcsolatnak nem papíron, formalizáltan kell meglennie, hanem a mindennapi életben kell jól működnie. Ez elsősorban a helyhatóság intézményeire vonatkozik: Courades és Brosei szerint a helyhatóságnak intenzíven együtt kellene működnie a HACS egészével mindhárom szinten: a közpolitika-tervezés szintjén, a mindennapi működés szintjén és a közpolitikai végrehajtás szintjén is (Courades, Brosei, 2018, p. 219). A román pályázati kritériumrendszerben semmilyen efféle követelmény nem jelenik meg, pedig a különböző szereplők igazi részvételének biztosítása szempontjából nagyon fontosak lennének az ilyen megkötések, hogy ne lehessen csak mímelni a konzultációt, az együttműködést, hanem a lakosság minél tágabb körét kelljen megszólítani, bevonni a helyi tervezésbe. A pályázati kritériumok ezzel szemben csupán a HACS-ban való részvételt (azaz a papíron létező partnerséget) értékelik csupán.

Az igazi helyi együttműködés és a széleskörű részvétel biztosítása érdekében, Carole Pateman meglátásait követve, az lenne jó, ha a HACS-ok igazán fontos dolgokban, nagyobb pénzösszegek felett dönthetnének autonóm módon. Ezzel szemben az a helyzet, hogy a CLLD/LEADER módszerrel kioszthatók pénzösszegek csak az EU által megszabott minimális szinten (jelenleg 5%-on) vannak. Ráadásul, amint az kiderül a nyertes pályázatok adataiból, valódi verseny a stratégiák között minőség szempontjából az elnyerhető források mindössze 25%-áért folyik, a pénz nagyobbik részét (75%-ot) majdhogynem fejkvótaként hívhatják le a minimális pontszámot (25-öt a 100-ból) elérő helyi fejlesztési stratégiákat benyújtó HACS-ok. Ez a nagyon alacsonyan megállapított sikerességi küszöb azt a helyzetet

idézi elő, hogy tulajdonképpen minden pályázó pénzforrásokhoz jut. A legtöbb, amit a minőség szempontjából elmondhatunk, az annyi, hogy a jó minőségű stratégiákat benyújtó HACS-ok egy kicsivel több pénzhez jutnak a többiekhez képest. Ha fontos lenne a helyi kezdeményezések megfelelése a LEADER EU-s alapelveinek, ha azt szeretnénk, hogy a LEADER segítségével a helyi társadalmi tőke nőjön, a helyi részvétel fokozódjon, akkor a minőségi kritériumoknak sokkal nagyobb szerepet kellene szánni az értékelésben és az elosztásban.

Ennek a minőség irányában történő elmozdulásnak várhatóan vesztesei is lennének: az eleve jobb helyzetben lévő területek teljesítenének jobban, és jutnának több forráshoz, míg a legelmaradottabb területek, amelyek számára nem is nagyon elérhetőek más EU-s vagy országos források, lecsúsznának erről a lehetőségről is (Finta, Horeczki, 2023 erre hívja fel a figyelmet). A LEADER-rel megcélzott demokratikus értékekhez való közelítés szempontjából azonban mindenképpen kedvező lenne, ha a hátrányos térségek megsegítése valamilyen klasszikus fentről származó (exogén) fejlesztési programokkal történne, nem varrva az ilyen felzárkóztató programok felelősségét az ezeket menedzselni nem képes helyhatóságok vagy HACS-ok nyakába.

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# Helyi kontextus korlátolt szerepe a LEADER program finanszírozási szempontrenszerében — Esettanulmány a Közép-romániai fejlesztési régióról

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**Absztrakt**

A közösségi irányítású, alulról szerveződő fejlesztések támogatása a vidéki és kisvárosi térségekben jelentős figyelmet kapott az elmúlt évtizedekben. Ezért fontos a finazsirozási elbirálási szempontrendszerének a helyi viszonyokra vontakozó elemeinek vizsgálata. Jelen tanulmányban amellett érvelünk, hogy a helyi kontextushoz kapcsolódó változók marginális szerepe a CLLD/LEADER értékelési szempontrenszerében azt a feltételezést hordozza, hogy a helyi gazdasági és társadalmi körülmények a Helyi Akciócsoportokon (HACS-okon) nem mérvadoak. Ennek elemzése véget egy esettanulmányt mutatunk be a romániai LEADER program kiválasztási módszertanáról, különös tekintettel a 2021–2027-es többéves tervezési ciklusra és Románia, Közép régiójában (NUTS 2) leadott pályázatokra/stratégiákra. Az eredmények azt jelzik, hogy a HACS stratégiák kiválasztása általános értékelési kritériumokra korlátozódik.

**Kulcsszavak:** Leader program, vidékfejlesztés, közösség alapú helyi fejlődés, EU finaszírozás.

**JEL kódok:** H77, H81, R58, Z18

*Fostering Local and Regional Innovation Through Partnerships – The Role of Universities*, pp. 384–394

# The Limited Role of Local Context in the LEADER Programme's Funding Criteria — Case Study on the Central Development Region from Romania

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**Keywors:** Leader, rural development, community lead local development, EU funding.

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## 1. Bevezetés

A helyi gazdasági, társadalmi és politikai viszonyokra alapozó helyi stratégiák megfogalmazása kulcsfontosságú a közösségek jólétének és fejlesztési fenntarthatóságának szempontjából. Azonban a külső szakpolitikai keretek és ösztönzők nagymértékben befolyásolják azt a kontextust, amelyben a helyi prioritások meghatározása zajlik. Jelen tanulmány célja a LEADER (Liaison Entre Actions de Développement de l'Économie Rurale) program végrehajtásának kontextuális elemzése Közép-romániai fejlesztési régiójában (NUTS 2). A LEADER program az Európai Unió közös agrárpolitikájának (KAP) egyik eszköze, amely lehetőséget biztosít az alulról jövő, helyi irányítású fejlesztésekre, a vidéki térségek életszínvonalának emelése érdekében (Tirado Ballesteros és Hernández, 2019; Mustakangas, 2024), ösztönözve az innovációt (Micha et al., 2019), erősítve a demokratikus gyakorlatokat (Granberg és Andersson, 2016), mérsékelve a népességcsökkenést (Crunțeanu et al., 2024), és elősegítve a társadalmi innovációt (Finta és Horeczki, 2023).

Az 1988-as *The Future of Rural Society* (COM(88) 501) jelentés nyomán jelentek meg azok a területalapú fejlesztéspolitikák, amelyek a vidéki térségeket célozták meg alulról

szerveződő vagy neo-endogén módon (Ray, 2000; Biczkowski, 2020). A LEADER programot mint az EU strukturális politikájának egyedülálló pénzügyi eszközét alakították ki, amely új megoldásokat kívánt nyújtani a vidéki térségek speciális problémáira. Az első kísérleti szakasz 1991 és 1993 között zajlott, amelynek során Helyi Akciócsoportokat (HACS) hoztak létre – ezek a helyi szereplők (önkormányzatok, civil szervezetek, vállalkozások stb.) partnerségei, amelyek a Helyi Fejlesztési Stratégiák kidolgozására és megvalósítására jöttek létre (Póla *et al*., 2015; Brezuleanu, 2024). A program részletesebb szabályozására az EU a 2021/1060-as rendeletet fogadta el. A 31. és 33. cikkek meghatározzák a LEADER hét alapelvét: lentről felfelé történő kidolgozás és stratégia-végrehajtás, együttműködés, innováció, helyben kezdeményezett stratégiák, hálózatépítés, köz- és magánszféra partnersége, és szubrégiós megközelítés. Ezen elvek célja a vidéki térségek sajátos kihívásainak kezelése, mint például a demográfiai csökkenés (Bock, 2015), az alacsony foglalkoztatottság (Pollermann, 2014; Micha *et al*., 2019), a földrajzi elzártság (Duglio *et al*., 2023), a korlátozott kapcsolódás (Ferrari *et al*., 2022; Mack *et al*., 2024), a földhasználattal kapcsolatos kihívások (Levers *et al*., 2018; Dax *et al*., 2021), valamint a környezeti degradáció és ellenálló képesség (Arroyo *et al*., 2015; Mahon *et al*., 2023). Ennek ellenére a tagállamokon belüli és közötti vidéki térségek közötti tartós egyenlőtlenségek megkérdőjelezik a KAP céljainak földrajzilag kiegyensúlyozott megvalósítását (Gorton *et al*., 2009; Johansson és Holmquist, 2024).

Az Európai Számvevőszék legutóbbi jelentése (ECA, 2022) szerint kevés bizonyíték áll rendelkezésre arra, hogy a CLLD/LEADER program többlethasznai arányban állnának költségeivel más EU-finanszírozási típusokhoz képest. A LEADER programmal foglalkozó szakirodalom mind a hét alapelvet lefedi, különböző területi és módszertani megközelítésekkel. Mivel a stratégiák alulról szerveződnek, a Helyi Fejlesztési Stratégiák prioritásai is széles körű változatosságot mutatnak, így a LEADER program eredményei is különböző vidéki fejlesztési területeket érintenek. Például Granberg, Andersson és Kovách (2016) által szerkesztett tanulmánykötet több európai országot elemez, azt vizsgálva, hogy a LEADER program miként befolyásolja a demokratikus tapasztalatokat a közösségi szinteken, különös tekintettel az aggregatív és integratív megközelítésekre. A szerzők arra a következtetésre jutnak, hogy az alulról jövő megközelítés demokratikus hozadéka nagymértékben függ az adott ország politikai hagyományaitól és gyakorlataitól.

Lengerer et al. (2023) szerint bár a LEADER hozzájárulhat az elosztási és eljárásbeli igazságossághoz, a helyi vagy magasabb szintű kormányzati beavatkozás hátrányosan befolyásolhatja azt. Hasonlóképpen, amikor ausztriai, portugáliai és görögországi HACS-okat hasonlítanak össze, Chatzichristos és Nagopoulos (2021) megállapítják, hogy a nemzeti irányítási keretek fontos szerepet játszanak a helyi társadalmi innováció ösztönzésében vagy akadályozásában. Emellett a LEADER sikeressége függ a HACS-ok azon képességétől is, hogy mennyire tudják mozgósítani a helyi közösségeket és hatékonyan hasznosítani az erőforrásokat (Bumbalová *et al*., 2016), valamint hogy mennyire képesek válaszolni a lefedett közösségek sajátos fejlesztési prioritásaira. A CLLD/LEADER program széles körű elfogadottsága ellenére számos kihívás és korlát fennmaradt. Chatzichristos és

Perimenis (2022) úgy vélik, hogy a CLLD/LEADER stratégia folyamatos monitorozása és értékelése kulcsfontosságú a program különböző szakaszaiban hozzáadott társadalmi érték azonosításához.

A LEADER program romániai bevezetésével kapcsolatban az első HACS-pályázati felhívás a 2007–2013-as többéves tervezési ciklus keretében történt, amelynek eredményeként 2011-ben 82 Helyi Akciócsoport (HACS) jött létre. A 2012-es újabb felhívás további 81 HACS megalakulásához vezetett. Az összesen 163 HACS a jogosult terület 78%-át és a célpopuláció 72%-át fedte le. A következő, 2014–2020 közötti programozási időszakban a HACS-ok száma 239-re bővült, lefedve a jogosult terület 92%-át és a célpopuláció 86%-át. A jelenlegi ciklusban, 2023-ra a HACS-ok száma elérte a 246-ot, amelyek szinte a teljes jogosult területet és célpopulációt lefedik.

Marquardt et al. (2012) az inkluzív LEADER partnerségek kialakításának kihívásait tárgyalják a helyi hatalmi struktúrák tükrében. Crunțeanu et al. (2023) megállapítják, hogy a 2007–2013-as és 2014–2020-as tervezési időszakokban a kevésbé fejlett régiók nagyobb érdeklődést mutattak a programban való részvétel iránt. Ezzel szemben Olar és Jitea (2021) a LEADER támogatások egyenlőtlen eloszlásáról számolnak be, amely a legurbanizáltabb és legfejlettebb térségek felé irányul. Iancu *et al*. (2022) szerint a vidéki térségekben alacsony számú nem-mezőgazdasági vállalkozás korlátozza a HACS-ok kialakítását. Opria *et al*. (2021, 2023) nem találtak szisztematikus összefüggést a helyi fejlettségi szintek és a LEADER program végrehajtásának hatékonysága között. Ugyanakkor Crunțeanu *et al*. (2024) pozitív összefüggést mutattak ki a CLLD/LEADER megvalósítás mértéke, a demográfiai növekedés és a munkanélküliség csökkenése között.

A szakirodalomban hiányzik annak elemzése, hogy a HACS-ok és azok helyi fejlesztési stratégiái (HFS) milyen módon kerülnek értékelésre a LEADER elvek szerint történő finanszírozás során. A következő rész a kutatás módszertanát és az alkalmazott adatforrásokat mutatja be. A harmadik rész egy esettanulmányt tár elénk a LEADER támogatások elosztásáról Románia Közép régiójában a 2023–2027-es többéves tervezési időszakra vonatkozóan. Végül a következtetésekben a kutatási eredmények szakpolitikai jelentőségét tárgyaljuk.

## 2. Módszertan és adatforrások

Jelen tanulmány a HACS-ok által benyújtott helyi fejlesztési stratégiák (HFS) LEADER támogatása közötti kölcsönhatást vizsgálja. Először elemezzük az HFS-ek támogatásához használt kiválasztási kritériumokat annak érdekében, hogy megállapítsuk, milyen mértékben veszik figyelembe a helyi gazdasági és társadalmi tényezőket a finanszírozási döntések során.

Az alkalmazott adatok, nyilvánosan elérhető romániai közigazgatási adatbázisból származnak. A HACS-ok által benyújtott pályázatok kiválasztásáról szóló jelentés a LEADER program keretében 2023-ban, közzétevő: a Román Mezőgazdasági és Vidékfejlesztési Minisztérium. Az adatbázis tartalmaz egy- és többforrásból finanszírozott stratégiákat. 37 egy-, illetve 209 többforrású stratégia került benyújtásra és kiválasztásra a 2021–2027-es

ciklusra. Ezen kívül az adatbázis információkat nyújt a HACS-ok nevéről, a bejegyzésük szerinti megyéről, a benne résztvevő önkormányzatokról, a lefedett területről és lakosságról, az HFS által elért pontszámról, az EMVA támogatás összegéről (EUR) terület és lakosság szerint, az HFS minősége alapján megítélt EMVA támogatásról, az ESZA+ támogatásról ugyanilyen bontásban, valamint a HACS-ok teljes támogatási összegéről.

## 3. A LEADER program keretében nyújtott finanszírozás

2023-ban országos szinten 246 Helyi Akciócsoport (HACS) és helyi fejlesztési stratégia (HFS) részesült támogatásban a 2021–2027-es többéves tervezési időszakra. Ezek közül, mindössze 37 volt kizárólag egy forrásból finanszírozva (mono-finanszírozott), míg 209 több forrásból (multi) finanszírozott. Románia azon hat EU27-tagállam egyike, amely kiterjesztette a HACS-ok működését kisvárosi térségekre is, az Európai Szociális Alap Plusz (ESZA+) támogatásának felhasználásával.

A LEADER felhívás keretében nyújtott országos szintű pénzügyi keretet az Európai Mezőgazdasági Vidékfejlesztési Alap (EMVA – 500 millió euró) és az ESZA+ (160.736.843 euró) közötti megosztásban allokálták. Minden benyújtott pályázatot az illetékes minisztérium értékelt a LEADER elvek alapján, és legfeljebb 100 pontot érhetett el. Azonban a pontozási mátrix alapján megállapítható, hogy az értékeléshez használt 5 fő kritérium és 25 alkritérium közül 19 **nominális**, míg 6 **ordinális** típusú. Ennek ellenére félrevezető módon, az Irányító Hatóság, az értékelési eredményeket az alkritériumok szerint **numerikus összesítésként** mutatja be.

## 4. LEADER finanszírozás a Közép régióban – esettanulmány

A tanulmányunk ezen részében bemutatjuk, hogyan értékelte a román Mezőgazdasági és Vidékfejlesztési Minisztérium a Közép régióból érkező HACS-ok által benyújtott stratégiákat.

A vizsgált régióban összesen **34 HACS** van bejegyezve. Ezek a régió mind a hat megyéjét lefedik: **Alba, Brassó, Kovászna, Hargita, Maros és Szeben**. A 414 önkormányzatból **361 tagja valamelyik HACS-nak**.

Három Hargita megyei vidéki önkormányzat olyan HACS-hoz tartozik, amelynek székhelye a Közép régión kívül található, ezért **ők nem kerültek be az elemzésbe**. Ugyanakkor három más régióból származó önkormányzatot **belefoglaltunk**, mivel olyan HACS tagjai, amelynek székhelye a Közép régióban található. Ennek eredményeként az elemzett önkormányzatok végleges száma **364**.

A **34 HACS összlakossága** 2023-ban **1.249.414 fő** volt. A **364 önkormányzat** átlagos lakosságszáma **3.432 fő** volt. A legkisebb önkormányzat **229 főt**, míg a legnagyobb **19.034 főt** számlált. A **HACS-onkénti átlagos lakosságszám** szintén jelentős eltéréseket mutatott: a legalacsonyabb átlag **1.970 fő** volt a **Ţara Oltului HACS** esetében, míg a legmagasabb átlag **7.596 fő**, amelyet a **HACS3** ért el.

Az **EMVA-ból származó támogatás**, amelyet a HACS területe és lakossága alapján számítottak, **348 ezer euró** és **2,76 millió euró** között mozgott. A legalacsonyabb összeget a **Tezaurul Câmpiei Mureșene HACS**, míg a legmagasabbat a **Csík HACS** kapta. Az átlagos támogatási összeg **1,27 millió euró** volt.

Az **HFS-ek minősége alapján** megítélt EMVA támogatás esetében **minden HACS teljesítette a minimális minőségi követelményeket**, így **azonos összegű támogatásban részesültek**, azaz **560.333 euróban**.

Hat HACS **nem volt jogosult ESZA+ támogatásra mivel, a HFS nem tartalmazott a specifikus prioritásokat**. A fennmaradó **28 HACS** átlagosan **741.088 euró** támogatásban részesült az ESZA+ forrásból. A **legalacsonyabb összeget** a **Parteneriat Mureșean HACS** kapta (**476.665 euró**), míg a **legmagasabbat** a **Csík HACS** (**996.294 euró**).

Összességében a Közép régióban székhellyel rendelkező **34 HACS összesen 83,02 millió euró** támogatást nyert el, amelyből **62,27 millió euró** az **EMVA-ból**, **20,75 millió euró** pedig az **ESZA+ forrásból** származott.

A **HACS-ok tagságával kapcsolatban** a kiválasztási jelentés **csak a résztvevő önkormányzatok számát tünteti fel**. A legnagyobb HACS, a **Țara Secașelor**, **25 önkormányzatot** foglal magában, míg a legkisebb, a **HACS3**, **három önkormányzatból** áll. **Nem áll rendelkezésre információ** a **magánszféra** és a **civil szektor** képviselőinek számáról a HACS-ok tagságában.

**A HACS-partnerségek minőségével kapcsolatban** a minisztérium **hét alkritériumot** használt az értékeléshez. A **magánszféra és a civil társadalom képviseleti aránya** (CS 1.1) akkor kapott **0 pontot**, ha az arány **60% alatt volt**, **2 pontot**, ha **60% és 75% között**, illetve **3 pontot**, ha **meghaladta a 75%-ot**. Összesen **15 HACS (44%)** kapott **3 pontot**, míg **19 HACS (56%)** ért el **2 pontot**. Egyik HACS sem kapott 0 pontot, tehát **mindegyik partnerség teljesítette az alapkövetelményt**, miszerint **legalább 60%-os magán- és civil szektori képviselet** szükséges.

A fennmaradó **hat alkritérium** esetében a minisztérium **0 pontot** adott, ha a HACS nem teljesítette az adott kritériumot, és **3 pontot**, ha teljesítette.

A HACS-ok **50%-a** nem tartalmaz olyan civil szervezetet, amely **valamely kisebbségi csoport (a roma közösség kivételével)** érdekeit képviseli (CS 1.2). **30 HACS (88%)** tartalmaz legalább **két olyan szervezetet**, amely **nők, fiatalok, gyermekek, idősek érdekeit képviseli**, vagy **környezeti és emberi jogi ügyeket támogat** (CS 1.3). **22 HACS (64,70%)** rendelkezik legalább **egy roma közösséget képviselő szervezettel** (CS 1.4), míg **12 HACS (35,3%)** nem. **31 HACS** tartalmaz legalább **egy, sebezhető csoportokat képviselő szervezetet** (CS 1.5). Mindössze **két HACS-partnerség nem rendelkezik legalább két gazdasági (pl. szövetkezetek) jellegű szervezettel**, vagy gazdasági ágazatot képviselő szervezettel, amelynek székhelye a HACS területén van (CS 1.6). Ezzel szemben **20 HACS (58,82%) nem tartalmaz semmilyen fiatal vagy női képviselőt** (CS 1.7).

**A területi lefedettség kritériumával kapcsolatban**, **csak 23 HACS (67%)** fedi le azt a minimum követelményt, amely szerint **legalább 30.000 lakosnak** vagy **10 önkormányzatnak** kell a területhez tartoznia (CS 2.1). Ezek **3 pontot kaptak**, míg a **maradék 11 HACS** csak **0 pontot** ért el.

Továbbá **12 HACS (35%)** olyan **jogosult LEADER-területeket is lefed**, amelyeket a **2014–2020-as időszakban nem fedett le** egyetlen HACS sem, illetve olyan területeket, amelyeket korábban más HACS-ok fedtek le, **akik működési engedélyét visszavonták** a 2014–2020-as időszakban (CS 2.2). Ezért, **10 HACS** kapott **3 pontot**, mert legalább **egy ilyen területet lefed**, míg **2 HACS** ért el **6 pontot**, mert **legalább két ilyen területet** foglal magába. A fennmaradó **22 HACS 0 pontot** kapott ennél az alkritériumnál.

A harmadik alkritérium esetében (CS 2.3) **25 HACS** területéhez tartozik legalább **egy hegyvidéki közigazgatási egység (önkormányzat)**, amiért **3 pontot kaptak**. **Négy HACS** egyiket sem teljesítette a három területi alkritérium közül.

**A minisztérium három alkritériumot vett figyelembe** a HACS-ok teljesítményének és korábbi tapasztalatainak értékelésekor. Az első alkritérium a **HACS-ok korábbi tapasztalatára vonatkozik a LEADER 2014–2020 végrehajtása során** (CS 3.1). Azon **31 HACS**, amely rendelkezik ilyen tapasztalattal, **2 pontot kapott**, míg az a **három HACS**, amely nem vett részt korábban, **0 pontban** részesült.

A második alkritérium (CS 3.2) azt vizsgálja, hogy a HACS **közvetlen vagy közvetett kedvezményezettje volt-e LEADER támogatásnak** a 2014–2020 közötti időszakban. Az ezt teljesítő **17 HACS (50%) 2 pontot kapott**.

A harmadik alkritérium (CS 3.3) a **további forrásból származó finanszírozást** vizsgálja. Csak **9 HACS** ért el **2 pontot**, mivel sikerült ilyen forrásokat bevonnia, míg **25 HACS** nem számolt be ilyen támogatásról, ezért **0 pontot kaptak**. A Közép régióban **három HACS** van, amely **egyik tapasztalati kritériumnak sem felelt meg**.

**A Helyi Fejlesztési Stratégia (HFS) minőségének értékeléséhez** a minisztérium **hét alkritériumot** használt, amelyek mindegyike **dichotóm változóként** került értékelésre, azaz **0 vagy 4 ponttal**. Az értékelt alkritériumok a következők voltak:

- A beavatkozások priorizálása a térség fejlesztési szükségletei szerint;
- A HACS kapacitása a stratégia megvalósításához szükséges gyakorlati keret biztosítására;
- Az HFS hozzáadott értéke a térségben;
- A „Smart Village" megközelítés, vagy környezetvédelmi és klímavédelmi fókuszú projektek finanszírozását célzó beavatkozások szerepeltetése;
- A helyi kulturális örökség megőrzését célzó, vagy társadalmi és egészségügyi projektek finanszírozását célzó beavatkozások szerepeltetése;
- Gazdasági célú projektek finanszírozását célzó beavatkozások, amelyek **nők és/vagy fiatalok (18–30 év)** a közvetlen kedvezményezettjeit;
- A **munkahelyteremtést** mérő eredményindikátor szerepeltetése.

Az összesítés szerint: **21 HACS (60%)** szerezte meg a **maximum pontszámot (7×4 pont)**, vagyis minden alkritériumnak megfelelt, **12 HACS (35%)** hat alkritériumra kapott **4 pontot**; iletve e**gy HACS** öt alkritériumra kapott **4 pontot**.

Az ötödik kritérium, a HACS-stratégia multiszektorális jellege kapcsán a Helyi Fejlesztési Stratégiákat (HFS) annak alapján értékelte a minisztérium, hogy lefedik-e a helyi fejlesztés három területét: a társadalmi, gazdasági és környezeti dimenziót (CS 5.1). A kiválasztási

jelentés szerint mindössze kilenc stratégia (a teljes minta 26%-a) fedi le mindhárom területet, míg huszonöt stratégia csupán egyet vagy kettőt. A minisztérium ezen kívül azt is vizsgálta, hogy a HFS-ák egyalapú (monofund) vagy többalapú (multifund) megközelítést alkalmaznak-e. Huszonnyolc HACS azonosított többalapú prioritásokat. Ezek értékelése az ESZA+ programban alkalmazott indikátorok alapján történt, ideértve a résztvevők teljes számát, a 18 év alatti gyermekek számát, a roma származású résztvevők számát, valamint a Társadalmi Befogadást és Méltóságot célzó Programban meghatározott úgynevezett c) típusú intézkedések becsült költségvetését, például kirándulások, táborok, kulturális és oktatási rendezvények, valamint vidéki-városi tapasztalatcserék támogatását célzó projekteket. Az első, második és negyedik indikátor esetében a minisztérium ordinális értékelési skálát alkalmazott, amely 0, 3, 5 és 7 pontértékeket tartalmazott, míg a harmadik indikátor esetében 9 pont is kioszthatóvolt.

A minisztérium adatai szerint az első indikátor alapján hét HACS vállalta, hogy kevesebb mint 200 főt von be az ESZA+ tevékenységekbe, ezért 0 pontot kaptak. Tizenhat HACS 200 és 450 közötti résztvevőre tett vállalást, amiért 3 pontot kaptak. Négy HACS 451 és 700 közötti részvételt célzott meg, ők 5 pontot kaptak, míg egy HACS vállalta több mint 700 fő bevonását, amiért 7 pont járt. A „18 év alatti gyermekek száma" mint indikátor az ESZA+ összes résztvevőszámához viszonyítva került értékelésre. Ha ez az arány nem érte el a 90 százalékot, a HACS 0 pontot kapott; öt ilyen HACS volt. Ha az arány 90 és 92,5 százalék között mozgott, akkor 3 pontot kaptak, ez szintén öt HACS-ra volt jellemző. Három HACS 92,51 és 95 százalék közötti arányt ért el, amelyért 5 pont járt. Tizenöt HACS több mint 95 százalékos arányt vállalt, ezért ők 7 pontot kaptak.

A roma résztvevők számát mérő indikátor a 18 év alatti gyermekek számához viszonyított roma arányt fejezi ki. Három HACS esetében ez az arány nem érte el a 17 százalékot, ezért 0 pontot kaptak. Nem volt olyan HACS, amely 17 és 20 százalék közötti arányt vállalt volna, így senki nem kapott 3 pontot. Négy HACS 20,01 és 23 százalék közötti arányt vállalt, ők 5 pontot kaptak, míg két HACS 23,01 és 26 százalék közötti arányt ért el, ezért 7 pontot kaptak. Tizenkilenc HACS vállalta, hogy legalább 26 százalékos roma arányt teljesít, ők 9 pontban részesültek.

A **„hátrányos helyzetű gyermekek számára kirándulásokhoz, látogatásokhoz, táborokhoz, kulturális és oktatási eseményekhez, vidéki-urbánus tapasztalatcserékhez, egyéb hasonló tevékenységekhez való hozzáférés"** (CS 5.2.4) indikátor a LEADER források teljes HFS költségvetésből való arányát figyelembe véve került értékelésre. Négy HACS **3 pontot** kapott, hat HACS **5 pontot**, és tizennyolc HACS 7 **pontot** ért el.

Összességében az esettanulmány azt mutatja, hogy a LEADER program széleskörűen elterjedt a jogosult helyi önkormányzatok körében a Közép régióban, Romániában. A kiválasztási módszertan összetettnek tűnik, de valójában a minisztérium által a HACS-ok és HFS-ák pontozására alkalmazott kiválasztási kritériumok ellenőrző pontokként működnek, és csupán biztosítják a LEADER elvekkel való formai megfelelést, anélkül, hogy ténylegesen megragadnák az HFS prioritásai és a meglévő helyi gazdasági és társadalmi körülmények közötti kapcsolatot. Ezen túlmenően a LEADER kritériumok 25 alkritériuma kisebb

szerepet játszik a finanszírozás elosztásában. Az **EMVA** és **ESZA+** források **75%-a** a HACS tag önkormányzatok területe és lakossága alapján került elosztásra. Az **EMVA** fennmaradó **25%-a** az HFS minősége alapján lett elosztva, de a minisztérium úgy döntött, hogy egy minimum küszöbértéket alkalmaz (25%), így végül ugyanannyi támogatást kaptak a HACS-ok, bár az általuk elért pontszámok jelentősen eltértek.

A minisztérium által használt kiválasztási kritériumok közül a helyi gazdasági és társadalmi körülményekhez kapcsolódó változók kihagyása azt jelenti, hogy a minisztérium feltételezi, hogy a HACS-ok közötti különbségek nem léteznek. Figyelembe véve, hogy a LEADER program széles körben alkalmazott eszközzé vált jelentős forrásokkal a hátrányos helyzetű közösségek fejlesztése érdekében, a helyi kontextus figyelmen kívül hagyása a források elosztásakor homályos eredményekhez vezethet.

## 5. Következtetések

Jelen tanulmányban a HACS-ok és az általuk benyújtott HFS-ák LEADER finanszírozásának szempontrenszerét vizsgáltuk. A minisztérium által alkalmazott kiválasztási kritériumok elemzése azt mutatta, hogy azok ellenőrző pontokként lettek megfogalmazva, és csupán a LEADER elvekkel való formai megfelelést biztosítják, anélkül hogy ténylegesen megragadnák az HFS-ák prioritásai és a meglévő helyi gazdasági és társadalmi körülmények közötti kapcsolatot. A CLLD/LEADER program forrásait elsősorban a HACS-ok területe és lakossága alapján osztják el. A vizsgált régióban, a 34 HACS számára összesen **83,02 millió euró** finanszírozást osztottak ki, amelyből csupán **9,37% (7,78 millió euró)** lett elosztva a HACS-ok által az HFS-ákban tett vállalások alapján. Ez azt jelenti, hogy az HFS-ák alapvető finanszírozási küszöbértékének teljesítése mellett a stratégiák minősége marginális szerepet játszik a LEADER finanszírozás elosztásában.

Eredményeink két fő közpolitikai relevanciájú következménnyel bírnak. Először is, a minimumkövetelmények betartásán és nem versenyhelyzetben történő finanszírozási kritériumok alkalmazásának, hosszú távon, a LEADER-elvek elérésében az lesz az eredménye, hogy nem a legjobb hatást fogjuk elérni az önkormányzati egységek szintjén. Végül, a finanszírozás helyi akciócsoportokon belüli elosztására vonatkozó rendelkezések hiánya hatalmi politikát eredményezhet a prominensebb és kevésbbé prominensebb helyi hatóságok körében.

A kutatás legfontosabb korlátai közé tartozik, hogy a vizsgálat **kis számú HACS-ra (34)** összpontosított. A **közel 3.500 HACS** esetében az EU 27 tagállamában a generalizálás egy nagyobb mintát igényelne. Ezen kívül a keresztmetszeti kutatási megközelítés korlátozza az időbeli extrapolációt. Ezért további kutatásra van szükség, olyan kutatási tervet kell kidolgozni, hogy biztosítani lehessen az eredmények robusztusságát egyetlen időpont és régión kivül is. További kutatásra lenne szükség a CLLD/LEADER források tényleges elköltéséről is, hogy meg lehessen becsülni az erőforrások eloszlását a HACS-ok területén.

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